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# TITLE 1

## ADMINISTRATIVE


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# TITLE 1
# CHAPTER 1

## OFFICIAL CITY CODE

SECTION:

1-1-1: Title
1-1-2: Acceptance
1-1-3: Amendments
1-1-4: Code Alteration

1-1-1: TITLE: Upon adoption by the City Council, this City Code is hereby declared to be and shall hereafter constitute the official City Code of the City of Florence. This City Code of ordinances shall be known and cited as the FLORENCE CITY CODE, and it is hereby published by authority of the Council and shall be kept up to date as provided in Section 1-1-3 of this Chapter. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general penalty clause, relating thereto, as well as to the section itself, when reference is made to this City Code by title in any legal documents.

1-1-2: ACCEPTANCE: The City Code as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of the City of general and permanent effect, except the excluded ordinances enumerated in Section 1-2-1 of the Code.

1-1-3: AMENDMENTS: Any ordinance amending the City Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this City Code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers and the said ordinance material shall be prepared for insertion in its proper place in each copy of this City Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the City Code.

1-1-4: CODE ALTERATION: It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this City Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions when so authorized by the City Council. The City Recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the City Recorder. Any person having in his custody an official copy of the City Code shall make every effort to maintain said Code in an up to date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him through the office of the City Recorder. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the City and shall be returned to the office of the City Recorder when directed so to do by order of the City Council. (1981 Code)

TITLE 1
CHAPTER 2

# SAVING CLAUSE

SECTION:

1-2-1: Repeal of General Ordinances
1-2-2: Public Utility Ordinances
1-2-3: Court Proceedings
1-2-4: Severability Clause

**1-2-1: REPEAL OF GENERAL ORDINANCES:** All general ordinances of the City passed prior to the adoption of this City Code are hereby repealed, except such as are included in this City Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; ordinances establishing, naming or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the City; and all special ordinances.

**1-2-2: PUBLIC UTILITY ORDINANCES:** No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this City Code or by virtue of the preceding Section, excepting as this City Code may contain provisions for such matters, in which case this City Code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

**1-2-3: COURT PROCEEDINGS:** No new ordinance shall be construed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable, if any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the consent of the party affected, applied to any judgement announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this Chapter shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision; nor shall this Chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of the adoption of this City Code.

**1-2-4: SEVERABILITY CLAUSE:** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this City Code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code, or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. (1981 Code)

TITLE 1
CHAPTER 3

# DEFINITIONS

SECTION:

1-3-1: Construction of Words
1-3-2: Definitions, General
1-3-3: Catchlines

**1-3-1: CONSTRUCTION OF WORDS:** Whenever any word in any section of this City Code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. Whenever any subject matter, party or person is referred to in this City Code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this City Code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto.

The word "ordinance" contained in the ordinances of the City has been changed in the content of this City Code to "Title", "Chapter", "Section" and/or "subsection" or words of like import for organizational and clarification purposes only. Such change to the City's ordinances is not meant to amend passage and effective dates of such original ordinances.

**1-3-2: DEFINITIONS, GENERAL:** Whenever the following words or terms are used in this Code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

| | |
|---|---|
| AGENT | A person acting on behalf of another |
| CITY | The City of Florence, County of Lane, State of Oregon. |
| EMPLOYEES | Whenever reference is made in this Code to a City employee by title only, this shall be construed as though followed by the words "of the City of Florence". |
| FEE | A sum of money charged by the City for the carrying on of a business, profession or occupation. |
| LICENSE | The permission granted for the carrying on of a business, profession or occupation. |
| MISDEMEANOR | Any offense for which a sentence to a term of imprisonment in other than a penitentiary for less than one year may be imposed.[1] |
| NUISANCE | Anything offensive or obnoxious to the health and welfare of the inhabitants of the City; or any act or thing repugnant to, or creating a hazard to, or having a detrimental effect on the property of another person or to the community.[2] |
| OCCUPANT | As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others. |

[1] ORS.161.545
[2] ORS 221.915

| | |
|---|---|
| OFFENSE | Any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.[3] |
| OFFICERS | Whenever reference is made in this Code to a City officer by title only, this shall be construed as though followed by the words "of the City of Florence". |
| OPERATOR | The person who is in charge of any operation, business or profession. |
| OWNER | As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land. |
| PERSON | Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person. |
| PERSONAL PROPERTY | Shall include every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein. (1981Code) |
| PUBLIC RIGHT OF WAY | That area dedicated to public use, being the full width of a street, alley or pedestrian way, as platted.(Ord. 696, 8-2-83). |
| RETAILER | Unless otherwise specifically defined, this term shall be understood to relate to the sale of goods, merchandise, articles or things in small quantities direct to the consumer. |
| RIGHT OF WAY | The privilege of the immediate use of the roadway or other property. |
| STREET | Shall include alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks. |
| TENANT | As applied to a building or land, shall include any person who occupies the whole or any part of such buildings or land whether alone or with others. |
| WHOLESALER | The terms "wholesaler" and "wholesale dealer", unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for the purpose of resale. |
| WRITTEN, IN WRITING | May include printing and other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond required by law, it shall bei n the proper handwriting of such person, or in case he is unable to write, by his proper mark. |

**1-3-3: CATCHLINES:** The Catchlines of the several sections of the City Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the Catchlines, are amended or re-enacted. (1981 Code)

[3] ORS 161.505

TITLE 1
CHAPTER 4

# GENERAL PENALTY

SECTION:

1-4-1: General Penalty
1-4-2: Application of Provisions
1-4-3: Liability of Officers

**1-4-1: GENERAL PENALTY:** Any person convicted of violation of any section or provision of this City Code, where no other penalty is set forth, shall be punished by a fine not to exceed five hundred dollars ($500.00) for any one offense, each day constituting a separate offense, or by imprisonment in the City or County jail for a period of not more than six (6) months or by both such fine and imprisonment.[1]

**1-4-2: APPLICATION OF PROVISIONS:**

A. The penalty provided in this Chapter shall be applicable to every section of this City Code the same as though it were a part of each and every separate section unless otherwise indicated. Any person convicted of a violation of any section of this City Code except section 3-1-4 of Chapter 1 of Title 3, where a duty is prescribed or obligation imposed, or where any action which is of a continuing nature is forbidden or is declared to be unlawful, which has as a possible penalty incarceration, shall be deemed guilty of a misdemeanor. Offenses without incarceration declared crimes under state law continue as crimes. However, offenses without incarceration that are not state crimes are civil offenses.(ORD 9 Series 1985)

B. In all cases where the same offense is made punishable or is created by different clauses or sections of this City Code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

C. Whenever the doing any act or the omission to do any act constitutes a breach of [1]any section or provision of this City Code and there shall be no fine or penalty specifically declared for such breach, the provisions of this Chapter shall apply.

**1-4-3: LIABILITY OF OFFICERS:** No provision of this City Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intent of the City Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.[2] (1981 Code)

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[1] ORS 161.505, 161.615, 161.635; also see Title 6, Chapter 2 of this Code for regulations regarding the City jail and prisoners.

[2] ORS 30.285

TITLE 1
CHAPTER 5

# INITIATIVE AND REFERENDUM

SECTION:

1-5-1: Proposal by Petition or Resolution
1-5-2: Filing of Prospective Petition Ballot
1-5-3: Title Preparation
1-5-4: Petitions, Signature Verification
1-5-5: Election:

## 1-5-1: PROPOSAL BY PETITION OR RESOLUTION:

A. Definitions: For purpose of this chapter, the following words have their assigned meaning:

"Elector" shall mean a legal voter of the City.

"Measure" shall mean a legislative enactment by the Council which is not necessary for the immediate preservation of the public peace, health or safety; any part of such an enactment; or a proposed legislative enactment for the City. The term includes a municipal ordinance, a charter amendment, or any other legislative enactment within the power of the City to adopt.

"Petition" shall mean an initiative or referendum petition by one or more electors requesting that a proposed measure be submitted to the electors of the City for approval.

"Regular election" shall mean those City elections held on the dates provided in ORS 221.230(1).

"Special election" shall mean an election called by the Council other than a regular election.

B. Procedure: The initiative and referendum powers of the City and its electors with respect to proposed measures shall be exercised in accordance with the provisions of this chapter. Insofar as not governed by the city charter, special ordinances, or this code, elections shall be conducted in accordance with the state laws governing elections.

C. Initiative and Referendum Power:

1. An elector may initiate a measure by filing a complete and proper initiative petition proposing the measure and requesting that it be submitted to the electors of the City for approval.

2. An elector may refer a measure passed by the Council by filing a complete and proper referendum petition within thirty (30) days after the measure has been ordained requesting that it be submitted to the electors of the City for approval.

3. At the session in which any proposed measure is approved by Council, the Council may order its submission to the electors of the City for approval. Such a submission does not require compliance with the provisions set forth in this chapter relating to petitions or special election dates except as otherwise expressly provided.

D. Requisite Number of Signatures: The number of verified signatures required for an initiative petition is fifteen percent (15%), and for a referendum petition ten percent (10%), of the total number of votes cast for all candidates for Mayor at the last regular preceding municipal election when circulation of the petition begins.

## 1-5-2: FILING OF PROSPECTIVE PETITION:

A. The Initial Filing: Prior to circulation for signatures of any petition, a prospective petition shall be filed with the City Recorder, together with a copy of the measure that it seeks to have submitted to the

electors. In addition, the petition's proponent shall submit the names and addresses of not more than three electors under whose sponsorship the petition has been prepared and is to be circulated.

B. Form Verification: When a copy of a prospective petition is filed in accordance with subsection A, within five (5) business days the City Recorder shall review it for the legal sufficiency of the form in which it appears. If the petition is in improper form, the City Recorder shall advise the petition's proponent of the defects in the form and how to make it proper. If the prospective petition is in proper form, the City Recorder shall transmit a copy to the City Attorney for preparation of a ballot title; the original shall remain on file with the City Recorder.

**1-5-3: BALLOT TITLE PREPARATION:**

A. Time for Preparation: The City Attorney shall prepare the ballot title according to state law for the proposed measure within five (5) business days after the Council orders the submission of a measure to the electors for approval or after a prospective petition is filed with the City Recorder and verified as to form.

B. Ballot Title: The ballot title shall be completed to meet statutory requirements. In addition, the ballot title shall not resemble, so far as to create confusion, the ballot title for any other measure to be submitted to the electors at the same election.

C. Upon completion of the ballot title, the City Attorney shall transmit the same to the City Recorder for filing. A copy of the ballot title shall immediately thereafter be furnished to the proponent of the petition.

D. Appeals: An elector dissatisfied with the ballot title prepared by the City Attorney may appeal the prepared ballot title by filing an action in circuit court as provided by state law.

**1-5-4: PETITIONS, SIGNATURE VERIFICATION:**

A. Petition Circulation: After the petition and ballot title for a measure have been determined, the petition may be circulated by the proponent among the electors of the City for their signatures. No signature upon a petition may be counted unless a completed petition was filed with the City Recorder within one hundred (100) days of the date of the signature.

B. Signature Sheets:

1. Each sheet of signatures for a petition shall contain the complete ballot title for the measure, and there shall be attached thereto a full, correct and legible copy of the proposed measure.

2. Each sheet of signatures for a referendum petition shall in addition contain the number of the ordinance or resolution to be referred, if any, and the date upon which it was adopted by the Council.

3. Each sheet of signatures for a petition shall list the name and residence address of not more than three (3) persons designated as chief petitioners.

4. Not more than twenty (20) signatures on each signature sheet may be counted. Each elector signing a petition shall date the signature and also provide, legibly, his or her full name and residence address.

5. Each signature sheet shall be verified on its face by the signed statement of the person circulating the petition that the individuals who signed the petition did so in the presence of the circulator and that the circulator believes that each individual is an elector registered in the City.

6. Each signature sheet shall contain instructions adopted by the Secretary of State for persons obtaining signatures and, as required by state law, shall contain a statement as to whether one or more circulators will be paid.

C. Petition Filing: When the requisite number of signatures have been obtained, the completed petition may be filed with the City Recorder. A petition shall not be rejected as improper or incomplete for

reasons of technical or clerical errors as to form which do not call into question the genuineness of the signatures or the consent of the electors signing.

**1-5-5: ELECTION:**

A. Election Date:

1. Within ten (10) business days after a completed petition is filed with the City Recorder, the Recorder shall verify the number and genuineness of the signatures and voting qualifications of the persons signing the petition by reference to the registration books in the office of the county clerk of Lane County. If a sufficient number of qualified electors have signed the petition, the Recorder shall so certify and accept the petition. If, however, the Recorder determines that an insufficient number of qualified electors signed the petition, the petition shall be returned to the proponent as incomplete.

2. The election date for a measure required to be submitted to the electors by a proper and complete petition shall be the first regular or special election held more than ninety (90) days after the date on which the City Recorder certified the petition as complete.

3. The election date for a measure submitted by the Council to the electors for approval shall be on the first regular election held more than niney (90) days after the date the ballot title is filed with the City Recorder; provided, however, the Council may call a special election and place the measure on the ballot. Such special election shall be not less than sixty (60) days from the filing of the ballot title.

B. Notice of Election:

1. The City Recorder, pursuant to directions from the Council, shall give notice of each regular or special election with respect to a proposed measure by publishing a notice thereof once each week, for two successive weeks immediately preceding the election, in a newspaper of general circulation in the City, and also by posting the notice, at least ten (10) days prior to such election, in a conspicuous place in the City Hall. The notices of election shall state the time and purposes of the election, and the ballot title and number of each measure to be voted upon at the election.

2. The City Recorder shall furnish the elections officer of Lane County a certified copy of the ballot title and number of the measure to be voted upon at the election in conformity with the time limits and other requirements established by the laws of this state.

C. Voting Procedure:

1. On a ballot, a measure shall appear by ballot title only, with the prescribed language indicating whether the measure is by initiative petition, referendum petition, or submission from the Council. The sequence of measures to be voted upon shall be the sequence in which the respective measures were filed with the City Recorder.

2. The manner of voting upon measures submitted shall be as provided by law. No measure shall be adopted unless it receives the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon.

3. If measures relating to the same subject matter or containing provisions that are conflicting are submitted to the electors at the same election and two or more of them are approved by the electors, the measure receiving the greatest number of affirmative votes shall be proclaimed to be the law adopted.

D. Effect of Measures:

1. A measure submitted to the electors pursuant to this chapter shall take effect upon approval by the electors and canvass of their returns by the City Recorder, unless the measure by its terms specifies a later date of effect.

2. A measure adopted by the Council but subject to a pending referendum for which a proper and complete petition has been timely filed with the City Recorder shall have no effect unless and until it is approved by a majority of the electors voting upon it.

E. Unlawful Acts: No person shall: circulate or file with the City Recorder a petition which he or she knows contains a false or invalid signature; procure or attempt to procure a signature to a petition by fraud or false statement; or, make or file a document provided for by this chapter which he or she knows contains a false statement. Each violation of this section shall be punishable by a fine of not more than $300.00 or imprisonment in the City jail for not more than 150 days, or both. (Ord. 10 Series 1985)

Amended by Ord. No. 11, Series 2010 effective 7-7-10

TITLE 1
CHAPTER 6

# MUNICIPAL COURT; JUDGE

SECTION:


1-6-1: Municipal Court; Jury Trials
1-6-1-1: Jury Provisions
1-6-1-2: Conduct of Trials
1-6-2: Municipal Judge
1-6-2-1: Powers of Judge
1-6-2-2: Costs and Disbursements
1-6-2-3: Requirements for Judge
1-6-2-4: Judges Pro Tempore
1-6-3: Municipal Court: Time and Place
1-6-4: Designation as a Court of Record


## 1-6-1: MUNICIPAL COURT; JURY TRIALS:

## 1-6-1-1: JURY PROVISIONS:

A. A jury list shall be prepared in the following manner for 1982 and each calendar year thereafter.

B. The Court Clerk shall prepare or cause to be prepared a preliminary jury list. Juries shall be selected from the latest tax roll and registration books used at the last city election. Names shall be selected at random from the source lists. A random selection may be made by manual or electronic means. (Ord. 6, Series 1991, 4-1-91).

C. The Court Clerk shall prepare or cause to be prepared a jury list from the preliminary jury list. Only those names of persons who are known or believed to be possessed of the qualifications prescribed in ORS 10.030 shall be placed on the jury list. The number of names to be placed on the jury list shall be determined by the Municipal Judge. The jury list may include all or a random selection of the qualified persons on the preliminary list. A random selection may be made by manual or electronic means.

D. Periodically throughout each year, as directed by the Municipal Judge, the Court Clerk shall select and notify jurors to serve for a two month term. Such selection shall be made on a random basis by manual or electronic means. (Ord. 1, 2013)

E. In the event a juror is excused by the Municipal Judge from jury service for the entire two month term for which the juror was selected, that juror may be placed back on the jury list, or may, at the discretion of the Municipal Judge, be directed to serve any subsequent two month term within the succeeding twelve (12) months. (Ord. 1, 2013)

F. The Court Clerk shall retain as Municipal Court records the preliminary jury list, the jury list and the selected jurors for each two month term. (Ord. 1, 2013)

G. In the event random selections are made manually, the Court Clerk shall make such selection under supervision of at least two (2) City officials, which may include the Municipal Judge, City Recorder or Police Chief, who shall assist in such selection and certify that such selection was made on a random basis. (Ord. 658, 11-10-81)

## 1-6-1-2: CONDUCT OF TRIALS:

A. Conduct: Trials shall be conducted as trials in justice courts and the rules of evidence shall be the same as in State courts and shall include applicable Statutes of the State of Oregon regarding the introduction or admission of evidence.

B. Verdicts: All of the six (6) jurors sworn to try the cause must concur to render a verdict. (Ord. 540, 12-10-73)

**1-6-2: MUNICIPAL JUDGE:**

**1-6-2-1: POWERS OF JUDGE:** The Municipal Judge shall have all inherent and statutory powers and duties of a Justice of the Peace within the jurisdictional limits of the City. The Chief of Police shall assist the Judge in the serving of subpoenas, notice of jury duty, and such other orders of the court necessary for the proper conduct thereof. The Municipal Judge may hold any prospective juror who disregards the notice of jury duty in contempt of court.

**1-6-2-2: COSTS AND DISBURSEMENTS:** In all cases tried before a jury in the Municipal Court, the Municipal Judge shall add the costs and disbursements to the fine, penalty or sentence imposed, in a sum not less than fifteen dollars ($15.00). (Ord 540, 12- 10-73; amd. 1981 Code)

**1-6-2-3: REQUIREMENTS FOR JUDGE:**
All persons appointed as Municipal Judge shall be active members of the Oregon State Bar.

**1-6-2-4: JUDGES PRO TEMPORE:**

A. Appointment: The Municipal Judge of the City is authorized and empowered to appoint Municipal Judges Pro Tempore, to serve in the absence of the Municipal Judge subject to approval of the City Council. All such appointments shall be in writing and shall specify the date, dates and duration of such appointment. (Amended by Ord. 7, Series 1990)

B. Requirements: All persons appointed as Municipal Judge Pro Tempore shall be active members of the Oregon State Bar. (Ord. 593, 10-24-77)

**1-6-3: MUNICIPAL COURT: TIME AND PLACE:** Municipal Court shall be conducted at the Florence Justice Center, 900 Greenwood Street, effective April 22, 1997, on Tuesday of each week at a time designated by the Municipal Judge, except on legal holidays, on the first Tuesday of any month except December having five Tuesdays, and the last Tuesday in December. When necessary for the orderly business of Municipal Court, the Municipal Judge, with the approval of the City Manager, may schedule the Court to convene on other days and times and may cancel a court sitting and reschedule the court docket. (Ord. No. 1, Series 1988 effective 1-12-88)(Amended by Ord No. 7, Series 1990)(Amended by Ord 9, Series 1997).

**1-6-4: COURT OF RECORD:** The Florence Municipal Court is hereby declared to be a court of record, effective November 1, 2010. A prosecution commenced in the Florence Municipal Court before that date shall be deemed a prosecution in a court not of record notwithstanding that part of the prosecution may occur in the Florence Municipal Court after the effective date of this declaration. (Amended Ord. 15, Series 2010)

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Right of Trial by Jury repealed by Ord 6, Series 1991,
4-1-91 and sections renumbered.
Amended by Ordinance 9, Series 1997
Amended by Ordinance 15, Series 2010 effective Oct. 7, 2010
Amended by Ordinance 1, Series 2013 effective March 22, 2013

TITLE 1
CHAPTER 7

# LIENS AND ASSESSMENTS

SECTION:
1-7-1: Delinquent Lien Foreclosure
1-7-2: Certificates of Liens Search

## 1-7-1: DELINQUENT LIEN FORECLOSURE:

A. Method Adopted:

1. In addition to the method now provided by law, or by ordinance of the City, there is hereby adopted by the City the provisions of ORS 223.505 through 223.595. (1981 Code)

2. Except as herein provided the foreclosure of liens shall follow the method provided in said Statutes which are hereby adopted as the method, in addition to any other method to be used by the City, of enforcing sewer, street or sidewalk liens.

B. Recorder's Lien Docket: The City Recorder is hereby designated as the officer to have the custody and keep the Recorder's lien docket and to prepare and transmit the foreclosure list made from the docket of City liens.

C. Collection of Liens: The City Recorder is hereby designated by the City as the officer to have charge of the collection of assessment liens and the foreclosure of the same, and the Recorder shall prepare and transmit to the City Treasurer from time to time as directed by Council, City liens which are subject to foreclosure.

D. Foreclosure by Treasurer: The certificate of sale provided for in the Statute referred to in subsection A above shall be signed by the City Treasurer and the entire proceedings of foreclosure shall be conducted by the City Treasurer and he shall make his return to the Recorder. (Ord. 214, 1-49)

## 1-7-2: CERTIFICATES OF LIENS SEARCH:

A. Certificates Issued: The City Recorder is hereby authorized and directed to make searches of the lien records of the City and to issue certificates concerning the existence of liens upon property within the City after receiving applications for such certificates and the fees provided for in this Section.

B. Certificate Content: The certificates of lien search authorized by this Section shall contain a description of the property involved, shall set forth any lien or liens that may be recorded in the lien records of the City on the date that such certificate is issued, and shall be directed and issued to the applicants for such certificate. (Ord. 556, 9-2-75)

C. Fee Required: For each certificate of lien or non-lien of the City requested by anyone and issued by the City Recorder after first searching the City's lien docket to determine whether or not a lot, tract or parcel of real property located within the City is subject to any City lien there shall be paid to the City Recorder a fee to be set by resolution. Such fee shall accompany the request to the City Recorder for the lien search or at the discretion of the City Recorder, shall be invoiced to the person requesting the lien search upon delivery to the requesting party of the lien or non-lien certificate. (Ord. 556, 9-2- 75; amd. 1981 Code)

D. Separate Certificates Required: The City Recorder shall issue a separate certificate and shall collect a separate fee for each distinct and contiguous parcel of land for which an application for certificate is made.

E. Liability Limitation: No person other than a party to whom a certificate shall be directed and issued shall be entitled to rely upon any information contained in a certificate of lien in the City; and the City shall assume no responsibility, and shall have no liability to any third person as a result of issuing any

certificate of lien. There shall be no liability for an error in a certificate in excess of the actual loss to the party to whom a certificate has been issued; and such damages shall, in no event, exceed the amount of the omitted lien or liens existing upon the property in question on the date of the issuance of the certificate. There shall also be no liability where any of the persons to whom a certificate has been issued has the knowledge or notice of the lien, or has suffered a loss through their own neglect or carelessness. In any case, where the City shall be liable for damages in the issuance of a certificate of lien search it shall, upon payment of such damage, become subrogated to all of the rights of the damaged party, and shall be entitled to an assignment of such rights against any and all third parties who may be liable for such damage. (Ord. 556, 9-2-75)

TITLE 1
CHAPTER 8

# CITY CONTRACTS

SECTION:


1-8-1: Contract Review Board
1-8-2: Contracting Agency
1-8-3: Administrative Staff Authority
1-8-4: Disposition of Surplus Property
1-8-5: Purchasing Policies
1-8-6: Interpretation
1-8-7: Rules


## Section 1.

**1-8-1: CONTRACT REVIEW BOARD:** The Florence City Council is designated as the **"Local Contract Review Board"** under the State of Oregon Public Contracting Code. The Contract Review Board may, from time to time, delegate its powers and responsibilities consistent with the Oregon Public Contracting Code, the City's Public Contracting Rules, or the Florence Code.

**1-8-2: CONTRACTING AGENCY:** The City Manager, or designated purchasing agent, is appointed as the City's "Contracting Agency" for purposes of contracting powers and duties assigned to the City of Florence as a "Contracting Agency" under the State of Oregon Public Contracting Code or the Model Rules.

**1-8-3: ADMINISTRATIVE STAFF AUTHORITY:** Administrative staff and departments have contracting authority and responsibilities as follows:

The City Manager or City Manager's designee is authorized to:

1. Enter into City contracts not to exceed $30,000 without additional authorization of the Contract Review Board.

2. Recommend that the Contract Review Board approve or disapprove contract awards in excess of $30,000.

3. Enter into contracts or permits for local concessions and street vendors (pursuant to applicable City policy) where the annual amount to be paid to or by the City is not expected to exceed $30,000 per year.

4. Approval of purchases of goods from City employees shall require authorization of the City Council and shall be in accordance with the City personnel policies and other applicable law.

5. Approve departmental purchases that are in excess of $10,000. The Department Manager / Chief is authorized to make purchases up to $10,000 if the purchase is within an approved budgeted line item. All contracting by departments shall be according to approved City purchasing procedures adopted by the Contracting Agency or the Contract Review Board.

A. Each Department shall:

1. Operate within its budget, or seek supplemental budgetary authority from City Council with respect to the contract.

2. Plan the purchase of goods and equipment sufficiently in advance, whenever possible and practical so that orders can be placed in economical quantities.

3. Process requisition forms and negotiate purchases on the most favorable terms in accordance with adopted ordinances, state laws, policies and procedures.

**1-8-4: DISPOSITION OF SURPLUS PROPERTY:** Disposition of surplus property may be made, at the discretion of the City Manager or designee, under provisions of the State of Oregon Public Contracting Code, the City's Public Contracting Rules, or under the provisions of this section:

A. After property owned by the City of Florence is determined by the City Manager or designee to be surplus to the needs of the City, the City may sell the property at public auction. The City may utilize a contracting firm, approved by the Contract Review Board, for disposition of the property on terms and conditions contained in a contract approved by the Contract Review Board. The City shall give notice of the public auction by posting notice of the means by which the property will be disposed of on the City of Florence Internet Website, or by advertisement in a newspaper of general circulation.

B. Auction sales may be conducted entirely on the internet. Sale shall be for cash to the highest bidder, "as is". All proceeds of the sale shall be paid to the City, subject to the terms and conditions of the contract (if any) approved by the Contract Review Board between the City of Florence and a firm selected to conduct the auction.

C. All property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the property from the successful bidder, the person or company conducting the auction shall execute an appropriate bill of sale, which shall recite that the sale is without warranty, as provided in this sub-section.

**1-8-5: PURCHASING POLICIES:** The Contracting Agency shall adopt appropriate purchasing policies dealing with ethics, environmental considerations and the like, subject to review and modification by the Contract Review Board.

**1-8-6: INTERPRETATION:** It is the City's intent that this Chapter be interpreted to authorize the full use of all contracting powers and authorities described in ORS Chapters 279A, 279B, and 279C. In the event of a conflict between any provision of the State of Oregon Public Contracting Code and this Chapter the provisions of the State of Oregon Public Contracting Code shall control.

**1-8-7: RULES:** The Contract Review Board shall adopt rules to implement this Chapter by resolution, as allowed by ORS 279A.065.

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Amended by Ord. No. 4, Series 2005 – effective Feb. 24, 2005
All sections amended by Ord. No. 10, Series 2011 – effective June 4, 2011

REPEALED BY ORDINANCE NO. 17, SERIES 2018

Repealed by Ordinance No. 17, Series 2018 – effective February 1, 2019

TITLE 1
CHAPTER 10

# COMPREHENSIVE PLANS

SECTION:

1-10-1: Adopted
1-10-2: Coastal Resources Management Plan Adopted; Amendments
1-10-3: Dredged Material Disposal Plan Adopted; Amendments

**1-10-1: ADOPTED:** The City of Florence Realization 2020 Comprehensive Plan, adopted January 14, 2002. as amended is hereby adopted by reference. (Ord. No. 6, Series, 3-24-08)

**1-10-2: COASTAL RESOURCES MANAGEMENT PLAN ADOPTED; AMENDMENTS:**

A. The Coastal Resources Management Plan, as adopted and amended by Lane County, is herein adopted by reference.

B. The Management Units concerning the areas within the City Urban Growth Boundary, are adopted by the City. The remaining Management Units, being outside the City Urban Growth Boundary, are recognized by the City.

C. The exact locations and configurations of dredge material disposal sites, included as overlays in various management units in the Florence Comprehensive Plan, are to be determined by reference to the Siuslaw River Dredged Material Disposal Plan, as amended. (Ord. 667, 5-17-82; Ord No. 6, Series 2008)

**1-10-3: DREDGED MATERIAL DISPOSAL PLAN ADOPTED; AMENDMENTS:**

A. The Dredged Material Disposal Plan, as amended by Lane County, is hereby adopted by reference. (Ord. 668, 5-17-82; Ord. 6, Series 2008 3-24-2008)

B. The following dredge material disposal sites, being within the City Urban Growth Boundary, are adopted by the City: 1,2,3,12,14,19 and 19A, and the following dredge material disposal sites, begin outside the City Urban Growth Boundary, are recognized by the City: lA, 8, 22, 23, 25, 25A, 27, 31, 32, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 47 and 48. (ORD. 668, 5-17-82; Ord No. 6, Series 2008)

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Amended by Ord. No. 6, Series 2008, effective March 24, 2008

TITLE 1
CHAPTER 11

# DISPOSITION OF PERSONAL PROPERTY

SECTION:


1-11-1: City Property; Disposition
1-11-2: Definition
1-11-3: Custody and Record
1-11-4: Custody; Cost
1-11-5: Reclamation by Owner
1-11-6: Return to Persons Released from Custody
1-11-7: Disposition of Unclaimed Property
1-11-8: Sale; Certificate of Sale
1-11-9: Sale; Payment of Proceeds to Owner
1-11-10: Sale; Liability of City
1-11-11: Authority for Regulations and Procedures


**1-11-1: CITY PROPERTY; DISPOSITION:**

A. Personal property of the City that the City acquires by purchase, gift, or bequest and that the City Manager determines to be surplus or in need of replacement the Manager may dispose of by public sale or exchange or by gift to another governmental entity. Whatever monetary proceeds the disposition yields, the City Manager shall deposit in whatever fund has been used to purchase the property or, if the property has come to the City by gift or bequest in the City's general fund.

B. Public sales shall be conducted per the requirements of Section 1-11-7. (amended by Ord. No. 8, Series 2007)

**1-11-2: DEFINITION:** In Section 1-11-3 to 1-11-11 of this Code, property does not include a motor vehicle.

**1-11-3: CUSTODY AND RECORD:**

A. City personnel who take possession of personal property from a person under arrest, or with reason to believe that the property has previously been obtained unlawfully, constitutes evidence of crime, or has been lost or abandoned, shall deliver the property promptly to the City Manager or the Manager's designee.

B. The Manager or the designee shall keep a record:

1. Describing the property.

2. Identifying from whom the property is received.

3. Identifying all persons who are entitled to or claim the property.

4. Stating the time when the property comes into the City's possession, and

5. Indicating the City's mode of finally disposing of the property.

**1-11-4: CUSTODY; COST:** Property that comes into the City's possession under Section 1-11-3 of this Code shall be held at the expense of the person entitled to possession of the property.

**1-11-5: RECLAMATION BY OWNER:** Within thirty (30) days after property that is not needed as evidence comes into the City's possession under Section 1-11-3 of this Code, a person entitled to it may claim it upon application to the City Manager or the Manager's designee, upon proof of being entitled to it, and upon payment to the City of whatever reasonable expense the City incurs in keeping and preserving the property.

**1-11-6: RETURN TO PERSONS RELEASED FROM CUSTODY:** When an arrested person is adjudged not

guilty by a court of competent jurisdiction of the offense for which arrested, and the City Manager or the Manager's designee determines that the property taken from the person at the time of the arrest belongs to that person, the Manager or the Manager's designee shall deliver the property to the person and take a written receipt therefor. If the person is held for trial or examination, the property shall remain in the City's possession until discharge or conviction of the person, unless the City delivers the property to the State or County officer as required or authorized by State law or the property is confiscated as required by law.

**1-11-7: DISPOSITION OF UNCLAIMED PROPERTY:** Except as this Code provides to the contrary, all unclaimed property, other than money, that comes into the possession of the City under Section 1-11-3 of this Code and that has been in the custody of the City Manager or the Manager's designee for six (6) months and is no longer needed as evidence shall be disposed of in one of the following ways:

A. It shall be destroyed if Federal or State law or this Code so requires.

B. If a City Department requests use of the property and the property is not subject to destruction under subsection A of this Section, the property shall be delivered to the department upon approval of the City Manager of the delivery.

C. Property not disposed of under subsections A or B of this Section shall be sold at public auction to the highest bidder. Such an auction shall be held at least once a year at a time and place set by the City Manager. The City Manager shall publish at least five (5) days' advance notice of the sale in a newspaper of general circulation within the City. The notice shall state:

1. The beginning time of the sale,

2. The place of the sale, and

3. A general description of the property to be sold at the auction or a reference to a list thereof on file at the City Hall.

The City Manager shall sign the original of the notice and shall direct who shall conduct the sale. Proceeds from the sale, together with money acquired under Section 1-11-3 of this Code and unclaimed, shall be held in a special fund for that purpose and, if still unclaimed after the six (6) months shall be credited to the City's general fund.

D. The City Manager may, at his discretion, use and Internet based “on line” auction site approved by the City manager to dispose of unclaimed property. The property will be received and displayed by the auction site for public view. Receipts for the property released to the auction site will be maintained and adjusted as property is sold, or returned to the city. (amended by Ord. No. 8, Series 2007)

**1-11-8: SALE; CERTIFICATE OF SALE:** At the time of payment of the purchase price of property sold under Section 1-11-7 C of this Code, the City Manager or the Manager's designee shall execute a certificate of the sale and deliver the original thereof to the purchaser.

**1-11-9: SALE; PAYMENT OF PROCEEDS TO OWNER:** Within two (2) years after the City sells property under Section 1-11-7C of this Code, the owner of the property shall be paid the net proceeds of the sale, upon application therefore to the City Manager and upon proof of being entitled to the property.

**1-11-10: SALE; LIABILITY OF CITY:** The City assumes no responsibility for the title to property sold under Section 1-11- 7C of this Code. If the sale is invalid, the City's liability is limited to return of the purchase price of the sale.

**1-11-11: AUTHORITY FOR REGULATIONS AND PROCEDURES:** The City Manager may adopt regulations and procedures implementing the provisions of this Chapter. (Ord. 682, 2-8-83)

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Ord. No. 8 Series, 2007 – effective March 2, 2007

TITLE 1
CHAPTER 12

# HOUSING LOAN POLICIES AND PROCEDURES

SECTION:


1-12-1 Owner Occupied Rehabilitation Program Policies
1-12-1-1 Program Definition
1-12-1-2 Applicant Eligibility
1-12-1-3 Property Eligibility
1-12-1-4 The Rehabilitation Loan
1-12-1-5 Policy Changes and Appeals
1-12-2 Investor Rehabilitation Loan Program Policies
1-12-2-1 Program Definition
1-12-2-2 Program Requirements
1-12-2-3 Loan Approval
1-12-2-4 Security
1-12-2-5 Loan Purposes
1-12-2-6 Loan Amounts
1-12-2-7 Loan Terms
1-12-2-8 Application Process
1-12-2-9 Disbursement of Loan Proceeds
1-12-2-10 Relocation
1-12-2-11 Other Program Requirements
1-12-2-12 Policy Changes and Appeals
1-12-3 New Housing Loan Program
1-12-3-1 Program Definition
1-12-3-2 Applicant Eligibility
1-12-3-3 New Housing Loans
1-12-3-4 Construction
1-12-3-5 Appeals


## 1-12-1 OWNER OCCUPIED REHABILITATION PROGRAM:

### 1-12-1-1 PROGRAM DEFINITION:

**A.** The City of Florence Housing Rehabilitation Loan Program, initially funded through an Oregon Community Development Program (OCD) Grant, was initiated on the basis of findings on housing condition, income, and availability of other sources for housing rehabilitation assistance.

**B.** The goals of the Rehabilitation Loan Program are:

1. To alleviate health and safety problems and correct structural deficiencies in target area homes.

2. To conserve existing housing stock.

3. To increase housing opportunities for low and moderate income households.

4. To enable lower income residents of the targeted areas to remain in their homes.

**1-12-1-2 APPLICANT ELIGIBILITY**: In order to be eligible for a Housing Rehabilitation Loan, an applicant must meet all of the following requirements:

**A.** Residency: The applicant must own and occupy the property to be rehabilitated. The property must also be in an identified target area within the City's Urban Growth Boundary.

**B.** Income: Annual income of the Applicant household must not exceed 80% of County median income as established by HUD.

1. Total gross income includes, but is not limited to the following: wages, tips, interest, dividends, rental income, investment or business income, social security benefits, pensions, annuity income, alimony, child support, welfare payments, veterans' benefits, disability benefits, stipends, or living allowances. Income does not include "windfall payments" such as lump sum insurance settlements, capital gains due to the sale of a personal residence or business or food stamps.

2. For the purposes of this subsection, "Applicant" includes all members of the household, cohabitants, renters and boarders and all persons sharing a title to the property.

3. To determine the applicant's income for eligibility purposes, one of the following methods will be used:

   a. Applicants with full-time employment will annualize their current monthly income.

   b. Applicants receiving social security and welfare will annualize their current monthly benefit.

   c. Applicants working temporary, part-time and seasonal occupations will have income computed from their latest federal income tax return.

   d. Self-employed persons will take the average of their income from their last two federal income tax returns.

4. Income and employment information submitted by applicants will be subject to verification.

   a. Applicants who annualize their current monthly income or benefits must provide a copy of the check(s) for the month prior to application.

   b. Applicants employed in temporary, part-time or seasonal occupations or self-employed persons must provide copies of federal income tax returns(s).

**C.** Net Worth: The net worth of an applicant (exclusive of equity in subject property, two automobiles and household property) may not exceed $20,000.00.

1. An Applicant 55 years of age or older may have a net worth of up to $40,000.00 as defined in subsection C.

2. "Assets" may include, but are not limited to: Investments, property, bank accounts, stocks, bonds, or vehicles.

3. For purposes of this sub-section, "Applicant" includes: All persons sharing title to the property, applicant's spouse, and any dependent children of applicant or spouse.

4. For the purpose of this sub-section, "Subject Property" is that property which includes the house and the lot. The lot size is determined as the size of the parcel which included the house at the time of the initial purchase. For instance in an area zoned with five-acre minimums, the "Subject Property" would be the house, as well as the five-acre plot. Any property subsequently purchased would be included as an asset.

**D.** Applicants are required to accept maximum assistance available from energy weatherization programs, and other federal, state, or private housing rehabilitation loan and grant sources.

**E.** City of Florence employees, contract personnel retained to administer the program, and City of Florence Committee Members and families thereof, or others who exercise any functions or responsibilities in connection with the administration of the Community Development Program shall be ineligible for a Housing Rehabilitation loan, nor shall such a person have any interest, direct or indirect, in the proceeds of such a loan.

**1-12-1-3 PROPERTY ELIGIBILITY:**

**A.** Location: Property must be located within identified target areas within the City's Urban Growth Boundary.

**B.** Reasons for disqualification: The existence of the following conditions could disqualify a structure for a Housing Rehabilitation Loan.

1. The structure has deteriorated to the extent where rehabilitation is not economically feasible.

2. The structure and/or use does not conform with the zoning regulations and/or the Comprehensive Land Use Plan of the City or County in which it is located.

3. Significant code violations exist which would be extremely difficult and/or economically unfeasible to correct.

4. The proposed expenditure would not increase the value of the property sufficiently to protect the owner's existing equity.

5. The cost of the repairs required to bring the dwelling up to minimum property standards will exceed the program's loan limit.

**C.** Inspections/Rehabilitation Standards: Each property will be inspected prior to making a determination as to its eligibility. Improvements/repairs necessary to bring the dwelling up to HUD Minimum Design Standards for Rehabilitation for Residential Properties and other applicable codes will be determined by the Rehabilitation Specialist. Buildings must be rehabilitated to the extent that they will be suitable for occupancy for at least 20 years.

1. In order for the property to be eligible for assistance, the homeowner must agree to carry out all necessary improvements to meet program minimum property standards set forth in Section C.

**D.** Property in Flood Plain: Property located in a special flood hazard area as identified by the Secretary of Housing and Urban Development will not be eligible for assistance unless the community in which the property located is participating in the National Flood Insurance Program.

**E.** Judgments: A judgment in excess of $3,000.00 at the time of entry will disqualify the property for a Housing Rehabilitation Loan.

**F.** Federal Tax Liens: All Federal Tax liens must be satisfied prior to loan closing.

**G.** Property Taxes: All real property taxes that are due and payable at the date of loan closing must be paid before loan closing.

**H.** Consent Form Holders of Prior Financing: Written consent from ALL holders of prior financing must be secured prior to loan closing. Prior financing includes, but is not limited to prior mortgages, trust deeds and land sales contracts.

1. Prior financing containing balloon payment provisions will disqualify the property for a Housing Rehabilitation Loan.

**I.** Fire Insurance: All premiums for fire insurance coverage that are due and payable at the date of loan closing must be paid before loan closing.

**1-12-1-4 THE REHABILITATION LOAN:**

**A.** Types of Loans: Two kinds of loans will be available under this program. No interest deferred payment loans will be made to very low income applicants under 50% of county median income as established by HUD. Installment loans with an interest rate of 1% per year, amortized over a period of

up to 20 years will be available to other applicants. Loans less than $5,000.00 will be amortized over 10 years; loans over $5,000.00 but less than $7,500.00 will be amortized over 15 years; and loans over $7,500.00 will be amortized over 20 years.

**B.** The maximum amount of a Housing Rehabilitation Loan will be the lesser of the following:

1. $25,000 to be adjusted administratively by the amount of the "Consumer Price Indexes Pacific Cities and U. S. City Average: West – B/C" (less than 1,500,000 population) for the month of December, beginning January 1, 2006.

2. Actual cost of approved rehabilitation work and fees. If the approved amount proves to be inadequate due to more extensive repairs than initially anticipated, the Community Services Director may raise the amount of the loan by no more than ten percent of the original approved amount without exceeding the borrower's maximum loan eligibility.

3. The applicant's net worth including equity in subject property. Equity in subject property is determined by subtracting all liens, judgments of records from 125% of county assessed value or appraised value (appraisal within the prior 12 months).

    a. The net worth requirement of 1-12-1-4B3 may be waived by the City of Florence Loan Committee, except for no interest deferred payment loans.

**C.** Loan Terms: Loans will be amortized up to 20 years depending on the size of the loan as described in A. Monthly house payments for principle and interest including the Housing Rehabilitation Loan, real estate taxes and fire insurance will not exceed 30% of income as that income is determined by 1-12-1-2-B, 1-4. If the applicant lacks sufficient debt repayment ability as shown in the Family Income and Expense Summary of the Application, a no interest deferred payment loan may be made if it meets the net worth requirements of 1-12-1-2-C, and 1-12-1-4-B-3, and the applicant receives a favorable recommendation from the City of Florence Loan Committee. The Committee will consider the amount of income that is used for basic needs such as food, shelter, clothing and medical care and the amount of income used for non-basic needs such as extra vehicles, boats, vacations, expensive appliances and home furnishings, etc., in making its recommendation. Net worth requirements may NOT be waived as described in 1-12-1-4-B3 for applicants receiving no interest, deferred payment loans. Applicants will be required to accept an amortized loan up to the maximum amount of their repayment ability as shown on the Family Income and Expense Summary of the Application. The cost of any additional rehabilitation work and related costs can be financed by a no interest deferred payment loan.

**D.** Assistance Priorities: Preference loan assistance will go to minorities, elderly, handicapped and female heads of households.

**E.** Homeowner Participation: Eligible applicants will be required to do some or all of the work when, in the estimation of the Rehabilitation Specialist, the applicant is able to do so.

**F.** Eligible Improvements: A Home Rehabilitation Loan must be used to finance the cost of rehabilitation work deemed necessary by the Rehabilitation Specialist to bring the property into compliance with the applicable codes, ordinances, and rehabilitation standards established by the program.

1. HUD has established Minimum Rehabilitation Standards which every participating property should meet after rehabilitation. These standards relate to sanitation, space, security, weatherization, illumination and electrical systems, structure and materials, water supply, access and site conditions. In addition all houses must be rehabilitated to the extent that they will be suitable for occupancy for at least 20 years after rehabilitation as provided in the approved application. All homes will be insulated and weatherized to UBC Code except in those instances where weatherization would require substantial alteration/repair of the structures.

2. Removal of architectural barrier to meet the special needs of the elderly and handicapped persons will be considered an eligible improvement under this program.

3. A Rehabilitation Loan may not be used to finance the cost of:

   a. New construction, expansion, addition or the finishing of unfinished spaces, such as attic or basement. Exception: dwellings which fall below HUD's minimum square footage standards for the number of occupants)

   b. Materials, fixtures, or equipment of a type or quality which exceeds that customarily used in properties of the same general type or value as the property being rehabilitated.

   c. Appliances (Exception: a faulty range or refrigerator may be replaced when it is deemed to be a health or safety hazard).

   d. Purchase, installation or repair of furnishings.

   e. The applicant's labor or the labor of a member of the applicant's family or household.

**G.** Securing the Housing Rehabilitation Loan: The continuation of the Housing Rehabilitation Loan Program is dependent upon timely repayment of loans into a revolving loan fund. To that end, every rehabilitation loan will be secured by a note and trust deed, duly recorded. In order to secure the City's position, title insurance will be obtained.

1. Fees -Recording Fees, Title Report fees, and the cost of the Title Insurance Policy will be included in the loan. In the event that a loan application is not approved, or in the event that an applicant decides not to accept an approved loan, the applicant will not be required to pay for fees.

2. During the term of the Housing Rehabilitation Loan, the applicant shall maintain fire insurance covering at minimum, the total indebtedness against the property including the rehabilitation loan. Property taxes shall also be kept current during the term of the loan. It is the applicant's responsibility to provide proof of fire insurance naming the City of Florence as a beneficiary prior to approval for a loan. It is the applicant's responsibility to notify the City of Florence annually with proof of the renewal of fire insurance policy.

3. Applicants will be notified in writing of his or her eligibility for a loan within 30 days of receipt of a completed application. If an eligibility determination cannot be made within 30 days, the applicant will be notified in writing of the reasons(s) for the delay and the approximate time needed to make the determination.

4. All verification documentation including consent(s) from holder(s) of prior financing, credit reports and verification of any information contained in the application must be submitted within 60 days of the applicants signing of the application. If the required documentation is not received within 60 days of signing of the application, the next eligible applicant will be considered for a loan.

5. All loans shall be reviewed and will require approval by the City of Florence Loan Committee.

6. Rehabilitation work done by the homeowner (self-help) must be completed within 120 days from the date of the notice to proceed. Time extension may be granted in accordance with the self-help Construction Contract. Project "milestones" will be established through consultation between the Housing Rehabilitation Specialist and the homeowner. In the event that the homeowner cannot complete the project milestones by the due date, the City of Florence reserves the right to withhold further payments to the homeowner and/or hire a contractor to complete the work.

7. Security Position: the City shall subordinate to all prior financing including the financing used in conjunction with the loan for rehabilitation work. Subordination will be decided on a case by case basis by the committee.

**H.** Alternative Assistance Requirements: It is not the intent of this program to duplicate services otherwise available in the Target Areas, but rather to complement them.

1. Whenever possible, funds from other programs will be used to supplement Rehabilitation Loan Funds.

2. If there is an alternative form of assistance available which appears to be more appropriate to an applicant's needs (Example: An elderly person who may qualify for an FmHA Section 504 Home Repair Grant) he/she will be required to pursue that alternative.

3. Applicants who prove to be ineligible for this program will, whenever possible, be referred to a program which more closely matches their circumstances or needs.

**I.** Loan payments received by the City of Florence will be deposited in a Housing Rehabilitation Loan Fund to be used for future owner occupied and investor owned housing rehabilitation loans.

**1-12-1-5 POLICY CHANGES AND APPEALS:** These policies are intended as a guide and a safeguard to the interests of all parties involved in the Rehabilitation Loan transaction. It must be remembered, however, that the achievement of the Rehabilitation Program goals is of prime concern.

**A.** Policy Exceptions: In an extraordinary situation where an exception to a policy or policies would be justified, reasonable and appropriate, staff may present the matter to the local City of Florence Loan Committee for review. Any such policy exception recommended by the Committee shall be applicable to the particular case in question only, and subject to approval from HUD, or its authorized agent.

**B.** Policy Changes. If a particular policy contained herein is found to be inadequate, unworkable, or inappropriate; or if significant citizen complaints are received, the policy may be changed by the City of Florence Loan Committee subject to the approval of HUD, or its authorized agent.

**C.** Homeowner/Contractor Disputes: In the event of a conflict between the homeowner and the contractor, the following procedure will be followed:

Prior to beginning of work, both the homeowner and the contractor will have a clear and precise understanding of the work to be done. There may be times, however, when the understanding of the two parties may be quite different. In this event, the Rehabilitation Specialist will immediately attempt to mediate the problem. If the Rehabilitation Specialist is not able to mediate the problem to the mutual satisfaction of the homeowner and the contractor, then the City of Florence Community Services Director will review the case. The Community Services Director, after consultation with the City of Florence Loan Committee will issue a ruling within 30 days after receipt of a written request for a review. The request for the review may be submitted by the homeowner or contractor. This ruling concludes the administrative review.

In addition, the homeowner may file a complaint with the State Builders Board, HUD or HUD's agent. The City of Florence will assist the homeowner in filing their complaint by providing names and addresses.

## 1-12-2 INVESTOR REHABILITATION LOAN PROGRAM POLICIES

**1-12-2-1 PROGRAM DEFINITION:** The City of Florence Investor Rehabilitation Loan (IRL) Program is a financial assistance program to assist owners of rental housing units. The IRL Program will serve the public through the following goals:

- Rehabilitation of rental housing units to provide decent, affordable housing to low income families.

- Stimulate private investment in Florence's rental housing stock.

The IRL is NOT intended to be used as a substitute for commercial financing. Rather, it is intended to serve as a source of financing for investors so that they can upgrade their property and at the same time, maintain rents affordable to lower and moderate income families.

**1-12-2-2 PROGRAM REQUIREMENTS:** An Investor Rehabilitation Loan may be made for the improvement of an investor-owned property provided the following conditions are met:

ELIGIBILITY REQUIREMENTS:

**A.** The property must be located in identified target areas within the City's Urban Growth Boundary.

**B.** The property must need rehabilitation in order to comply with applicable county/city codes and ordinances and HUD Minimum Design Standards.

**C.** Buildings must be rehabilitated to the extent that they will be suitable for occupancy for at least 20 years.

**D.** The housing units occupancy must be at least 51% low and moderate income households (80% County median income as established by HUD) before and after rehabilitation for installment loans and 70% very low income households (50% County median income as established by HUD) for deferred payment loans.

**1-12-2-3 LOAN APPROVAL:** The City of Florence Housing Rehabilitation Loan Committee will review and approve all IRL program loans.

**1-12-2-4 SECURITY:** The City of Florence will be secured by a Promissory Note and Trust Deed on the subject property. Title insurance will be required for all IRL's. If the property equity (appraised value after rehabilitation less total indebtedness secured by the property including the IRL) is less than the amount of the IRL, additional collateral will be required to secure the loan. The appraised value of the subject property will be determined by certified appraisers acceptable to the City or its agent. Additional collateral that may be used to secure the IRL will be cash, time deposits, marketable securities or other real estate. Releases may be provided on the additional collateral when property equity is adequate to secure the remaining balance on the IRL.

**A.** Property In Flood Plain: Property located in a special flood hazard area as determined by the U.S. Department of Housing and Urban Development will not be eligible for assistance unless the community in which the property is located is participating in the National Flood Insurance Program.

**B.** Judgments: All judgments must be satisfied prior to loan closing.

**C.** Tax Liens: All state, federal, county and city tax liens must be paid prior to loan closing. All property taxes must be current prior to loan closing.

**D.** Assessments: All assessments by a governmental agency for streets, sidewalks, water, sewer and other public improvements must be paid current.

**E**. Fire Insurance: All fire insurance premiums that are due and payable must be paid prior to loan closing. The owner must maintain fire insurance equal to total indebtedness secured by the property including the IRL.

**F.** Prior Financing: Written consent must be secured from all holders of prior financing prior to loan closing. Prior financing provisions containing "balloon" or lump sum payments must be refinanced prior to loan closing.

**G**. Security Position: The City IRL will subordinate to all prior financing including the financing used in conjunction with the IRL for rehabilitation work.

**H.** Financial Capability: The applicant must demonstrate the ability to provide the 50% private investment or the labor and materials to match the IRL amount to the satisfaction of the Community Services Director.

**1-12-2-6 LOAN AMOUNTS:** The maximum IRL amount is limited to the lesser of:

**A.** Property equity as defined in Section 1-12-2-4.

**B.** Five thousand dollars ($5,000.00) per dwelling unit (average all units in project).

**C.** Fifty percent (50%) of the cost of eligible rehabilitation work.

The minimum loan amount is $600.00 per unit (average all units in project).

The property equity requirements may be waived if the applicant can provide additional collateral as described in Section 1-12-2- 4, subject to approval of the Community Services Director.

**1-12-2-7 LOAN TERMS:** There are two types of loans available depending on the nature of households occupying the housing units.

**A.** If at least 51% of the units are occupied by low and moderate income households (80% County median income as established by HUD), the loan terms are 20 years, at 3% interest, fixed monthly payments and no penalties for early loan retirement.

**B.** If at least 70% of the units are occupied by very low income households (50% County median income as established by HUD), then the loan can be deferred at 3% interest until sale of property or property is converted to other than residential uses available for rent or lease.

**C.** Both loans may be assumable upon sale of property if the property buyer meets the program eligibility requirements.

- The assumable loan terms will be the Wall Street Journal Prime Rate plus 3% and a maximum length of 20 years. The payment shall be a monthly fixed rate. There will be a loan assumption fee payable to the City of 1% or $75.00 whichever is greater. Loan payments received by the City of Florence will be deposited in a Housing Rehabilitation Loan Fund to be used for future owner occupied and investor owned housing rehabilitation loans.

**1-12-2-8 APPLICATION PROCESS:**

**A.** Notification: Applicants will be notified within thirty days (30) of receipt of a completed application of their eligibility for a loan or the reason for disapproval.

**B.** Submission of Verification/Releases: ALL verification documents and releases from prior lien holders must be submitted prior to loan closing.

**C.** Submission of Construction Bids: A minimum of 3 acceptable bids for the rehabilitation work must be submitted within 60 days of receipt of the Bid Form/Inspection Report furnished by the City or its agent.

**D.** Commitment of Prior Financing: All private financing and other assistance used in conjunction with the IRL for the rehabilitation work must be secured within 60 days of the loan interview date.

**E.** Extension: Time extension up to 30 days for A, B, C, and D, above may be approved by the Community Services Director.

**F.** Preference: Applications providing for a higher number of housing units to be occupied by households of low and moderate incomes will be given priority for loan assistance.

**1-12-2-9 DISBURSEMENT OF LOAN PROCEEDS:** Progress payments to the contractor will be made on the basis of the amount of acceptable work completed less a 5% retainage. The owner and Community Services Director must approve all payments. The contractor will sign a waiver of right to lien prior to the final disbursement. Loan proceeds disbursements by the City shall be a maximum of 50% of the value of the work accomplished at the time of the progress payment.

**1-12-2-10 RELOCATION:** It will be the responsibility of the applicant to provide for tenant relocation if required. If displacement is anticipated, the applicant must submit a plan to the City or its agent that complies with state/federal law. City staff or its authorized agent will assist the applicant to prepare a relocation plan.

**1-12-2-11 OTHER PROGRAM REQUIREMENTS:**

**A.** Civil Rights: The borrower shall not discriminate upon the basis of race, color, sex, marital status, handicap, religion or national origin in the sale, lease, rental, use or occupancy of the property to be rehabilitated with IRL assistance.

**B.** Equal Employment Opportunity: As required, the borrower shall comply with all applicable provisions of federal and state statutes and regulations and City ordinances concerning equal employment opportunities for persons engaged in rehabilitation work undertaken in connection with IRL assistance.

**C.** Labor Standards, Contract Work, Hours and Safety Standards: If the property to be rehabilitated with IRL assistance is designed for residential use by eight or more families, the borrower shall agree to notify its contractor(s) and subcontractors that in the employment of laborers and mechanics in connection with the rehabilitation work, such contractors and subcontractors are required to comply with the provisions of the Davis-Bacon Act, as amended, of the Contract Work Hours and Safety Standards Act, and of other applicable federal laws and regulations pertaining to labor standards. Copies of these provisions are available at the U.S. Department of Labor or City offices.

**D**. Condominium Conversion: The borrower must agree not to convert units assisted under this program to condominium ownership for a period of 10 years after completion of rehabilitation.

**E.** Nondiscrimination Against Tenants with Children and Subsidized Tenants: The borrower must agree not to discriminate against prospective tenants on the basis of their receipt of, or eligibility for, housing assistance under any Federal, State or Local housing assistance program (except for a project housing elderly persons) or on the basis that the tenants have a minor child who will be residing with them.

**1-12-2-12 POLICY CHANGES AND APPEALS:** These policies are intended as a guide and a safeguard to the interests of all parties involved in the Rehabilitation Loan transaction. It must be remembered, however, that the achievement of the Rehabilitation Program goals is of prime concern.

**A.** Policy Exceptions: In an extraordinary situation where an exception to a policy or policies would be justified, reasonable and appropriate, staff may present the matter to the local City of Florence Loan Committee for review. Any such policy exception recommended by the Committee shall be applicable to the particular case in question only, and subject to approval from HUD, or its authorized agent.

**B.** Policy Changes: If a particular policy contained herein is found to be inadequate, unworkable, or inappropriate; or if significant citizen complaints are received, the policy may be changed by the City of Florence Loan Committee subject to the approval of HUD, or its authorized agent.

**C.** Investor/Contractor Disputes: In the event of a conflict between the investor and the contractor, the following procedure will be followed:

Prior to the beginning of work, both the investor and the contractor will have a clear and precise understanding of the work to be done. There may be times, however, when the understanding of the two parties may be quite different. In this event, the Rehabilitation Specialist will immediately attempt to mediate the problem. If the Rehabilitation Specialist is not able to mediate the problem to the mutual satisfaction of the investor and the contractor, then the City of Florence Community Development Director will review the case. The Community Development Director, after consultation with the City of Florence Loan Committee will issue a ruling within 30 days after receipt of written request for review. The request for the review may be submitted by the investor or contractor. This ruling concludes the administrative review.

In addition, the investor may file a complaint with the State Builders Board, HUD or HUD's agent. The City of Florence will assist the investor in filing their complaint by providing names and addresses.

**1-12-3 NEW HOUSING LOAN PROGRAM**

**1-12-3-1 PROGRAM DEFINITION:** The New Housing Loan Program is available to provide assistance with the payment of City building permits and System Development fees for up to two new housing units per fiscal year constructed by Habitat for Humanity or other organizations providing new housing ownership opportunities to low/moderate households, subject to approval by the City's Housing Loan Committee.

**1-12-3-2 APPLICANT AGENCY ELIGIBILITY:**

**A.** Applicant agencies are restricted to organizations whose primary mission is the construction of new housing units for ownership by qualified low/moderate income households.
**B.** Such organizations must have a record of at least three years of successful completion of new housing units and transfer of ownership to the low/moderate income households.
**C.** The housing units must be located within the City boundaries.
**D.** Agency eligibility will be determined by the City Council following application by an organization.

**1-12-3-3 NEW HOUSING LOANS:**

**A.** Deferred payment no interest loans are available for up to two housing units per fiscal year per eligible organization to cover initial costs of building permit and Systems Development fees.
**B.** After application for loan funds, approval by the Housing Loan Committee, and completion and recording of loan agreements, the applicant agency may apply for building permits. Loan proceeds will be debited internally from the Housing Loan Fund and credited to the building permit and SDC funds. No loan funds will be dispersed to the applicant agency.
**C.** The loan is to be repaid in full at the time title to the unit transfers from the first non-agency owner to the second owner. No interim payments are required. Unpaid loans become a lien against the property.
**D.** Loan payments received by the City will be deposited in the Housing Loan Fund for continued use in assisting rehabilitation and construction of housing for income qualified residents and owners.

**1-12-3-4 CONSTRUCTION:** The City assumes no responsibility or liability for construction of the unit(s) other than the normal permitting and inspection process. Construction of the units and conformance with all applicable local, state and federal codes and requirements is the sole responsibility of the applicant. In the event that an applicant is unable to complete a unit, the City may assist in obtaining grants, loans or providing other assistance necessary to ensure completion of the unit, and protection of the value of the City's lien.

**1-12-3-5** **APPEALS**: An applicant who is denied loan funds by the Housing Loan Committee may appeal that decision to the City Council.

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Ord.11, Series 1985, August 1985
Ord.10, Series 1986, May 27, 1986
Ord.13, Series 2003, May 20, 2003
Ord. 5, Series 2005, June 5, 2005

TITLE 1
CHAPTER 13

# ECONOMIC DEVELOPMENT PROGRAM

SECTION:

1-13-1: Program Definition
1-13-2: Eligibility
1-13-3: Types of Economic Development Loans
1-13-4: Program Requirements
1-13-5: Loan Approval

## 1-13-1: PROGRAM DEFINITION:

A. The City of Florence Economic Development Program is intended to use economic development loans to increase employment, benefit low and moderate income people, displaced or under-employed workers, and enhance the City of Florence's economy. In order to accomplish these goals, a strategy is outlined below. Although these points will not necessarily be used to eliminate eligible projects, they do express the preference of the City and will weigh in favor of funding. Program income derived from loan payment will be used by the City of Florence in a local revolving fund to further economic development.

B. The goals of Economic Development projects are to:

Benefit qualified small business ventures
Diversify the local economic base of the community
Leverage significant funds from the banking community
Encourage participation of displaced workers
Provide training opportunities

**1-13-2: ELIGIBILITY:** Funds are available for a wide variety of activities. The following list is not exhaustive, but it covers the major types of projects which are fundable:

a. Marketing activities of the community's economic development consortium
b. Manufacturing or other light industrial production
c. Businesses in the service sector
d. Retail businesses or food service facilities
e. Convention facilities, trade centers and tourism facilities
f. Other activities which represent new technology or types of economic enterprises which meet community development needs and which diversify the economic base of the City of Florence.

**1-13-3: TYPES OF ECONOMIC DEVELOPMENT LOANS:** (Language to be added at a later date).

**1-13-4: PROGRAM REQUIREMENTS:** (Language to be added at a later date).

**1-13-5: LOAN APPROVAL:** The City of Florence Economic Development and Marketing Committee will review and recommend action on all Economic Development Loans to the City Council.

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Ord. No. 10, Series 1999

TITLE 1
CHAPTER 14

# PAYMENT OF BILLS AND CLAIMS

SECTION:

1-14-1: Authorization to Issue Checks
1-14-2: List of Paid Bills and Claims

## 1-14-1: AUTHORIZATION TO ISSUE CHECKS:

Provided that expenditures do not exceed the adopted appropriation and are for purposes approved in the adopted budget, the City Manager or the Manager's designee may issue checks drawn on City bank accounts to pay City bills and claims.

## 1-14-2: LIST OF PAID BILLS AND CLAIMS:

Once each month the City Manager shall provide the Council a list of all bills and claims paid under the authority of this Chapter in the previous thirty (30) days. (Ord. 8 Series 1988 effective May 10, 1988).

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Changed from Chapter 13 to
Chapter 14 administratively 3/00

# TITLE 1
# CHAPTER 15

## REAL PROPERTY COMPENSATION PROCEDURES

SECTION:


1-15-1 Purpose
1-15-2 Definitions
1-15-3 Claim Filing Procedures
1-15-4 City Manager Investigation and Recommendation
1-15-5 City Council Public Hearing
1-15-6 City Council Action on Claim
1-15-7 Processing Fee


**1-15-1: Purpose.** This Title 1, Chapter 15 Real Property Compensation Ordinance is intended to implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city's decision capable of circuit court review.

**1-15-2: Definitions.** As used in this Chapter, the following words and phrases mean:

**City Manager.** The City Manager of the City of Florence, or his or her designee.

**Claim.** A claim filed under Ballot Measure 37.

**Exempt Land Use Regulation.** A land use regulation that:

(a) Restricts or prohibits activities commonly and historically recognized as public nuisances under common law;
(b) Restricts or prohibits activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
(c) Is required in order to comply with federal law;
(d) Restricts or prohibits the use of property for the purpose of selling pornography or performing nude dancing; or
(e) Was enacted prior to the date of acquisition of the property by the owner or a family member of the owner.

**Family Member.** Includes 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 owner of the 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 property.

**Land Use Regulation.** Includes:

(a) Any statute regulating the use of land or any interest therein;
(b) Administrative rules and goals of the Land Conservation and Development Commission; and
(c) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances.

**Owner.** The present owner of the property, or any interest therein.

**Valid Claim.** A claim submitted by the owner of real property that is subject to a land use regulation, other than an exempt land use regulation, adopted or enforced by the city that restricts the use of the private real property in a manner that reduces the fair market value of the real property.

**1-15-3: Claim Filing Procedures.**

A. A person seeking to file a claim under this chapter must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city manager's office, or another city office if so designated by the city manager.

B. A claim shall include:

1. The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;

2. The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that reflects the ownership interest in the property, or other documentation reflecting ownership of the entire property by the claimant(s), and the date the property was acquired;

3. The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;

4. The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser licensed or certified by the Appraiser Certification and Licensure Board of the State of Oregon; and

5. Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.

C. Notwithstanding a claimant's failure to provide all of the information required by subsection B of this section, the city may review and act on a claim.

**1-15-4: City Manager Investigation and Recommendation.**

A. Following an investigation of a claim, the city manager shall forward a recommendation to the city council that the claim be:

1. Denied;

2. Investigated further;

3. Declared valid, and that the regulation be modified, removed, or not be applied to the subject property, or that the city compensate the claimant upon completion of an appraisal; or

4. Evaluated with the expectation of the city acquiring the property, by condemnation if necessary.

B. If the city manager's recommendation is that a claim be denied, and no elected official informs the city manager within 14 days that the official disagrees, then the city manager may deny the claim. If an elected official objects, then the city manager shall wait an additional seven days to see whether two more elected officials object to the proposed denial. If they do, then the city manager shall schedule a work session with the city council. If not, the city manager may deny the claim.

**1-15-5: City Council Public Hearing.** The City Council may conduct a public hearing before taking final action on a recommendation from the city manager. If a hearing is held, notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property, at least 10 days prior to the hearing.

**1-15-6: City Council Action on Claim.**

A. For claims not denied pursuant to Section 1-15-4-B, prior to the expiration of 180 days from the date the claim was filed, the City Council shall adopt a resolution that:

1. Determines that the claim does not meet the requirements of Measure 37 and this chapter, and denies the claim; or

2. Determines that the claim is valid and either:

a. Directs that the claimant be compensated in an amount set forth in the resolution for the reduction in value of the property;

b. Modifies, removes or directs that the land use regulation(s) not be applied with respect to the subject property to allow the owner to use the property for a use permitted at the time the owner acquired the property; or

c. Directs that the city should acquire the property, by condemnation if necessary.

B. The City Council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property.

C. If the City Council removes or modifies the challenged land use regulation, or directs that it not be applied to the subject property, the Council may, as part of the resolution, put back into effect with respect to the subject property, all of the land use regulations in effect at the time the claimant acquired the property.

**1-15-7: Processing Fee.**

A. The city manager shall maintain a record of the city's costs in processing a claim, including staff and legal costs and the costs of obtaining information required by section 1-15-3 of this chapter which a property owner does not provide to the city. Following final action by the city on the claim at the local level, the city manager shall send to the property owner a bill.

1. If all items identified in Section 1-15-3-B were provided to the city with the claim, the bill shall be for the city's actual costs in processing the claim, not to exceed $1,000.00.

2. If any of the items identified in Section 1-15-3-B were missing from the claim, the bill shall be for the city's actual costs in processing the claim, with no cap.

B. If the property owner does not pay the amount due within 30 days, then the city shall pursue collection, including, if necessary, filing a lien on the property.

Ord. No. 16, Series 2004 – effective Nov. 23, 2004

TITLE 1
CHAPTER 16

# POLICE DEPARTMENT

SECTION:

1-16-1: Authority
1-16-2: Purpose
1-16-3: Powers

**1-16-1: AUTHORITY:** The City Council hereby memorializes the existence of its Police Department as presently constituted, and provides that the same shall be continued undiminished under this Ordinance.

**1-16-2: PURPOSE:** The Florence Police Department shall exercise, without alteration, all powers and duties previously held to enforce all applicable ordinances and other laws. These powers include, but are not limited to, detecting and preventing crime, apprehending offenders, preserving the peace, protecting lives and property, and performing community caretaking functions.

**1-16-3: POWERS:** The Chief of Police shall, by way of example, generally, possess and exercise such powers as follows:

A. Establish departmental policies and procedures in line with City Council and City Manager goals and directions, develop standards and programs based upon an analysis of city growth, crime patterns, workload, staffing levels, and related economic, legislative and judicial influences to provide appropriate and effective law enforcement services to the community.

B. Under the general supervision of the City Manager, have authority over and responsibility for the fiscal management of the Police Department. Manage and monitor approved budgets. Review requests for proposals and department expenditures.

C. Assign, supervise, and evaluate the work of subordinates consistent with applicable collective bargaining agreements and the City of Florence Employee Handbook. Hear grievances from and administer disciplinary action to department personnel. Provide interviewing and recommendations for department hiring and termination actions. Ensure adequate training within the department.

D. Supervise and assist in major department problems, crimes or accidents and perform such additional duties as may be assigned by the City Manager.

E. Prepare reports and advises the City Manager, Mayor, Council, or City Attorney in regard to resolutions, ordinances, or other official actions pertaining to public safety.

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Created by Ord. 19, Series 2011 – Effective 12-9-11

# TITLE 2

## COMMITTEES AND COMMISSIONS


| SUBJECT | CHAPTER |
|---|---|
| COMMISSIONS & COMMITTEES – GENERAL PROVISIONS | 1 |
| COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE (CEDC) - ENABLING PROVISIONS | 2 |
| PLANNING COMMISSION (PC) – ENABLING PROVISIONS | 3 |
| PUBLIC ARTS COMMITTEE (PAC) – ENABLING PROVISIONS | 4 |
| URBAN RENEWAL AGENCY OF THE CITY OF FLORENCE | 5 |
| TRANSPORTATION COMMITTEE (TC) – ENABLING PROVISIONS | 6 |
| ENVIRONMENTAL MANAGEMENT ADVISORY COMMITTEE (EMAC) - ENABLING PROVISIONS | 7 |
| | 8 |
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| QUASI-JUDICIAL HEARINGS | 10 |
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TITLE 2
CHAPTER 1

# COMMISSIONS & COMMITTEES - GENERAL PROVISIONS

SECTION:

2-1-1: Generally
2-1-2: Types of Committees & Commissions
2-1-3: Compliance with State Law
2-1-4: Appointments
2-1-5: Vacancies
2-1-6: Removal
2-1-7: Committee & Commission Positions
2-1-8: Quorum, Meetings & Rules

**2-1-1 GENERALLY:** The City Council may create standing committees or commissions to aid the Council in the conduct of public affairs. The City Council may also create ad-hoc committees to accomplish a specific task or project. All standing committees and commission shall be governed by the provisions of this Title (FCC Title 2) except that if the application of this title conflicts with an applicable state statute, the state statute will prevail.

**2-1-2: TYPES OF COMMITTEES & COMMISSIONS:**

A. **COMMISSION:** A standing committee that is required by state law or to which the Council has delegated final decision-making authority. Commissions shall be created by an ordinance of the City Council.

B. **ADVISORY & VOLUNTEER COMMITTEE (COMMITTEE):** A standing committee that is not required by state law (with the exception of the Budget Committee). Establishment of a Committee shall occur by an ordinance of the City Council.

C. **AD-HOC COMMITTEE:** A temporary committee appointed for a specific term to accomplish a specific task or project. Ad-hoc committees shall be established by resolution of the Council. The resolution shall set forth the term of the committee, the task or project to be accomplished, the timeline for completion of the task or project, and such other direction as the Council deems appropriate.

**2-1-3: COMPLIANCE WITH STATE LAW:** All commissions, committees and ad-hoc committees, and any subcommittees thereof, shall comply with the State of Oregon Public Records Law, Public Meetings Law, Code of Ethics, laws regarding conflicts of interest, and any other applicable state laws. Each commission, committee, or ad-hoc committee shall be responsible for ensuring that its subcommittees comply with these laws.

**2-1-4: APPOINTMENTS:**

A. **APPPOINTMENT PARTY:** Subject to the provisions of this section, the Mayor is authorized to appoint the members of all boards, commissions and committees created or supervised by the Council.

B. **QUALIFICATIONS:** Qualifications for appointment and term of office for a position on a Commission, Committee or Ad-Hoc Committee shall be provided in its enabling provisions. If a member of a commission, committee or ad-hoc committee is qualified pursuant to the enabling provisions at the time of appointment, but later ceases to be qualified, he or she must notify the City Recorder immediately.

C. **APPOINTMENT PROCESS:** Prior to making any appointment authorized herein, the Mayor shall:

1. Provide notice to the public and the Council of the position to be filled, qualifications if applicable, and the time and manner in which application may be submitted.

2. Solicit recommendations from the Councilors concerning potential appointees; and,

3. Confer with the Council, at a meeting, or with each Councilor individually, concerning potential appointees.

D. **APPOINTMENT PROCESS AMENDMENTS:** Notwithstanding paragraphs A and B of this section, upon receipt of the Mayor's notice required under paragraph C.1, but before an appointment is made, the Council may direct that a different appointment process be followed in filling a position on a particular board, commission or committee.

E. **TERMS:** The term of office for each commission & committee shall be established in its enabling provisions and shall run on a committee service year from February 1st to the following January 31st. Initial terms for a newly created commission or committee shall be staggered so that the majority of the positions do not become vacant in the same year and so that an equal or approximately equal number of positions become vacant each year.

F. **SERVICE ON MULTIPLE COMMITTEES:** No person shall be appointed to serve simultaneously on more than one of the standing commissions or committees, unless such a position is established in the committee or commission's enabling provisions.

**2-1-5 VACANCIES:** Appointments to fil vacancies on City commissions, committees and ad-hoc committees shall be made in the manner set forth in Section 2-1-4-C for the remainder of the unexpired term. Timelines for recruitment of vacancies shall occur according to the City of Florence's Committee and Commission manual as adopted by Resolution.

**2-1-6 REMOVAL:**

A. **REMOVAL PROCESS:** Except for the Planning Commission and Budget Committee, the Mayor is authorized to remove all members from Commissions, Committees and/or Ad-Hoc Committees for misconduct or nonperformance of duty. Prior to removal the Mayor shall consult with the Committee, Chairperson, Vice-Chairperson, and Staff / Council Ex-Officio members, as available, and shall notify the City Council, City Manager, and City Recorder of any removal decision.

B. **MISCONDUCT:** Examples of misconduct include but are not limited to:

1. conviction of a felony,

2. failure to declare a conflict of interest,

3. failure to adhere to public meetings law,

4. failure to follow the City of Florence's Committee & Commission policies,

5. failure to comply with any applicable requirement of the City of Florence code,

6. any matter or conduct which, in the opinion of the City Council, creates animosity, impedes the job of the particular body or tends to render the City ineffective or open to ridicule.

C. **NON-PERFORMANCE OF DUTY:** Examples of non-performance of duty include but are not limited to:

1. Excessive lack of attendance which is defined as:

   a. Absence from three (3) or more consecutive meetings without an excuse, as approved by the Chairperson, or.

   b. Absence from five (5) or more meetings over the course of a service year

D. **REMOVAL PROCESS AMENDMENTS:** Upon receipt of the Mayor's notice of removal, the Council may direct a review of the process and decision per the provisions of the Council agenda item request in the City Council Rules of Procedure.

E. **PLANNING COMMISSION & BUDGET COMMITTEE MEMBER REMOVAL:** A member of the Planning Commission or Budget Committee may be removed by the City Council, after hearing, for misconduct or nonperformance of duty.

## 2-1-7 COMMITTEE & COMMISSION POSITIONS:

A. **CHAIRPERSON & VICE-CHAIRPERSON:** Each Commission, Committee and Ad-Hoc Committee shall elect a Chair and a Vice-Chair from its membership t its first regular meeting of the service year to serve for the following twelve months (February 1st – January 31st).

1. **Chairperson Term:** No member shall serve more than two consecutive service year terms as Chairperson.

2. **Chairperson Responsibilities:** The Chair Shall:

   a. Set the agenda. Any member of the commission, committee or ad-hoc committee may request that an item of business appear on the agenda. The commission, committee or ad-hoc committee may by majority vote compel an item to be placed on the agenda.

   b. Preside at all meetings.

   c. Be responsible for maintaining communication with Council and Staff.

   d. Call special meetings. A majority of the members of the commission, committee or ad-hoc committee may also call a special meeting.

   e. Be responsible for attendance of members and report to the City Recorder in instances of excessive lack of attendance.

   f. Coordinate the preparation of appropriate reports for the Council agenda.

3. **Vice-Chairperson Responsibilities:** The Vice-Chair shall exercise the duties of the Chair in the Chair's absence.

4. **Chairperson / Vice-Chairperson Vacancy:** In the event of resignation, vacancy, or removal of either the Chairperson or the Vice-Chairperson positions, the Committee shall elect a Chair or Vice-Chair to serve the remainder of the unexpired term.

B. **EX-OFFICIO POSITIONS:** Where indicated in the Commission, Committee, or Ad-Hoc Committee enabling provisions, each may contain ex-officio positions as appropriate to provide communication between various groups including the City Council, Staff, and other local government agencies, non-profits and / or business groups. Each Ex-Officio member serves as an appointed member of the Commission, Committee or Ad-Hoc Committee, participates in all discussions, but does not vote on decisions.

1. **City Council Ex-Officio Positions:** As dictated in the commission, committee, or ad-hoc committee enabling provisions, each year the Council may appoint an ex-officio member from its membership to each commission, committee or ad-hoc committee. The purpose the Council ex-officio position is to provide a direct line of communication between the Commission, Committee, or ad-hoc committee and the Council. Council ex-officio members may not speak for the Council on any item the Council has not made a formal determination upon.

## 2-1-8 QUORUM, MEETINGS AND RULES:

A. **QUORUM:** A majority of members of a commission, committee, or ad-hoc committee, not including ex-officio members, shall constitute a quorum for the conduct of business.

B. **VOTE:** Except as otherwise expressly provided by the City Code or other applicable law or regulation, the concurrence of a majority of members present and eligible to vote shall be necessary to decide any question.

C. **MEETINGS:** A commission, committee or ad-hoc committee, in consultation with staff, shall establish a regular meeting at such time, internal, and place as the commission, committee, or ad-hoc committee deems necessary. Special meetings may be called per FCC 2-1-7-A(2)(d).

**2-1-9 RELATIONSHIP TO CITY COUNCIL:**

A. **COUNCIL AUTHORITY:** The City Council is the elected legislative and policy making body of the City. Unless governed by a specific state mandate, commissions, committees and ad-hoc committees are appointed pursuant to the Council's authority and shall have only those powers and functions as expressly delegated by the Council. Generally, commissions, committees and ad-hoc committees are expected to provide advice and recommendations to the Council and help the Council implement the Council goals. Council members may attend meetings of the affected commission, committee, or ad-hoc committee. The Mayor or a Councilor may not speak on behalf of the City Council at a commission, committee or ad-hoc committee meeting unless appointed to a council Ex-Officio position or unless authorized to do so by the Council.

B. **ANNUAL MEETING:** The City Council shall hold an annual meeting with each standing commission or committee except the Budget Committee. The purpose of such meeting will be to note the accomplishments, address concerns and to discuss issues related to the duties and activities of the commission or committee. Annual meetings of related commission may be held jointly, as the Council deems appropriate.

C. **RECOMMENDATIONS:** All recommendations to the Council shall be made in writing, signed by the Chair.

D. **EXPENDITURE OF FUNDS & OBLIGATIONS:** No advisory board, committee, or commission shall have the authority to expend City funds, or to obligate the City for payment of any sum of money, except as expressly delegated or authorized by prior approval of the City Council.

E. **ADDITIONAL DUTIES AND PROJECTS:** In addition to the duties established for each commission, committee, or ad-hoc committee in its enabling provisions, the City Council may from time to time assign a commission, committee or ad-hoc committee such other duties or projects as the Council deems appropriate.

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Title 1, Chapter 9 renumbered to Title 2 Chapter 1 by Ord 3, Series 1993
Section 2-1-4 F: Amended by Ord 18, 2008 – effective October 22, 2008
Entire Chapter modified by Ordinance No. 17, Series 2018 – effective February 1, 2019

TITLE 2
CHAPTER 2

# COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE (CEDC) – ENABLING PROVISIONS

SECTION:

2-2-1: Establishment
2-2-2: Membership
2-2-3: Term of Office
2-2-4 Appointments, Vacancies & Removals
2-2-5: Chairperson & Vice-Chairperson
2-2-6: Duties
2-2-7: Subcommittees

**2-2-1: ESTABLISHMENT:** A Community and Economic Development Committee is hereby established for the City.

**2-2-2: MEMBERSHIP:** The Community and Economic Development Committee shall consist of not less than five (5) and not more than eleven (11) voting members.

A. **RESIDENCY REQUIREMENT:** A majority of committee membership shall have their permanent residence within the city limits of the City of Florence.

B. **COMMITTEE REPRESENTATION:** Committee membership shall include representation of the following:

1. Business Owner(s) / Manager(s) / Representative(s). Special consideration will be given to potential appointment of representatives of businesses which employ over 50 local residents.

2. Citizen(s) at large. Special consideration will be given to the potential appointment of local residents with interest, knowledge, or experience in the following:

   i. Banking, real estate, the arts, agriculture, small business, tourism, industry, commerce, building, housing, science and technology, or employee relations.

3. Representative(s) of local government and/or non-profit agencies, including but not limited to the Siuslaw School District, Florence Area Chamber of Commerce, Lane Community College, Port of Siuslaw, Central Lincoln People's Utility District, Heceta Water People's Utility District, Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, Lane County Community & Economic Development and the Siuslaw Library District.

C. **EX-OFFICIO MEMBERSHIP:** In addition to the committee membership, the following non-voting ex-officio positions may be appointed:

1. One (1) City Councilor

2. One (1) City Staff Member

3. One (1) Representative of the Public Arts Committee

4. One (1) Representative of the Transportation Committee

**2-2-3: TERM OF OFFICE:** Members shall be appointed for a term of four (4) years. Membership terms will be staggered so that approximately ¼ of the membership terms will expire each year.

**2-2-4: APPOINTMENTS, VACANCIES AND REMOVALS:** Vacancies and removals shall occur in the manner dictated in Title 2 Chapter 1.

**2-2-5: CHAIRPERSON AND VICE-CHAIRPERSON:** The Committee shall elect a Chairperson & Vice-Chairperson in the manner dictated in Title 2 Chapter 1.

**2-2-6: DUTIES:** The Community & Economic Development Committee shall strive to advise the Council and implement the provisions of the City Council goals and work plan related to community and economic development initiatives. Community and economic development matters to be considered include, but are not limited to the following:

A. **Economic Development:** Programs and practices related to business and economic development seeking to implement the goals and policies of Chapter 9 of the City of Florence Comprehensive Plan.

B. **Housing:** Programs and practices related to developing opportunities for housing seeking to implement the goals and policies of Chapter 10 of the City of Florence Comprehensive Plan.

C. **Parks and Recreation:** Programs and practices related to implementing the goals and policies of Chapter 8 of the City of Florence Comprehensive Plan concerning Parks, Recreation and Open Space.

D. **Community Development:** Any additional programs and practices associated to City Council goals and work plan objectives related to community development and promotion of livability and quality of life initiatives.

**2-2-7: SUBCOMMITTEES:** The Community & Economic Development Committee has the authority to establish appropriate subcommittees, per the provisions of the City of Florence Committee & Commission Policy Manual as adopted by Resolution. These sub-committees may include, but are not limited to Economic Development, Housing, Parks and Recreation, Community Development, Fundraising and Marketing.

Amended by ORD 28, Series 1990
Amended by ORD 3, Series 1993
Amended by ORD 4, Series 1995
All sections and title amended by Ord. No. 8, Series 2011 effective 4-8-11
All sections and title amended by Ord. No. 17, Series 2018 effective 2-1-19

TITLE 2
CHAPTER 3

# PLANNING COMMISSION (PC) – ENABLING PROVISIONS

SECTION:

2-3-1: Establishment
2-3-2: Membership
2-3-3: Term of Office
2-3-4: Appointments, Vacancies & Removal
2-3-5: Chairperson & Vice-Chairperson
2-3-6: Powers and Duties
2-3-7: Conflict of Interest and Bias
2-3-8: Meetings

**2-3-1: ESTABLISHMENT:** A Planning Commission is hereby established for the City.

**2-3-2: MEMBERSHIP:** The Commission shall consist of seven (7) members.

A. **RESIDENCY REQUIREMENT:**

1. Five (5) members of the Commission shall have their permanent residence within the city limits of the City of Florence.

2. Two (2) members may have their permanent residence outside the city limits but within the Florence Urban Growth Boundary.

3. Appointees shall have resided within the City or within the City's Urban Growth Boundary, as applicable, for at least six (6) months prior to the time of appointment.

B. **COMMITTEE REPRESENTATION:**

1. No more than two (2) voting members of the Commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that engages principally in the buying, selling, or developing of real estate for profit.

2. No more than two (2) members shall be engaged in the same kind of occupation, business, trade or profession.

C. **EX-OFFICIO MEMBERSHIP:** In addition to the committee membership, the following non-voting ex-officio positions may be appointed:

1. Up to two (2) City Staff members.

**2-3-3: TERM OF OFFICE:** Members shall be appointed for a term of four (4) years. Membership terms will be staggered so that approximately ¼ of the membership terms will expire each year.

**2-3-4: APPOINTMENTS, VACANCIES AND REMOVAL:** Appointments, vacancies and removals shall occur in the manner dictated in Title 2 Chapter 1.

**2-3-5: CHAIRPERSON & VICE-CHAIRPERSON:** The Commission shall elect a Chairperson & Vice-Chairperson in the manner dictated in Title 2 Chapter 1.

**2-3-6: POWERS AND DUTIES:** The Planning Commission shall have the powers and duties which are now, or may hereafter, be assigned to it by charter, ordinance, or resolutions of the City and the general laws of the State of Oregon. The Planning Commission shall serve as a comprehensive planning body with the authority to propose policy and legislation to the Council, conduct hearings, and take such actions concerning specific land development proposals as required by the Florence City Code. In addition to any other powers provided by state law or the charter, ordinances, and resolutions of the City, and except as otherwise provided by the City Council, the Planning Commission:

A. May review, recommend amendments, and implement the Florence Comprehensive Plan including associated detailed plans related to public facilities and services, and subarea plans which relate to specific areas of the community.

B. May conduct hearings, prepare findings of fact, and take such actions as are necessary or warranted concerning specific land development proposals.

C. May study, and propose such measures regarding land development as may be advisable for promotion of the public interest, health, safety, comfort, convenience and welfare.

D. Shall, at the request of the City Council perform other duties relating to some aspect of community planning and development.

E. Authorized to serve as the City of Florence's Citizen Involvement Advisory Committee per ORS 197.160.

**2-3-7: CONFLICT OF INTEREST AND BIAS:**

A. All members of the Planning Commission are public officials and must abide by the ethics laws of the State of Oregon.

B. **CONFLICT OF INTEREST:**

1. A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest:

   a. The member;

   b. The member's spouse, brother, sister, child, parent, father-in-law or mother-in-law;

   c. Any business in which the member is then serving or has served within the previous two years; or

   d. Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

2. Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being made.

C. **BIAS:** A member of the Planning Commission shall not participate in any quasi-judicial Commission proceeding or action in which the member has a bias that would preclude the Commissioner from making an impartial decision.

**2-3-8: MEETINGS:**

A. **QUORUM:** Four (4) members of the Planning Commission shall constitute a quorum.

B. **PUBLIC MEETINGS:**

1. Meetings of the Planning Commission shall be open to the public.
2. Meetings, which will be held at times other than the time regularly scheduled for Planning Commission meetings, may be announced at a prior meeting and thereby made a part of the meeting's records.

3. The chair, upon his or her own motion, may, or at the request of three (3) members of the Commission, shall, by giving notice to the members of the Commission, call a previously unannounced special meeting of the Commission for a time not earlier than twenty-four (24) hours after the notice is given.

4. Notice of a previously unannounced meeting shall be submitted to a newspaper of general circulation in the City, posted at the City Hall, and to the extent feasible, provided to interested persons at least twenty-four (24) hours prior to the meeting. All Planning Commission notices shall comply with the notice requirements of the above section as well as the land use notice requirements in Title 10.

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1-See Section 1-9-1 and Title 2, Chapter 1 of this Code
Amended by Ord #3 Series 1993
Amended by Ord #3 Series 1994 – amended by Ord. 20, 2008
Amended by Ord #13 Series 1994
Section 2-3-2: Membership was amended by Ord. 20, 2008 effective Dec 18, 2008
Amended by Ord. No.3, Series 2012 effective Nov 9, 2012
Amended by Ord. No. 5, Series 2015 – effective April 17, 2015
All sections amended by Ord. No. 17, Series 2018 – effective February 1, 2019

TITLE 2
CHAPTER 4

# PUBLIC ARTS COMMITTEE (PAC) – ENABLING PROVISIONS

SECTION:

2-4-1: Establishment
2-4-2: Membership
2-4-3: Term of Office
2-4-4: Appointments, Vacancies and Removals
2-4-5: Chairperson & Vice-Chairperson
2-4-6: Duties
2-4-7: Subcommittees

**2-4-1: ESTABLISHMENT:** A Public Arts Committee is hereby established for the City.

**2-4-2: MEMBERSHIP:** The Public Arts Committee shall consist of not less than five (5) and not more than eleven (11) voting members.

A. **RESIDENCY REQUIREMENT:** A majority of the committee membership shall have their permanent residence within the city limits of the City of Florence.

B. **COMMITTEE REPRESENTATION:** Committee membership shall include representation of the following:

1. At least one (1) artist(s) of any medium. Special consideration will be given to the potential appointment of artists from within the Florence Community.

2. Citizens at large. Special consideration will be given to the potential appointment of business owners / managers, those with experience in landscape architecture and/or installation of outdoor artwork and those with skills in grant writing.

3. At least one (1) representative(s) of a local art(s) association and/or arts-related non-profit.

C. **EX-OFFICIO MEMBERSHIP:** In addition to the committee membership, the following non-voting ex-officio positions may be appointed:

1. One (1) City Councilor

2. One (1) City Staff Member

3. One (1) Representative of the Community & Economic Development Committee (CEDC)

**2-4-3: TERM OF OFFICE:** The members shall be appointed for a term of four (4) years. Membership terms will be staggered so that only ¼ of the membership terms will expire each year.

**2-4-4: APPOINTMENTS, VACANCIES AND REMOVALS:** Appointments, vacancies and removals shall occur in the manner dictated in Title 2 Chapter 1.

**2-4-5: CHAIRPERSON & VICE-CHAIRPERSON:** The Committee shall elect a Chairperson & Vice-Chairperson in the manner dictated in Title 2 Chapter 1.

**2-4-6: DUTIES:** The Public Arts Committee shall maintain the public art collection, and review and recommend all proposed accessions to and deaccessions from the art collection of Florence. Specific duties include:

A. Maintenance of city art collection – Maintain a current listing of all holdings in the collection, collect an annual review, and see that necessary repairs are performed.

B. Development of a list of potential or desired sites for future accessions. For each site, the list shall specify the goals for, and conditions on, the type of art to be placed there.

C. Development of the collection by acquiring artwork through various means of acquisition. This may include revenue generating activities and using funds to purchase or commission works of art; and accepting donations of art or funds to purchase art from individuals or organizations.

D. Removing works of art from the collection that do not meet the goals of the collection or are damaged beyond repair.

E. Considering projects by private developers and citizens that would result in a piece or pieces of public art and responding to any other public art initiatives.

**2-4-6: SUBCOMMITTEES:** The Public Arts Committee has the authority to establish appropriate sub-committees, per the provisions of the City of Florence Committee & Commission Policy Manual as adopted by Resolution. The subcommittees may include, but are not limited to, project specific committees, marketing and fundraising.

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Created by Ord. No. 3, Series 2016 – effective April 6, 2016
All sections amended by Ord. No. 17, Series 2018 – effective February 1, 2019

TITLE 2
CHAPTER 5

# URBAN RENEWAL AGENCY OF THE CITY OF FLORENCE

SECTION:

2-5-1: Blighted Areas
2-5-2: Need for Urban Renewal Agency
2-5-3: Powers of the Agency
2-5-4: Name of the Agency
2-5-5: Board of Directors
2-5-6: Terms of Office
2-5-7: Dissolution
Exhibit A – Findings on blighted areas

**2-5-1: BLIGHTED AREAS:** Based upon the findings marked Exhibit "A", attached hereto and incorporated by reference as fully set forth herein, the City Council of the City of Florence, Oregon, hereinafter referred to as City of Florence, hereby finds and declares that blighted areas, as defined in ORS 457.010, exist within the City of Florence.

**2-5-2: NEED FOR URBAN RENEWAL AGENCY**: The City Council declares and recognizes that there is a need for an Urban Renewal Agency to function within the City of Florence.

**2-5-3: POWERS OF THE AGENCY:** The City Council further declares, Pursuant to ORS 457.045(2), that all of the rights, powers, duties, privileges and immunities granted to and vested in an Urban Renewal Agency by the laws of the State of Oregon shall be exercised by and vested in the Urban Renewal Agency Board of Directors.

**2-5-4: NAME OF THE AGENCY:** The corporate name of the agency provided by the Ordinance shall be, and said agency shall be known as, "The Urban Renewal Agency of the City of Florence.".

**2-5-5: BOARD OF DIRECTORS:** The Board of Directors shall be made up of nine members who shall be appointed, using the appointment process set out in FCC 2-1-4, based upon their positions as follows:

A. One shall be the Mayor of Florence.
B. Two shall be City Councilors of the City of Florence.
C. One shall be nominated by the Lane County Board of Commissioners.
D. Five shall be citizens at large. Special consideration shall be given to the potential appointment of elected members of the governing bodies of the Western Lane Ambulance District, the Port of Siuslaw, Siuslaw Valley Fire and Rescue, and/or the Siuslaw Library District.

**2-5-6: TERM OF OFFICE:** The term of office of each member of the Board of Directors, with the exception of the Mayor of Florence, shall be three years. The initial appointments shall be made in such a manner so that three members are appointed for full three year terms, three shall be appointed for two years and two members shall be appointed for one year. All terms thereafter shall be three years. The term for the Mayor of Florence shall correspond with his/her term in office as Mayor.

**2-5-7: DISSOLUTION:** Dissolution in absence of Urban Renewal Plan. The Urban Renewal Agency shall be disbanded if at any time the Florence City Council fails to approve an Urban Renewal Plan or should abandon any plan previously approved.

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Established by Ord. No. 4, Series 2006
Section 2-5-5 Amended by Ord. No. 12, Series 2011 – effective 6/17/11
Section 2-5-5 Amended by Ord. No. 1, Series 2019 – effective 4/17/19

## Exhibit A

## Findings on blighting conditions

The City Council finds that there exist within the City of Florence blighting conditions as defined by ORS 457.010(1), and that the City Council is interested in improving conditions in such areas.

The City Council further finds that blighting conditions exist within an area encompassing Old Town Florence, and areas fronting on and adjacent to Highway 101, south of 12th Street. Blighting conditions in this area include:

- Vacant and underutilized property and land.
- Lack of curb, sidewalk and lighting in portions of the area.
- Traffic and safety hazards created by Highway 101, and high levels of traffic.
- Evidence of substandard building maintenance and appearance in the area
- Public facilities in need of repair or replacement.

The City Council finds that urban renewal provides a means to treat blighting conditions in Florence, and that an urban renewal agency therefore should be established.

TITLE 2
CHAPTER 6

# TRANSPORTATION COMMITTEE (TC) – ENABLING PROVISIONS

SECTION:

2-6-1: Establishment
2-6-2: Membership
2-6-3: Term of Office
2-6-4: Appointments, Vacancies and Removals
2-6-5: Chairperson & Vice-Chairperson
2-6-6: Duties
2-6-7: Subcommittees

**2-6-1: ESTABLISHMENT:** A Transportation Committee is hereby established for the City.

**2-6-2: MEMBERSHIP:** The Transportation Committee shall consist of not less than five (5) and not more than eleven (11) members.

A. **RESIDENCY REQUIREMENT:** A majority of committee membership shall have their permanent residence within the city limits of the City of Florence.

B. **COMMITTEE REPRESENTATION:** Committee membership shall include representation from citizen(s) at large with interest, knowledge, or experience in each of the following categories:

1. At least one (1) citizen at large from each of the following interests:

   a. Traffic and Vehicular Safety,

   b. Bike & Pedestrian Infrastructure,

   c. Public and / or Private Transit Opportunities,

   d. Air and / or Rail Transportation

2. Other members may include those with applicable knowledge and interest, including but not limited to grant writing / administration and public contracting / construction.

C. **EX-OFFICIO MEMBERSHIP:** In addition to the committee membership, the following non-voting ex-officio positions may be appointed:

1. One (1) City Councilor

2. One (1) City Staff Member

3. One (1) Representative of the Community & Economic Development Committee

4. One (1) Representative from each involved State, Federal, Tribal, or Transit Agency or each City-funded transit organization

**2-6-3: TERM OF OFFICE:** Members shall be appointed for a term of four (4) years. Membership terms will be staggered so that only ¼ of the membership terms will expire each year.

**2-6-4: APPOINTMENTS, VACANCIES AND REMOVALS:** Appointments, vacancies and removals shall occur in the manner dictated in Title 2 Chapter 1.

**2-6-5: CHAIRPERSON & VICE-CHAIRPERSON:** The Committee shall elect a Chairperson & Vice-Chairperson in the manner dictated in Title 2 Chapter 1.

**2-6-6: DUTIES:** The Transportation Committee shall strive to advise the Council and implement the provisions of the City Council goals and work plan related to the development of the City's Transportation System and other transportation and land use matters relevant to the City of Florence, as well as to guide preparation of transportation plans and programs. Transportation matters to be considered include, but are not limited to the following:

A. **TRAFFIC & VEHICULAR:** Programs and practices related to developing and expanding opportunities for traffic & vehicular movement, safety and freight, seeking to implement the goals and policies of Chapter 12 of the City of Florence Comprehensive Plan, the Florence Transportation System Plan, and applicable ordinances.

B. **BIKE & PEDESTRIAN:** Programs and practices related to developing and expanding opportunities for multi-modal transportation to implement the relevant goals and policies of Chapters 12 and 8 of the City of Florence Comprehensive Plan, Transportation System Plan, and applicable ordinances including, but not limited to, Title 2 Chapter 9.

C. **PUBLIC AND PRIVATE TRANSIT:** Programs and practices related to developing and expanding opportunities for public and private transit to implement the relevant goals and policies of Chapter 12 of the City of Florence Comprehensive Plan, Transportation System Plan, and applicable ordinances including but not limited to Title 3, Chapter 4, as well as developing and expanding opportunities for public and private transit connections inter-city and with other regional partners.

D. **AIR & RAIL:** Programs and practices related to developing and expanding opportunities for air and rail transportation to implement the relevant goals and policies of Chapter 12, of the City of Florence Comprehensive Plan, Transportation System Plan, Airport Master Plan, and applicable ordinances.

**2-6-7: SUBCOMITTEES:** The Transportation Committee has the authority to establish appropriate subcommittees, per the provisions of the City of Florence Committee & Commission Policy Manual as adopted by Resolution. These committees may include, but are not limited to traffic & vehicular safety, bike & pedestrian, public and private transit, air / rail, capital improvement, fundraising and community outreach.

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Amended by Ord No. 3 Series, 1993
Amended by Ord No. 12 Series, 1993
Amended by Ord No. 5, Series, 1995
Amended by Ord No. 3 Series, 2004
Sections 2-6-2, 2-6-4, 2-6-5, 2-6-6, 2-6-9 (renumbered to 2-6-7) amended and Sections 2-6-7 & 2-6-8 deleted by Ord. No. 1, Series 2012, effective 2-17-12
Section 2-6-2 amended by Ord. No. 10, Series 2015, effective 12-16-15
All sections amended by Ord. No. 17, Series 2018, effective 2-1-19

TITLE 2
CHAPTER 7

# ENVIRONMENTAL MANAGEMENT ADVISORY COMMITTEE (EMAC) – ENABLING PROVISIONS

SECTION:

2-7-1: Establishment
2-7-2: Membership
2-7-3: Term of Office
2-7-4: Appointments, Vacancies & Removals
2-7-5: Chairperson & Vice-Chairperson
2-7-6: Duties
2-7-7: Subcommittees

**2-7-1: ESTABLISHMENT:** An Environmental Management Advisory Committee is hereby established for the City.

**2-7-2: MEMBERSHIP:** The Environmental Management Advisory Committee (EMAC) shall consist of not less than five (5) and not more than eleven (11) voting members.

A. **RESIDENCY REQUIREMENT:** A majority of committee membership shall have their permanent residence within the city limits of the City of Florence.

B. **COMMITTEE REPRESENTATION:** Committee membership shall include representation from the following:

1. Citizen(s) at large with interest, knowledge, or experience in:

   a. Solid Waste Handling Businesses

   b. Recycling & Resource Disposal

   c. Dendrology, Landscape Architecture, and / or streetscape management

   d. Grant writing & administration

C. **EX-OFFICIO MEMBERSHIP:** In addition to the committee membership, the following non-voting ex-officio positions may be appointed:

1. One (1) City Councilor

2. One (1) City Staff Member

3. One (1) Member from each City-Regulated Solid Waste handling entity licensed by the City per Title 9 Chapter 4

**2-7-3: TERM OF OFFICE:** The members shall be appointed for a term of four (4) years. Membership terms will be staggered so that approximately ¼ of the membership terms will expire each year.

**2-7-4: APPOINTMENTS, VACANCIES AND REMOVALS:** Appointments, vacancies and removals shall occur in the manner dictated in Title 2 Chapter 1.

**2-7-5: CHAIRPERSON & VICE-CHAIRPERSON:** In Committee shall elect a Chairperson & Vice-Chairperson in the manner dictated in Title 2 Chapter 1.

**2-7-6: DUTIES:** The Environmental Management Advisory Committee shall perform the following duties required in Chapter 9-4 of this Code, Solid Waste Management, and such other duties as the City Councilo may direct. These duties include:

A. **SOLID WASTE MANAGEMENT:** Performance of the public policy declared in Section 9-4 of this Code including:

1. Developing strategies, informing the public and advising the Council on fulfilling the public policy declared in Section 9-4-2 of this Code.

2. Proposing minimum and maximum rates and classifications of solid waste services, on a selective basis, as found in Section 9-4-5 of this Code, to be provided by solid waste service licensees.

3. Recommending to the City Council, approval, denial or revocation of solid waste services licenses. Proceedings on the summary suspension of licenses issues under this Chapter shall be heard by the City Council.

4. Hearing customer complaints regarding a licensee's compliance with this Code unless the licensee has been cited into a court of competent jurisdiction regarding its failure to comply with this Code. Upon hearing such complaints, the Committee may refer the complaint to the City Manager for prosecution or the Committee may take such other action as is consistent with its powers under Chapter 9-4 of this Code.

5. As affecting the delivery of solid waste services, conserving energy and material resources, promoting resource recovery, such as yard debris, and protecting health and the environment, recommend amendments to this Code and review administrative regulations.

B. **RECYCLING & WASTE REDUCTION:** Develop and recommend strategies that support recycling, waste reduction, reuse and biosolids management.

C. **TREES & VEGETATION:** Develop and recommend strategies that support the landscape and biology of the region including:

1. Develop and recommend strategies that support the landscape and biology of the region including:

   a. Developing strategies in the care, preservation, pruning, planting, replanting, removal, or disposal of trees and shrubs in parks, along streets, and in other public areas.

   b. Encourage and provide information to the public to promote the planting and appropriate care of trees, rhododendrons, and other shrubs on private property.

   c. Encourage and provide information to the public on noxious vegetation and steps to mitigate concerns.

**2-7-7: SUBCOMMITTEES:** The Environmental Management Advisory Committee (EMAC) has the authority to establish appropriate subcommittees, per the provisions of the City of Florence Committee & Commission Policy Manual as adopted by Resolution. These committees may include, but are not limited to, Solid Waste Management, Recycling and Waste Reduction, Trees & Vegetation, Fundraising and Community Outreach.

Amended by Ord No. 3 Series 1993
Amended by Ord No. 2 Series 1994
Amended by Ord No. 10 Series 1997 - effective October 2, 1997
Amended by Ord No. 5 Series 2006 – effective June 19, 2006
Amended by Ord No. 5 Series 2009 – effective March 19, 2009
Section 2-7-2 Amended by Ord No. 3 Series 2015 – effective March 4, 2015
All sections amended by Ord. No. 17, Series 2018 – effective February 1, 2019

TITLE 2
CHAPTER 8

REPEALED BY ORDINANCE NO. 17, SERIES 2018

Amended by Ord No. 3, Series 1993
Amended by Ord No. 12, Series 1995
Amended by Ord No. 5 Series 1999
Repealed by Ord. No. 17, Series 2018 – effective February 1, 2019

REPEALED BY ORDINANCE NO. 17, SERIES 2018

Created by Ord No. 8, Series 1990
Repealed by Ord. No. 17, Series 2018 – effective February 1, 2019

TITLE 2
CHAPTER 10

# QUASI JUDICIAL HEARINGS

SECTION:

2-10-1: Definitions
2-10-2: Procedures
2-10-3: Conduct
2-10-4: Challenges to Impartiality
2-10-5: Presiding Officer
2-10-6: Burden of Proof
2-10-7: Order of Procedure
2-10-8: Rules of Procedure
2-10-9: Closure and Deliberations
2-10-10: Official Notice
2-10-11: Record of Proceedings
2-10-12: Amendment and Suspension of Rules

**2-10-1: DEFINITIONS:**

HEARING BODY: The City Council, Planning Commission, Design Review Board or Hearing Official, as the context requires.

PARTY: The applicant or any person who has timely submitted written or oral evidence or testimony for consideration in a quasi-judicial evidentiary hearing.

**2-10-2: PROCEDURES:** The quasi-judicial procedures set forth in Title 2 Chapter 10 supersede any rules of procedure (Roberts Rules of Order), resolution bylaw, ordinance, or section of this Code in conflicting rules and procedures. These procedures supplement the particular land use decisional processes set forth in other parts of this Code to the extent that those processes are consistent herewith. Where these procedures conflict with requirements of State law, State law shall prevail.

**2-10-3: CONDUCT:**

A. No person may be disorderly, abusive, or disruptive of the conduct of the hearing.

B. No person may present evidence, argument or comment without first being recognized by the presiding officer.

C. All witnesses shall identify themselves, their physical address and mailing address.

D. Any employee, agent, or officer of the City shall disclose his or her relationship to the City when commencing to testify.

E. Formal rules of evidence as used in course of law shall not apply.

F. All documents or other written materials relied on by the applicant shall be submitted to the City and, along with the applications, be made available to the public at the time that notice of the public hearing is provided. Any staff notes or reports to be made part of the record shall be available to the public at least seven days prior to the hearing.

G. Audience demonstrations such as applause, cheering, display of signs, and other conduct disruptive of the hearing, shall not be permitted. Any such conduct may be cause of immediate suspension of the hearing at the sole discretion of the presiding officer.

**2-10-4: CHALLENGES TO IMPARTIALITY:**

A. **Challenges:** Any proponent, opponent, or person interested in a matter to be heard, and any member of the hearing body may challenge the qualification of any other member of that hearing body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the fact relied upon by the challenger as the basis for the challenge.

1. Any member of the public may raise conflict of interest issues prior to the hearing.
2. The challenge shall be made a part of the record of the hearing.

B. **Conflict of Interest:** No member of the hearing body may discuss or vote on a matter when:
1. Any of the following has a direct or substantial pecuniary interest in the matter: the member or his or her spouse, brother, sister, child, parent, father-in-law, or mother-in-law; or business in which the member is then serving as an officer or director or employee or has so served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning a prospective partnership, employment or other business affiliation.
2. The member owns all or a portion of the property that is the subject of the matter before the hearing body or owns abutting or adjacent property.
3. The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially.

C. **Abstentions:** Because of the importance of preserving public confidence in decisions made by the hearing body a member of that hearing body may elect to abstain from a particular hearing when in fact the member is not disqualified under Subsection B of this Section but simply desires to avoid the mere appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgment. A member who feels that abstention may be necessary or desirable under this section shall seek the advice of the hearing body and then state the member's decision and the reasons for the abstention.

D. **Ex Parte Contacts:** At the commencement of the hearing on a matter, members of the hearing body shall reveal all ex-parte contacts they have had about the matter in the manner provided in Section 2-10-7-B. If the contacts have not impaired the member's impartiality, the member shall so state that fact and participate or abstain in accordance with subsection C of this section. Ex parte contacts are communications directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing. Ex parte contacts also include any communication, report, or other materials outside the record in connection with the particular case, unless all participants are given the opportunity to respond to the materials.

E. No other officer or employee of the City who has a financial or other private interest in a matter before the hearing body may participate in discussion of the matter, or give an official opinion on the matter to the hearing body without first declaring for the record the nature and extent of that interest.

F. Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the hearing body and abstains from discussion and from voting on the matter as a member of the hearing body.

G. Disqualification for reasons set forth in subsection B of this section may be ordered by a majority of the members of the hearing body present at the hearing. The member who is the subject of the motion for disqualification may not vote on the motion.

H. If all members of the hearing body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after stating their reasons for abstention or disqualification, shall by so doing be re-qualified and proceed to resolve the issues, unless such participation violates State or Federal law or the City Charter.

I. A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

**2-10-5: PRESIDING OFFICER:**

A. The presiding officer shall:
1. Regulate the course and decorum of the hearing.
2. Attend to procedural requests or similar matters.

3. Impose reasonable limitations on the number of witnesses to be heard and set reasonable time lines for oral presentation, questioning of witnesses, and rebuttal testimony.
4. Take other action authorized by the hearing body for conduct appropriate for the hearing.

B. Any ruling by the presiding officer may be put to a vote by the hearing body upon a motion duly made, seconded and discussed. The decision on the motion shall be final for the purpose of the proceeding.

**2-10-6: BURDEN OF PROOF:** The burden of proof is upon the applicant. A decision to resolve the issues presented shall be based upon reliable, probative and substantial evidence in the whole record.

**2-10-7: ORDER OF PROCEDURE:** The presiding officer in the conduct of the hearing shall:

A. Open the hearing by announcing the nature, purpose and time of the hearing and summarize the rules for its conduct.
1. State that testimony and evidence must be directed toward the specified criteria or to other criteria in the plan or land use regulation which the person believes to apply to the decision; and
2. State that failure to raise an issue with sufficient specificity to afford the decision and the parties an opportunity to respond to the issue precludes an appeal on that issue to a higher City hearing body or to the Land Use Board of Appeals.
3. State that the failure of the applicant to raise a constitutional or other issue relating to the proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

B. Call for statements of conflicts of interest, ex parte contacts, and biases, abstentions, or challenges to impartiality:
1. If any member of the hearing body has visited the property which is the subject of the land use application as part of the preparation for the hearing, any observations from the site view that are relevant to the decision shall be disclosed.
2. Any member of the hearing body who has been subject to significant ex parte contacts regarding the matter shall place on the record the substance of the communication. If the contact has not impaired the member's impartiality, the members shall so state and may then participate in the hearing and decision. If the member believes that his or her impartiality has been affected by the contacts, the members shall not participate in the hearing and decision. If the member is uncertain or wishes to avoid the appearance of partiality, the member shall seek the hearing body's advice and announce a decision regarding participation in the hearing and decision, and give the reasons for the action.
3. If the member making the disclosure of ex parte contacts decides to participate in the hearing, the presiding officer shall announce that any person, during their testimony, has the right to rebut the substance of the communication. Communication between City Staff and the hearing body shall not be considered an ex parte contact.
4. Any member of the hearing body who has a potential conflict of interest regarding the matter shall disclose the nature of the potential conflict, on the record. Following disclosure, the member may proceed in the same manner as described in subparagraph 2 of this subsection.
5. Any member of the hearing body who has an interest in the matter as described in subsection 2-10-4-B may not discuss or vote on the matter. Following disclosure of the conflict of interest, the member shall leave the table during hearing, deliberation, discussion, and voting on the matter.
6. Any member considering abstention for reasons other than those described above shall state the reasons for the abstention, seek the advice of the hearing body, and announce a decision and the reasons therefore.
7. Any member whose participation has been challenged by allegation of bias, prejudgment, personal interest, or partiality may make a statement in response or in explanation thereof for the record, and state a decision of whether or not to participate in the hearing. The statement shall be subject to cross examination only upon consent of that member, but shall be subject to rebuttal by the proponent, opponent, or other interested party.
8. The presiding officer shall provide opportunity for additional statements or discussions and proceedings in connection with the impartiality of members of the hearing.

9. Any member who abstains shall not participate in discussion of the matter or vote upon any procedural or substantive issue concerning it.

C. Call for the Applicable Substantive Criteria and Staff Report. Staff notes and reports that have been delivered to members along with the application or proposal and supporting materials prior to the hearing shall be made a part of the record. The presiding officer shall then request that City staff list the applicable substantive criteria, summarize the nature of the proposal, explain any graphic or pictorial displays which are part of the record, summarize the findings and decisions of whatever hearing body has previously considered the matter, and provide whatever other information is requested by the hearing body.

D. Call for testimony in the following order:
1. The applicant or representative (as provided in subsection B of Section 2-10-8).
2. Proponents
3. Opponents.
4. Neutral Parties.
5. Applicant rebuttal (as provided in subsection D of Section 2-10-8).

E. Call for staff response and recommendations.

F. Announce whether:
1. The record is closed (as provided under Section 2-10-9);
2. The record will be held open (as provided in subsection F of Section 2-10-8); or
3. The hearing will be continued (as provided in subsection G of Section 2-10-8).

**2-10-8: RULES OF PROCEDURE**

A. Coordination of Testimony. To the degree necessary to an orderly process within available time, the presiding officer may consolidate submissions by participants or establish reasonable time limits for presentation of testimony. One or more spokespersons for any group may be designated by the presiding officer.

B. Proponent's Case. The applicant or their representative shall first be heard, and other persons or groups in favor of the applicant's proposal shall next be heard. If the applicant or any person representing the applicant provides documentary or oral evidence in support of the application at the hearing, which were not previously submitted under subsection 2-10-3-F, other than staff notes or reports or excerpts thereof, any party shall be entitled to request that the record be held open as provided in subparagraph F of this subsection.

C. Questioning of Witnesses. The questioning of witnesses is a matter solely within the discretion of the hearing body acting through the presiding officer except as subsection B of Section 2-10-5 provides to the contrary. The presiding officer, as deemed necessary or desirable, may permit the questioning of witnesses by members of the hearing body, staff and other interested persons at the conclusion of the witness's presentation. No questioning of witnesses shall be permitted after the proponent's rebuttal, except the questioning of rebuttal witnesses as to matters contained in rebuttal testimony. All questions to witnesses shall be submitted to the witness through the presiding officer unless the presiding officer expressly permits the submission of questions directly to a witness.

D. Rebuttal Evidence. The presiding officer shall allow the applicant or his or her representative to offer additional evidence and testimony, which shall be confined to rebutting the evidence and testimony offered by interested persons, opponents, and the City staff.

E. Raising Issues. An issue which may be the basis for an appeal to a higher City hearing body or to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the application. Such issues shall be raised with sufficient specificity so as to afford the hearing body and participants in the hearing an adequate opportunity to respond to each issue.

F. Holding the Record Open. Unless the hearing is continued, if a party so requests prior to the close of the initial evidentiary hearing, the record shall remain open for seven days or a longer period of time specified by the presiding officer. During this time any person may submit documents or written testimony to clarify, supplement, or rebut evidence already in the record. For a period thereafter of seven days or a longer time specified by the presiding officer, the applicant may rebut the evidence and written testimony submitted during the open record period. The record shall then be closed. The hearing body shall disregard any new evidence or other evidence that is not within the limitations of this subparagraph.

G. Continuance of Hearing. The presiding officer may continue the hearing for any reason deemed appropriate to a specified time, date and location.

**2-10-9: CLOSURE AND DELIBERATIONS:** Subsequent to staff response and recommendations, the presiding officer shall close the hearing unless the hearing is to be continued. If the hearing is closed and the record is to be held open, then the presiding officer shall set a time and date for the record to close. After the hearing and the record have been closed, the hearing body shall deliberate on the matter heard. During the deliberation the hearing body may consult with the City staff and pose questions for review, analysis, and response by the staff. The consultation and questioning shall not constitute re-opening of the hearing. If the presiding officer concludes, however, that new evidence has been presented during the consultation or questioning, the officer shall, upon designation of the new evidence permit the applicant and parties to respond briefly, present evidence, and raise issues with respect to the designated material. The hearing body shall then continue its deliberation to a subsequent meeting at a specified time and place, state its findings of fact and conclusions, or state its decision generally and request that staff prepare proposed findings of fact and conclusions. The staff may request proposed findings of fact and conclusions from any party. All actions taken by the hearing body pursuant to this section shall be made a part of the record.

**2-10-10: OFFICIAL NOTICE:**

A. The hearings body may take official notice of the following:
   1. All facts which are judicially noticeable.
   2. All public records of the City.
   3. The Charter, ordinances, resolutions, rules, regulations, and officially promulgated policies of the City.

B. Matters officially noticed need not be established by evidence and may be considered by the hearings body in the determination of the proposal.

**2-10-11: RECORD OF PROCEEDINGS:**

A. An adequate record of the hearing shall be prepared in accordance with Section 17 of the Florence City Charter and State law as applicable. To assist in the preparation of the record, the proceedings may be stenographically or electronically recorded, but the record need not set forth evidence verbatim.

B. Where practicable, the presiding officer shall cause all presented physical and documentary evidence to be received and to be marked to show the identity of the person offering the evidence and to indicate whether it is presented on behalf of the proponent or an opponent. If evidence is not capable of being incorporated in the record, it shall not be included.

C. Any member of the public shall have access to the record of the proceedings at reasonable times and places. Members of the public shall be entitled to receive copies of the record at their own expense.

**2-10-12: AMENDMENT AND SUSPENSION OF RULES:** Any rule of procedure not required by Federal or State law or the City Charter may be amended or suspended at any hearing by majority vote of those members of the hearing body present and voting.

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Amended by Ord. 13, Series 2004
Amended by Ord. 26, Series 2008 – effective 1-14-09

TITLE 2
CHAPTER 11

# FLORENCE EVENTS CENTER ADVISORY COMMITTEE

REPEALED BY ORDINANCE NO. 11, SERIES 2015

Amended by:
Ord. No. 14 Series 1994
Ord. No. 19, Series 1995
Ord. No. 19, Series 1996
Ord. No. 3, Series 2000
Ord. No. 4, Series 2001
Ord. No. 10, Series 2003
Ord. No. 12, Series 2004
Repealed by Ord. No. 11, Series 2015, effective 12-16-15

TITLE 2
CHAPTER 12

# SIGN REVIEW BOARD

**REPEALED BY ORD. NO. 4, SERIES 2011**

TITLE 2
CHAPTER 13

# MURAL ADVISORY BOARD

**REPEALED BY ORD. NO. 4, Series 2011**

REPEALED BY ORDINANCE NO. 17, SERIES 2018

Repealed by Ordinance No. 17, Series 2018 – effective February 1, 2019

# TITLE 3

## BUSINESS REGULATIONS


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TITLE 3
CHAPTER 1

# BUSINESS LICENSES

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3-1-8-4: Classification 4: Merchant Police, Security Services, and Solicitors
3-1-8-5: Classification 5: Peddlers and Transient Merchants
3-1-8-6: Classification 6: Rhododendron Festival Peddlers and Transient Merchants
3-1-8-7: Classification 7: Master Vendors & Vendors
3-1-8-8: Classification 8: Used Merchandise Dealers
3-1-8-9: Classification 9: Medical Marijuana Facilities
3-1-9: Violations and Penalties


**3-1-1: PURPOSE:** This Chapter is enacted, except as otherwise specified, to provide revenue for Municipal purposes and to provide for the health, safety and welfare of the citizens of Florence through regulation of businesses, occupations and trade. A business need not be located within the city in order to be subject to the provisions of this Chapter. This Chapter serves the public interest by mandating that business will be carried on in compliance with applicable laws. The business license required by this Chapter shall not be construed to constitute a permit to engage in any activity prohibited by law nor as a waiver of any other regulatory license requirement imposed by the City or by federal, state, or local law. The business license shall not indicate an endorsement of any business or business activity.

**3-1-2: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

| | |
|---|---|
| APPLICANT | Agent or owner of the named business |
| AUCTION | The sale, or offer to sell, by public outcry to the highest bidder. |
| BUSINESS | Any enterprise, establishment, store, shop, activity, profession, or undertaking doing business of any nature within the city, whether conducted directly, indirectly, or cooperatively. |
| CITY RECORDER | The person so designated by the City Manager to perform the functions described in this Chapter. |
| LICENSE | The permission granted for the carrying on of a business, profession or occupation within the City limits. |
| LICENSEE | The business as specified and named by applicant. |

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|---|---|
| MASTER VENDOR LICENSE | A temporary license that is issued to a single responsible party which covers more than one vendor in a single location. |
| MEDICAL MARIJUANA FACILITY | A medical marijuana dispensary business required to register with Oregon Health Authority under ORS 475.314. |
| NONPROFIT | An entity organized and operated exclusively for a religious, charitable, humanitarian, or educational purpose and for whom the United States of the State of Oregon has granted exemption from the payment of income tax on that basis. |
| PEDDLER | A person traveling from place to place, selling and delivering, or providing a service at the same time. Such person uses public pedestrian ways, but does not conduct business in a temporary or permanent structure at a fixed location. This definition does not include the delivery of goods, services, or contracts previously purchased or ordered, nor sales by wholesalers to retailers. |
| PERSON | All public or private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the City. |
| PROPER IDENTIFICATION | A document issued by a city, county, state or federal government which bears a photograph and the signature of the person to whom it was issued. |
| PURCHASE | The buying, exchanging, transferring, collecting, cosigning or otherwise acquiring of articles from another person not a used merchandise dealer, for resale, exchange or transfer by the purchaser. |
| USED MERCHANDISE DEALER | Any person, or employee of any person who, as all or part of a business:<br>A) Purchases or sells used articles, including but not limited to, the sale of used metals and jewelry, guns, and electronic equipment.<br>B) Wrecks, dismantles or disassembles a used vehicle and offers for sale the components thereof; or<br>C) Lends money on security of used articles. This does not include a person dealing exclusively in whole automobiles, books, sports trading cards, clothing, furniture, electrical appliances, or farm implements and machinery; a person who purchases or sells used articles for four days or less in a six month period, or a nonprofit corporation or association that sells or otherwise exchanges only donated articles. |
| REVOCATION (of business license) | Withdrawal of approval to operate a business. |
| SOLICITOR | One who travels from place to place, not carrying goods, but taking orders for future deliveries. |
| SUSPENSION (of business license) | An official order to suspend business operations pending correction or ceasing of certain conditions or practices. |
| TRANSIENT MERCHANT | A person who at any one time occupies temporarily (including seasonally or intermittently) a fixed location on private property, who uses a temporary or permanent structure or a vehicle, who sells and delivers from stock on hand, in much the same manner as a permanent business would, and who is not a vendor. |
| VENDOR | A person who occupies a fixed location on public or private property and who sells food, drink, goods, amusements, or games of skill. For the purposes of this chapter, vendor includes only those businesses operating within the confines of a master vendor license. |

## 3-1-3: APPLICABILITY, GENERAL REQUIREMENTS AND EXEMPTIONS:

### 3-1-3-1: APPLICABILITY:

A. No person shall maintain, operate, engage in, conduct, or carry on any business within the city without first having obtained a license for the current year as provided by this chapter.

B. The agent, or agents, of a nonresident proprietor engaged in any business for which a license is required by this Chapter shall be liable for any failure to comply with the provisions of this Chapter, or for any penalty assessed under this Chapter, to the extent, and with like effect, as if such agent, or agents, were themselves the proprietors or owners of the business.

C. A person engaged in business in more than one location, or in more than one business licensed under this Chapter, shall make a separate application, and pay a separate license fee for each business or location, except for businesses whose nature is to perform business in multiple locations including those businesses under Classification 2, 4, and 5, as shown in section 3-1-8 or as otherwise provided in this Code. A businesses whose sole operation is to rent more than one dwelling or commercial unit of real property need only obtain one business license.

D. A person representing himself/herself, or exhibiting any sign or advertisement that he/she, is engaged in a business within the City on which a license fee is levied by this Chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this Chapter.

**3-1-3-2: GENERAL LICENSE REQUIREMENTS:** In addition to any other requirements of this Chapter, each licensee shall:

A. Conform to all Federal, State, and local laws and regulations, the provisions of this Code, and any rules adopted there under. It shall be unlawful for any person to engage in any such business within the City without first having obtained a license for the current year as provided under this chapter. License fees shall be set by Council resolution.

B. Be subject to an Oregon Criminal History Check to be performed by the Chief of Police for listed owners and/or managers included on the application form. Such check will not be performed on business agents or employees except for those specified under the provisions of classification 4 shown in Section 3-1-8-4. Information obtained from the Oregon Criminal History Check will be used as the procedure for review of the code provisions of Section 3-1-7-2(A)6.

C. Notify the City within ten (10) days of any change in material information contained in the application, including but not limited to changes in management, ownership, location, mailing address, business name, and if applicable any specific requirements as indicated by the business classification section as shown in Section 3-1-8.

D. Licensees shall abide by the provisions set forth in Florence City Code 8-2-4 with regards to commercial activity upon City Streets or other public right-of-way.

E. A person who is registered by this ordinance to have a business license shall cause the license to be prominently posted in a place available to the public at the location for which the license is issued. If the principle location or office of the business is not located within the City, the business employee, agent, or representative must possess a copy of the license when doing business within the city.

**3-1-3-3: EXEMPTIONS FROM PERMIT REQUIREMENTS:**

A. Nothing in this Chapter shall be construed to apply to any person transacting and carrying on business within the City which is exempt from a license fee of the City by virtue of the Constitution of the United States, the Constitution of the State of Oregon, or applicable federal or state law.

B. No person whose income is based solely on a wage or salary shall, for the purpose of this Chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that all license taxes and fees will be borne by the employer.

C. Any person paying a franchise tax or fee, under City Code now existing, is exempt from the requirements of this Chapter.

D. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City are exempt from this Chapter.

E. Pursuant to 3-1-8-6 of this section, applicants who wish to do business only during the Rhododendron Festival are exempt from the application process for businesses in Classification 5 and 7 as prescribed in 3-1-8-5 and 3-1-8-7 of this section. These businesses must follow the application process for businesses in Classification 6 as defined in 3-1-8-6. All other regulations of this chapter apply to all businesses, including Rhododendron Festival merchants.

F. Businesses whose sole operation shall occur at the Florence Events Center shall be exempt from this Chapter.

G. All auctions operated by businesses shall obtain a business license as otherwise required by this chapter, with the exception of the following, which shall not be subject to licensing requirements.

1. Estate property sales by executors or administrators of that estate.

2. Property sales by public officials as a part of their official function.

3. Property sold by court order.

4. Property sales by common carriers pursuant to Federal or State laws or public authority.

5. Auction sales under the auspices of the Future Farmers of America, 4 H Club, or a county or district fair.

H. No person conducting an on-premise sale of used household goods by a person who resides on premises (a yard or garage sale), shall be required to obtain a business license, provided that the sale is conducted no more than four days in any calendar year.

I. A person conducting a business for twenty (20) or less hours in one calendar year shall be exempt from licensing requirements.

J. This chapter does not apply to business activities of the City of Florence.

**3-1-4: DISCLAIMERS:**

A. The levy or collection of a license fee, or issuance of a business license, shall not be construed to be a license or permit by the City to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by Federal, State, or Local Law.

B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the City.

**3-1-5: APPLICATION:**

A. Application for a business license, or for renewal of a business license, shall be made to the office of the City Recorder upon forms furnished by the City. Each application shall state:

1. The name of the proposed business.

2. The description of the trade, shop, business, profession, occupation or calling to be carried on, including indication of classification type.

3. The complete address(es), email address(es), and telephone number(s) of the principle office of the business.

4. The complete address, email address, and telephone number of the address at which the business will be conducted, or the address of its Florence office.

5. The signature of the applicant or agent making application. The applicant shall warrant by his/her signature that all representations made on the application form are the truth to the best of his/her knowledge. Any misrepresentations on the application shall constitute a violation of this ordinance.

6. Evidence of satisfaction of State registration, bonding or insurance if required, including registration number and expiration date.

7. The name, contact information, driver's license number or other proper identification, and date of birth, of person of ownership of the business, to be either a person or entity.

8. The name, contact information, driver's license number or other proper identification, and date of birth, of local owner / manager, should such be different than that of the owner.

9. Number of Employees, including part-time and full-time classifications.

10. The City may require proof of bonding or State registration. An applicant shall possess any County or State license required before a City license will be issued.

11. The City Recorder may require the applicant to supply any additional information necessary to determine under Section 3-1-8 the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.

**3-1-6: LICENSE FEES, RELOCATIONS, TERMS OF LICENSE, FEE EXEMPTIONS, AND DELINQUENCY:**

A. License Fees. Each application for a business license shall be accompanied by a non-refundable business license application fee and an annual license fee, unless otherwise exempt as provided in Section 3-1-6-E below. Fees shall be set by Council resolution. The business license fee shall be in addition to, and not in lieu of, any other license or permit fee, charge, or tax required under any other Municipal Code section or City Ordinance. Business license fees, as set by Council resolution, may be increased or decreased, at any time by the City Council.

1. Business Application Fee. The business application fee amount shall be charged when a new or expired business license application is processed and shall be limited to recovering the administrative cost of processing the application. Business license application fees may vary by business classification type per the discretion of the Council. The business application fee shall be set from time to time by resolution of the City Council. Persons holding expired business licenses will be charged a new business application fee to reapply.

2. Business License Annual Fee. Persons renewing an existing, non-expired business license shall pay only the business license annual fee, unless otherwise exempt as provided in Section 3-1-6-E below. The business license annual fee shall be determined by resolution of the City Council, such rate being either a flat rate for all businesses, a progressive rate based on number of employees, or varied by business classification type. The annual license fee for any business license issued after July 1 of any calendar year shall be one half (1/2) the annual fee.

3. Temporary Business License Fee. Businesses in Classifications 5, 6, and 7, or those which elect to receive a temporary license, shall be issued a temporary business license for specified dates, not to exceed six months, and shall pay the temporary business license application fee. The temporary business license application fees shall be set by resolution of the City Council and may be based upon length of operation, dates of operation, classification type, or a progressive rate based on number of employees.

B. Relocation of an Existing Business. In the event a business relocates in such a way as to necessitate review of applicable zoning ordinances, the licensee shall reapply to the City Recorder and pay the applicable business application fee. The business license annual fee shall be transferable to the new location. The City may issue the license upon finding that the new location meets the requirements of this Code.

C. License Term. Except for businesses issued temporary business licenses, a business license issued under this Chapter shall be valid from the date of issuance until the following December 31, after which it shall expire.

D. Renewal Notice. Except for businesses issued temporary business licenses, which shall receive no renewal notice, notice of renewal shall be sent by December 1st of each preceding year and shall be due in 30 days (by January 1st of the current year). Accounts not paid by January 20th shall be declared delinquent. The business owner or his agent shall be subject to a penalty under Section 3-1-6-F.

E. Fee Exemptions. The following businesses shall be exempted from paying the business application and business license annual fee. Businesses listed in this subsection and doing business within the City must still apply for a business license on the forms provided by the City, and respond to annual renewals to ensure accurate information, but shall be exempt from payment of fees.

1. A non-profit agency, organization and/or business, as defined in this ordinance.

2. Persons expressly exempted from paying a City business license fee under any other lawful provision of federal, state, or city law, provided that person claiming the exemption shall show proof of such exemption satisfactory to the City Recorder and/or City Attorney.

3. Any city, county, state agency, special district, school district, or other government entity.

F. Delinquency. Should a business be declared delinquent the City may avail itself of any and all remedies available to collect the fee, including but not limited to referring the delinquency to a collection agency and citing the person for a violation of the Florence Municipal Code. In addition, a delinquency charge of fifty (50) percent of the business license fee may be added to the fee that is otherwise due, or any other fee deemed appropriate by the City Council as set by Council Resolution.

## 3-1-7: APPROVAL, TRANSFER OF LICENSE, DENIAL, REVOCATION OR SUSPENSION OF LICENSE:

### 3-1-7-1: APPROVAL OF APPLICATION AND TRANSFER OF LICENSE:

A. Upon receipt of a signed and completed application for a business license, the City Recorder shall issue a decision on an application within thirty (30) days of the submission of a complete application form, all requested additional information, and annual license fee, or notify the applicant of the delay.

B. Upon finding that the applicant has met all the licensing requirements of this Code, the City Recorder will issue a license.

C. If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which are necessary to protect the public health, safety or welfare, or which are required by this Chapter.

D. The business license may be transferred to another party in the following circumstances, provided the City has been notified of any material changes to the business as indicated by Section 3-1-3-2 within ten (10) days;

1. The business is sold and/or transferred to a new owner and/or manager OR the business location has changed in such a way as to not necessitate review of applicable zoning ordinances.

2. No other significant change in the nature of the business has occurred.

3. If the existing business license contains no person specific endorsements.

4. If the new owner contacts the City to amend the business license application to accurately reflect the new ownership / management and any other new information.

5. No other transfer or assignment of any license issued under this chapter shall be valid or permitted. Upon a significant change of the nature of the business, a new business license is required.

### 3-1-7-2: DENIAL, REVOCATION, OR SUSPENSION OF LICENSE:

A. The City Recorder in concurrence of the City Manager and Police Chief, may deny, suspend, or revoke any license issued under this chapter upon finding that:

1. The licensee fails to meet the requirements of, or is doing business in violation of this Chapter.

2. The licensee is in violation, as determined by the applicable governing jurisdiction, of applicable Federal, State, or local requirements and such violation reasonably relates or has a nexus to the licensee's business activities.

3. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials, or license.

4. The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity.

5. The licensed activity or device would endanger property or the public health or safety.

6. The applicant, owner, or other responsible party has ever been convicted of a felony at any time, or has been convicted of a misdemeanor within the last five (5) years related to fraud, theft, where the elements of such violation of law or statute reasonably relate or have a nexus to the business activity conducted, unless the applicant demonstrates that the offense has no bearing on the applicant's fitness to undertake the licensed activity without endangering property or public health, safety, or welfare.

B. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension or revocation, the notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 3-1-7-4 of this Chapter.

C. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within 15 days, the City Recorder may discontinue the revocation proceedings.

D. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

E. A person whose application for any business license has been denied or shoes license has been revoked for a total of two times within one year or who has a total of four denials or revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.

**3-1-7-3: SUMMARY SUSPENSION:**

A. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City may suspend the license for the activity or device.

B. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 3-1-7-4.

C. The City may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 3-1-7-4.

**3-1-7-4: APPEAL:** In the event that an applicant, or other responsible party for a license under this Chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within fifteen (15) days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than fifteen (15) days after the filing of notice of appeal. The decision of the Council on such appeal shall be final and conclusive.

**3-1-8: BUSINESS CLASSIFICATIONS AND SPECIFIC REQUIREMENTS:**

**3-1-8-1: CLASSIFICATION 1:** Businesses, non-profit organizations, trades, occupations, and professions dealing in retail sale or trade of merchandise and/or services at a permanent business location.

**3-1-8-2: CLASSIFICATION 2:** Occupations, tradesman or contractors dealing in contractual services or installation of merchandise or materials at, in or on properties not the principal location, or base of operation, of the contractor or installer. State registration is a prerequisite to issuance of a business license under this classification.

**3-1-8-3: CLASSIFICATION 3:** Home Occupations as defined in Title 10, Chapter 1 of the City Code.

A. Specific Requirements: To ensure applicants of home occupation business licenses meet the definition of home occupation as defined in Title 10, Chapter 1, applicants shall submit information to the City evidencing conformity with the home occupation definition. The City may require submission of evidence on a City form created for such purposes.

**3-1-8-4: CLASSIFICATION 4:** Merchant police, security services, and solicitors.

A. Specific Requirements: In order to ensure public safety, businesses under Classification 4 shall submit the names, addresses, and dates of birth for each individual intending to take part in the solicitation and/or to be employed in a security capacity. This information will be used to perform a Oregon Criminal History Check to determine the qualifications of the individuals participating in the above activities. The City may require a bond and such insurance as may be deemed proper.

**3-1-8-5: CLASSIFICATION 5:** Peddlers and Transient Merchants

A. Specific Requirements: Special regulations apply to these businesses due to the nature of the businesses, the business location, or because of traffic control problems. As such, businesses under classification 5 shall adhere to the requirements and submit the additional materials as shown below. Businesses under Classification 5 shall address the following requirements.

1. The business activity shall be held on private property with the property owner's consent, or on public property or right-of-way with consent of the appropriate public agency. Should the business be occupied within the public right-of-way, or upon City owned public property, it shall follow all requirements of other code sections including but not limited to private use of right-of-way (Section 7-5), and noise variances (Section 6-1-2-3-E).

2. The business activity shall not occupy or block the minimum parking spaces required under the City parking requirements in Title 10, Chapter 3 for existing businesses or residences on the subject property.

3. The license specifies the dates and the period of time of business operation. Such business application shall be limited to six months, after which time the business shall reapply.

4. The applicant assumes in writing, the responsibility for taking all necessary precautions in order to adhere to all City, County, and State regulations governing the business activity.

5. Any other conditions the City may deem necessary to impose based upon the particular business activity for the purpose of assuring the health, safety, and welfare of the public.

B. The applicants for businesses under Classification 5 shall submit the following information.

1. The names and addresses of the owners and operators of the business.

2. The specific dates or time, the exact location including a site plan and/or other drawing, proposed to be used for the conduct of such business.

3. The written consent of the owners and persons in possession of the property where such business will be located.

4. Description of the utility services which will be used at such location, together with the proposed manner and method of disposing any waste materials resulting from operation of such business.

5. A description of the proposed methods of handing vehicular and pedestrian traffic created by such business, together with the proposed on-street and off-street parking provisions for the customers of such businesses.

**3-1-8-6: CLASSIFICATION 6:** Rhododendron Festival Peddlers and Transient Merchants

A. Specific Requirements: For the purpose of the Rhododendron Festival, the following regulations shall be in effect from 12:00 a.m. on Thursday to 12:00 a.m. on Monday, only during the Rhododendron Festival. The purpose of this section is to exempt Festival merchants from the lengthy application process and provide a lawful means of doing business during the Festival. Businesses not already licensed under the provisions of this Chapter may conduct business during the above specified times under the following restrictions.

1. The applicant must provide written permission from the property owner where they desire to do business.

2. The applicant must complete a license application and pay the applicable fee.

3. The applicant must not do business in violation of any Federal, State or Local Law.

4. The applicant must have any required permits or licenses issued by the County, State, or Federal government.

5. Businesses not licensed by this subsection 3-1-8-6 or any other provision of this Chapter must immediately complete a business license application and pay all required fees is contacted by the Code Enforcement Officer during the Festival, or they will be required to cease sales immediately.

6. Businesses that fail to abide by any provision of this subsection 3-1-8-6 shall be subject to the penalties found in FCC 3-1-9 up to and including criminal prosecution.

7. If an applicant's criminal history is such that it poses an immediate danger to persons or property, the Chief of Police or his/her designee may revoke said persons Rhododendron Festival License and serve notice of such revocation upon applicant.

8. If an applicant fails to obtain a Rhododendron Festival License at City Hall before the event, during regular business hours, the license fee shall be doubled.

**3-1-8-7: CLASSIFICATION 7:** Master Vendors & Vendors

A. Specific Requirements: A business activity organizer, property owner, or other responsible party wishing to establish more than one vendor at a single location shall first apply for a master vendor license with the City under the following restrictions.

1. The business activity organizer or responsible party must make application to the City of Florence showing the business activity location including a site plan and/or other drawing, duration, specific dates of operation, and the maximum number of vendors who will conduct business under the master license, both at one time, or throughout its entirety.

2. The business activity organizer or responsible party must submit a fully completed application for each and all of the participating vendors at least two weeks before they conduct any business under the master license.

3. The business activity organizer or responsible party shall notify the City of any changes to the list of vendors and/or the list of persons doing business under the master license.

4. A Master Vendor License may not be used for any vendor of business which shall be open for business in the City for more than 7 consecutive calendar days, nor more than 90 individual days in any calendar year.

**3-1-8-8: CLASSIFICATION 8:** Used Merchandise Dealer

A. Specific Requirements: In order to ensure public safety, businesses under Classification 8 shall keep a record of the sales for inspection by the Chief of Police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods. Such records, and all articles purchased, shall be available for inspection by the City upon request. A used merchandise dealer shall not:

1. Alter, sell or dispose of any property purchased by the dealer for seven calendar days after the date of purchase.

2. Sell, exchange, dismantle, alter in any manner, or otherwise dispose of articles purchased by the dealer when prohibited from doing so by the City in writing, and until notified otherwise by the City in writing.

3. Purchase from a person under the age of 18 years unaccompanied by a parent or guardian.

4. Purchase from a person who is incapacitated as defined by ORS 126.003(4) or who is under the influence of drugs or intoxicating liquor.

5. Purchase property which has had its serial number obliterated, defaced, removed or otherwise altered.

**3-1-8-9: CLASSIFICATION 9:** Medical Marijuana Facilities

A. Specific Requirements: In addition to the requirements under ORS 475.314 and Oregon Health Authority rules, Medical Marijuana Facilities shall comply with the following business license requirements.

1. Compliance with state laws. Facilities shall comply with applicable state laws and state administrative rules.

2. Compliance with City land use requirements. Facilities shall comply with all applicable land use requirements per FCC Title 10.

3. Hours of operation. A facility shall not be open for business between 7:00 p.m. and 10:00 a.m. the following day.

4. Dispensing indoors. A facility shall only dispense marijuana within a building, fully enclosed structure or other approved facility.

5. Criminal background checks. All employees, owners, and volunteers who handle useable marijuana within a facility must undergo a criminal background check conducted by the City. The background checks must be requested before the employee, owner, or volunteer handles useable marijuana. The criminal background check will be conducted as follows:

   a. A criminal background check request must be submitted annually for each person. All permits shall expire on December 31st of the year issued.

   b. The request shall contain the person's full name, any aliases, date of birth, driver's license information, and residency address information for the past five years.

   c. The City will conduct the criminal background check to determine if the person has been convicted of the manufacture or delivery of a Schedule I or Schedule II controlled substance, as defined under state or federal law.

d. The conviction for the manufacture or delivery of a Schedule I or Schedule II controlled substance, as defined under state or federal law, within the last five years shall disqualify the person from handling useable marijuana at a Medical Marijuana Facility.

e. The fee for completion of a criminal background check for each person proposed to handle useable marijuana within a facility shall be set by Council resolution and shall be due on an annual basis.

6. On-site production. No facility shall manufacture or produce on-site any extracts, oils, resin or similar marijuana derivatives.

7. Free products or samples. Facilities shall not offer or provide free marijuana or marijuana infused products.

8. Permanent Nature & Specified Use. All medical marijuana facilities shall be permanent in nature. The facility must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. The facility may not be located in a home, residential unit, or be occupied by another use aside from medical marijuana facility. Such business application shall not be allowed to apply for temporary status. Medical Marijuana Facilities shall not qualify for “transient merchant”, “vendor”, “master vendor” or “home occupation” status.

B. The applicants for businesses under classification 9 shall submit the following information in addition to the information required per FCC 3-1-5.

1. A complete list of all employees, owners, and volunteers who handle useable marijuana within a facility including the following information…

a. Full name and any aliases

b. Date of birth

c. Driver’s license information

d. Residency information for the past five (5) years

2. The specific hours of operation for the conduct of such business.

3. Written consent of the owners and persons in possession of the property where such business is located.

C. Specific Enforcement Provisions. The following enforcement provisions are applicable to Medical Marijuana Facilities, in addition to but not in place of any enforcement provisions set out elsewhere in this Chapter.

1. Compliance inspections. The City may conduct inspections of a facility, including facility records and video surveillance, to determine compliance within this Chapter. Facility owners, employees, and volunteers shall comply with all reasonable requests for information as part of the City’s compliance inspection. City inspectors may seek an administrative search warrant if a facility refuses to cooperate with an inspection.

2. Impact on Criminal Law. Nothing in this Chapter shall be construed as decriminalizing or making lawful in the City any Medical Marijuana Facility or other business involved in the acquisition, possession, manufacture, production, use, sale, distribution, or transportation of marijuana or related paraphernalia that is not lawful under state law.

**3-1-9: VIOLATIONS AND PENALTIES:**

A. Violation of 3-1-8-6-A-5 of this Chapter shall be considered a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000), or imprisonment not to exceed three hundred sixty five (365) days, or both find and imprisonment. (Ord. 8, 2008) Proceedings for violation of any other provision of this Chapter shall be civil in nature, and a violation thereof shall be punishable by a fine not to exceed five hundred dollars ($500).

B. Inspection and Right of Entry: Whenever they shall have cause to suspect a violation of any provisions of this Code, or when necessary to investigate an application for, or revocation of a license, under any of the procedures prescribed in this Chapter, officials responsible for enforcement or administration of this Chapter, or their duly authorized representatives, may entire on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building or property shall be entered without the consent of the owner or occupant unless under authority of a warrant or other applicable legal authority.

C. Abatement: Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.

D. Legal Proceedings by City Attorney: In addition to the enforcement provisions of this Chapter, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this Chapter.

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Sections 3-1-4, 3-1-5, 3-1-6, 3-1-7, 3-1-8, 3-1-10, and 3-1-12 amended in Ord. 14, Series 1985, effective 9-25-85.
Sections 3-1-5,3-1-8-1, 3-1-8-2,3-1-10 AND 3-1-10-1 amended in Ord. 7, Series 1986 effective 5-13-86.
Sections 3-1-3, 3-1-5, 3-1-7, and 3-1-11 amended in Ord 4, Series 1988, effective March 9, 1988.
Sections 3-1-3, 3-1-5 & 3-1-11 amended in Ord 16, Series 1991, effective September 5, 1991.
Sections 3-1-8-2 & 3-1-9 amended by Ord. 11, Series 2007, effective Sept. 6, 2007
Sections 3-1-2; 3-1-11 and 3-1-12 amended by Ord 8, Series 2008 effective April 24, 2008
Sections: Definitions; 3-1-4-G; 3-1-8-2;3-1-10-2-D;and 3-1-11-D-1 amended by Ord. 1, 2009, effective Feb, 25, 2009
Sections: 3-1-3, 3-1-5 and 3-1-11-C-4 amended or Ord. No. 17, Series 2009 effective Dec. 2, 2009
Sections: 3-1-2, 3-1-3, 3-1-4, 3-1-5, 3-1-6, 3-1-7, 3-1-8, 3-1-9, 3-1-10, 3-1-11, and 3-1-12 amended in Ord. 18, Series 2010, effective 12-15-10.
All sections amended by Ord. 1, Series 2014, effective 2-6-14
Section 3-1-2 amended, and Section 3-1-8-9 added by Ord. 2, series 2015, effective 3-17-15

TITLE 3
CHAPTER 2

# AMUSEMENTS, ENTERTAINMENTS

REPEALED BY ORDINANCE NO. 1, SERIES 2014

# TITLE 3
# CHAPTER 3
# LIQUOR LICENSES

SECTION
3-3-1: Purpose
3-3-2: Local Govt. Recommendation
3-3-3: Definitions
3-3-4: Application Process
3-3-5: Application Fees
3-3-6: City Recorder Duties
3-3-7: Staff Review
3-3-8: Hearing Procedures
3-3-9: Public Notice
3-3-10: Council Action
3-3-11: Licenses Exempt from Council Review
3-3-11-1: Procedures
3-3-11-2: Fees

**3-3-1: PURPOSE**: The purpose of this chapter is to establish the principal criteria which shall be considered by the City Council in making recommendations to the Oregon Liquor Control Commission (OLCC) concerning the granting, denying, modifying or renewing of all liquor licenses within the City, pursuant to ORS 471.166. This process will provide citizens due opportunity for comment/input regarding each liquor license application, prior to Council action.

**3-3-2: LOCAL GOVERNMENT'S ROLE IN RECOMMENDATIONS:**
"OLCC takes local government recommendations seriously, and carefully considers the facts and reasoning that support the recommendation. Anyone applying for a liquor license must get a recommendation from the local governing body. The applicant takes a copy of the license application to the local city hall. Local governments have 45 days to file their recommendation with OLCC. However, if the local governing body believes there is a basis in law to deny the license and wants to explore the issues, they can request an additional 45 days to make a recommendation to OLCC. The recommendation can be to grant, deny, grant a license with restrictions or conditions, or they may make no recommendation.

The reasons for a local governing body's recommendation are important. The OLCC can only consider factual information relating to the sale or service of alcoholic beverages, the type of proposed operation, the character of the neighborhood where the license would be located, the likelihood the specific type of proposed business could cause problems, or the applicant's background. When deciding whether to grant or deny a liquor license, the OLCC cannot consider speculation on what might happen. Under Oregon law, the OLCC is also not able to consider issues such as lack of parking, traffic flow problems or traffic volume, local zoning requirements, the number of licenses in a specific geographic area saturation, or nude dancing or gambling issues. Applicants for a new off-premises sales license (typically a grocery or convenience store) may receive a 90-day temporary letter to operate the business while the OLCC investigates the application. Applicants for changes of ownership of existing grocery stores, taverns, lounges, and restaurants may also receive temporary letters of authority to operate the business for up to 90 days while staff reviews and investigates the application, if the OLCC determines there are no apparent grounds to deny the license. The authority does not guarantee the applicant will receive a permanent license, and the OLCC may revoke this temporary authority."[1]

**3-3-3: DEFINITIONS**: For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

| | |
|---|---|
| APPLICANT | The person or persons submitting an application for a liquor license. |
| APPLICATION | The application forms supplied by OLCC |

[1] OLCC'S GUIDE TO LIQUOR LICENSING IN OREGON

| | |
|---|---|
| CHANGE OF NAME | A change in the name of the place of business without affecting a change in the ownership, location, or serving privileges |
| CITY | City of Florence |
| CITY RECORDER | City Recorder or his/her designee |
| COMMISSION | Oregon Liquor Control Commission (OLCC) |
| COUNCIL | Governing body of the City of Florence |
| LOCAL GOVT. | City of Florence City Council |
| ORS | Oregon Revised Statutes |
| POLICE CHIEF | Chief of Police or his/her designee |
| RENEWAL | Businesses are required to renew their licenses every year at a date set by OLCC |
| TEMPORARY SALES LICENSE<br>SPECIAL EVENT LICENSES | Are required for a special event where the applicant is making alcohol available and either requiring payment or purchase or accepting donations of money for alcohol, entry or admission or any other product or service. |

**3-3-4: APPLICATION PROCESS**:

A. Procedure: Any person, firm or corporation requesting a liquor license through OLCC that requires local government recommendation shall present the completed license application forms prescribed by OLCC, including the personal history form for each person named on the license application, to the City Recorder.

B. Completed Applications: Liquor license applications forms shall be accepted only when all required forms are properly completed, the requested information is submitted, and the required application fee as set forth by Council resolution has been paid.

**3-3-5: APPLICATION FEES:** The City Recorder shall charge and collect a license investigation fee at the time the application is filed. The fees for such services shall be established by resolution of the Council.

**3-3-6: CITY RECORDER DUTIES**: Upon receipt of an application for a new liquor license, the City Recorder shall:

A. Determine if the licensee has a City business license
B. Refer the application to the Police Department; Community Development Department and any other department at his/her discretion for the purpose of obtaining a staff recommendation to the Council.
C. Set a date for the Council to review staff recommendations and allow public input.
D. Endorse the application, if approved by the City Council.

**3-3-7: STAFF REVIEW:**

A. The Community Development Department reviews the application for conformance to the City's zoning and land use laws. If there are any issues regarding the location of the business, planning staff will work with the applicant to resolve these issues.

B. OLCC does a thorough background check on the applicants but the City's Police Department will also review the application and the history of complaints on the place of business. If the Police Chief has concerns after this review, he will contact the applicant and the local OLCC office.

**3-3-8: HEARING PROCEDURES**:

A. Once staff has had the opportunity to review the application the City Recorder will place the

license on the consent agenda at the next regular city council agenda for action.
B. The applicant will be given notice of the date and time of the meeting.
C. If a citizen or councilor would like to make comments either in favor or against the application; the agenda item will be moved from the consent agenda for public comment.
D. The Council shall consider all written and/or oral comments in making their decision in their recommendation to OLCC.
E. Written and/or oral testimony shall be provided to the applicant and forwarded to the local OLCC office.

**3-3-9: PUBLIC NOTICE:**
In order to facilitate public participation in liquor license applications, the City Recorder shall send the Council's meeting agenda via email to the local media, and all parties who have requested a copy of the agenda. The agenda will be made available at City Hall, Siuslaw Public Library and posted on the City's website. The agenda shall specify the date, time, location of meeting, the business name and address of the applicant.

**3-3-10: COUNCIL ACTION:**
The Council shall recommend approval, or denial to the Commission on each liquor license application. In determining whether to make an unfavorable recommendation to OLCC, the Council shall apply criteria authorized by OLCC Administrative Statutes and Rules. (ORS 471.313 and ORS 471.315)

**3-3-11: LICENSES EXEMPT FROM COUNCIL REVIEW**

A. Temporary/Special Event License
B. Change of Name of Business
C. Yearly Renewals

**3-3-11-1: PROCEDURES**
A. Temporary/Special Events: Any person, firm or corporation requesting a liquor license through OLCC for a Temporary/Special Events license shall present the completed license application forms prescribed by OLCC, to the City Recorder.
1. Temporary/Special Events License application shall be forwarded to the Police Department for the Chief's recommendation. If the Chief has concerns he/she will contact the applicant and the local OLCC department.

B. Change of Name: Any person, firm or corporation requesting a Change of Name of the place of business without affecting a change in the ownership, location, or serving privileges,
1. Shall be reviewed and approved by the City Recorder's office.

C. Yearly renewals: OLCC forwards a list of yearly renewals to the City Recorder's office.
1. Yearly renewals shall be forwarded to the Police and Planning Departments, allowing staff the opportunity to update their files. If there are concerns regarding the renewal of a liquor license the Police/Planning Department shall contact the local OLCC office.
2. City Recorder's office shall approve these yearly renewals.

**3-3-11-2: FEES**
The fee charged for Change of Name; Temporary/Special Events licenses and Yearly Renewals shall be established by council resolution at the maximum amount allowed by OLCC, which does not require review by the City Council.

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Established by Ord No. 16, Series 2008

# TITLE 3
# CHAPTER 4

## TAXICABS

SECTION:

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### 3-4-1: PURPOSE:

It is the purpose of this chapter to require persons operating taxicabs do so in a safe, fair and efficient manner. The taxicab industry should be allowed to operate without unnecessary restraint, but because taxicabs constitute an essential part of the City's transportation systems and because transportation so fundamentally affects the City's well-being and that of its citizens, some regulation is necessary to ensure that public safety is protected, the public need provided for, and the public convenience promoted. The provisions contained in this chapter should be applied and enforced in such a manner as to require the taxicab industry to regulate itself, under City supervision, to promote innovation and adaptation to changing needs, and respond to the economics of the marketplace, so long as the public interest is served thereby.

### 3-4-2: DEFINITIONS:

As used in this chapter, unless the context clearly indicates otherwise, the following words shall mean:

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|---|---|
| CITY RECORDER | The person so designated by the City Manager to perform the functions described in this Chapter. |
| COMMITTEE | The Transportation Committee of the City of Florence. |
| DRIVER | Any person in direct and immediate possession or charge of any taxicab, either as an agent, employee or otherwise of the owner, or as owner or under the direction of the owner. |

| | |
|---|---|
| KEY PERSONNEL | Any owner, employee or agent of the licensee who exercises management or supervisory authority. |
| LICENSEE | The holder of an operator's license as described in this chapter. |
| LIMOUSINE | Any motor vehicle which has the seating capacity of more than six but less than ten which carries passengers for hire, whose journey has originated in the City and where the destination and route may be controlled by a passenger and the fare is calculated on the basis of an hourly rate. |
| OPERATOR'S LICENSE | A license to operate taxicabs as provided by this Chapter. |
| OWNER | Any person having use or control of any taxicab, whether as owner, lessee or otherwise and also includes any shareholder, partner or associate with an ownership interest in the taxicab business. |
| STREET | Any street, alley, avenue, road, lane, highway or public place in the City commonly used for the purpose of public travel. |
| TAXICAB | Any motor vehicle which carries passengers for hire, whose journey has originated in the City and where the destination and route may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled and delay, including limousines for hire unless specifically exempted by the language herein. Any vehicle which has an appearance similar to a taxicab is a taxicab for the purposes of this Chapter. Exceptions are: regularly scheduled buses; bona fide state-approved buses engaged in charter service with a seating capacity of more than twenty persons; vehicles owned or operated by, or under contract with, a charitable organization when exclusively engaged in performing transportation necessary to the operation of the charitable organization as defined in ORS 767.025(15); and courtesy vehicles operated by vehicle repair businesses, hotels or motels without charge to the user. |

**3-4-3: LICENSE AND PERMIT REQUIRED:**

Within the City, no person shall operate a taxicab service without first obtaining a license as provided herein, no person shall drive a taxicab without first having secured a permit therefore and no taxicab shall be operated in violation of this Chapter.

**3-4-4: APPLICATIONS - INFORMATION - REQUIREMENTS:**

A. An application for an original operator's license shall be filed with the City Recorder on a form provided by the City, verified under penalty of perjury, accompanied by the non-refundable application investigation fee in an amount set by Council Resolution, and contain the following:

1. The name, business address, residence address and date of birth of the owner(s) or person(s) applying;

2. The name(s), business address, residence address and date of birth of each officer(s) and key personnel of the proposed business;

3. The business name under which the taxicab service shall operate, the business address and telephone number;

4. The make, type, year of manufacture and seating capacity of the vehicles applicant intends to operate as taxicabs;

5. A description of the proposed color scheme, insignia, trade style or other distinguishing characteristics of the proposed taxicab business;

6. A statement whether the applicant or any officer or key personnel of the applicant have been:

   a. Convicted of any felony, misdemeanor or violation of any municipal ordinance or state law (other than minor traffic and parking offenses), the nature of the offense and the punishment or penalty assessed;

   b. Had a business license or bond denied, revoked or suspended and, if so, a description of the reason for such revocation or suspension;

7. The rates applicant proposes to charge for taxicab service;

8. Not including limousines, applicant's willingness and ability to participate in public service projects, such as subsidized fare programs for the elderly, the disabled, or other groups of citizens, sponsored by government or private agencies. Applicant should submit documentation indicating the sponsoring agency's willingness to allow applicant to participate in any such program.

9. A description of applicant and applicant's officers and key personnel prior business and work experience;

10. Not including licensees who will only be operating limousines: (Ord 10, Series 1995)

    a. A financial statement prepared by a certified public accountant.

    b. A statement as to whether the applicant has any unpaid judgments outstanding against them, and if so, the nature of the acts or transactions giving rise to each judgment, the court in which it was rendered, and the amounts of any unpaid or unbonded judgment, and a statement of any bankruptcies, either personal or business, including the number, court and date of discharge, if discharge was granted. If a discharge was not granted, the circumstances for the denial or discharge; and

11. Such other relevant information as the City Recorder may deem necessary for the proper protection of the public.

B. Each licensed taxicab operator shall continue to keep the information provided in its application current, and shall inform the City Recorder of any changes within ten days of the occurrence.

**3-4-5: TERM OF LICENSE:**

1. Except as provided in subsection 2 of this section, the term for an operator's license shall be five calendar years commencing the next January 1st following issuance of the license.

2. Unless revoked, modified or suspended as provided in this chapter, after the first full calendar year of the license term, a calendar year shall be added to the term thereof provided the licensee has timely paid the annual fee required by Section 3-4-6 and filed any reports requested under the provisions of this Chapter.

3. On or before November 1 of the first full calendar year of the license or any calendar year added under subsection 2 of this section, the City or a licensee may notify the other in writing of its election not to have the five year term of the license renewed as provided in subsection 2 of this section. When such notice is given, the license term shall not be added to as provided in subsection 2 of this section and shall expire at the end of the fourth calendar year following the notice.

**3-4-6: OPERATOR'S LICENSE FEES:**

The annual license fee for an operator's license shall be based on a per taxicab vehicle rate as set by Council Resolution, and shall be paid before a license will be issued, and thereafter on or before January 1st of each year. If the initial operator's license is issued on or after July 1st, the first license fee shall be reduced by one-half for the initial license year. The per vehicle license fee rate

shall be paid on each new vehicle added throughout the license year which does not replace a currently permitted vehicle.

**3-4-7: APPLICATION FOR TAXICAB DRIVER'S PERMIT:**

Application for taxicab driver's permits shall be made to the City Recorder on a form provided by the City and accompanied by the payment of a non-refundable original application investigation fee as set by Council Resolution. Upon approval of the application, the annual license fee as set forth in Section 3-4-9 must be paid before the license is granted. Applications shall contain the name, address, date of birth, Oregon driver's license number of the applicant, and any other relevant information requested by the City Recorder, and shall be accompanied by a current photograph of the applicant. Each applicant shall provide satisfactory proof to the City Recorder that the applicant possesses the appropriate valid Oregon driver's license. Each applicant shall be fingerprinted.

**3-4-8: STANDARDS FOR ISSUANCE OF DRIVER'S PERMIT:**

The City Recorder shall review each application to determine the applicant's fitness to operate a taxicab. Among the factors which may be considered are:

1. Whether the applicant has any physical or mental condition which would, in the judgment of the City Recorder, impair the applicant's ability to safely operate a taxicab;

2. Applicant's prior criminal history;

3. Prior traffic violations by the applicant and prior violations of municipal regulations of the City or other municipalities governing taxicab services;

4. The applicant's driving safety record; and

5. Any other relevant factor which the City Recorder may deem necessary.

**3-4-9: TERM AND FEES FOR DRIVER'S PERMIT:**

Each person approved to drive a taxicab shall pay an annual permit fee as set by Council Resolution. All permits shall expire on December 31st of the year issued. If the original permit is issued on or after July 1st the permit fee may be reduced by one-half the annual fee for the initial permit year. Permits may be renewed upon payment of the annual permit fee on or before January 1st of each year.

**3-4-10: NOT USED**

**3-4-11: NOT USED**

**3-4-12: NOT USED**

**3-4-13: RATE DETERMINATION:**

A. To ensure fair and equitable consumer rates and to prohibit discriminatory practices, the Council may, by Resolution, establish minimum or maximum rates for taxicab service following the procedures and standards in this section.

B. In recommending and determining rates under this section, due consideration shall be given to information from all licensees regarding: current and projected revenue and expenses; actual and overhead expense; the cost of acquiring and replacing equipment; the services of owner, family and management; the cost of providing for future, added or different service; a reasonable return for doing business; and such other factors deemed relevant. Rates charged by other persons performing the same or similar services in the same or similar areas under the same or similar service conditions may also be considered.

C. Requests to establish a minimum rate for a taxicab service may be made at any time. Adjustments to the Council established minimum rates may be initiated or made not more often than once per calendar year provided, however, that in addition to the possible annual rate adjustment, a supplemental rate adjustment may be requested where there is substantial decrease in expenses that was not anticipated at the time of the last rate adjustment.

D. 1. Adjustments to the Council established minimum rates may be initiated by a licensee, a petition of 20 customers using taxicab services, the Committee, the Council, or the City Manager. A request for rate adjustment or a request to establish a rate for a new classification of service shall be in writing on a form provided by the City Recorder and shall be accompanied by factual information substantiating the request and filed with the City Recorder. Except for a request by the Council, Committee, or City Manager which shall not require a fee, any request for a rate adjustment or for the establishment of a rate for a new classification of service shall be accompanied by the non-refundable filing fee set by Council Resolution.

2. Upon receiving a request for rate adjustment or for establishment of a rate for a new classification of service, the City Manager shall prepare a staff report and evaluation and, no later than 30 days after receiving the request, present it with the report and evaluation of the Committee.

3. The Committee shall consider the request and staff report and hear testimony thereon. Before making its recommendation to the Council, the Committee shall give public notice inviting evidence and oral or written comment on the request and receive such at a public hearing. Within 90 days after it receives the request, the Committee shall make its written findings and recommendation to the Council.

4. The Council shall consider the Committee's recommendation and receive oral or written arguments on the recommendation. Based on substantial evidence in the record, the Council shall resolve to approve, modify and approve or reject the recommendation. The decision of the Council shall be final.

All rate adjustments or rates establishing a new classification of service shall take effect at the time specified in the Council Resolution.

**3-4-14: OPERATING REGULATIONS:**

A. Not including licensees who will only be operating limousines: (Ord 10, Series 1995)

a. Each licensee shall maintain a place of business within the City, equipped with a telephone, and shall have available at least one taxicab, and a dispatcher who may be reached by telephone.

b. The taxi service shall be available seven days a week, at least 20 hours a day.

c. Except when repair is required each licensee shall have a minimum of two taxicabs available to serve customers for a period of twelve hours during each day of the year.

B. Not including limousine drivers, unless otherwise directed by the passenger, any taxicab driver employed to transport passengers to a definite point shall take the most direct route possible that will carry the passenger to his or her desired destination safely and expeditiously.

C. Each driver, if requested, shall give a correct receipt upon payment of the correct fare.

D. No person may refuse to pay the lawful taxicab fare as fixed in accordance with this Chapter after employing or hiring the taxicab.

E. Whenever any taxicab is occupied by a passenger, the driver shall not permit any other person to occupy or ride in that taxicab except with the consent of the original passenger.

F. Each licensee and driver shall promptly notify the City Police Department within twenty-four hours of any property of value left in any vehicle by any passenger.

G. The driver's permit shall be displayed in the taxicab where it may be readily viewed by passengers at all times that the taxicab is in operation.

H. Not including limousines, the licensee's rate schedule shall be posted in each taxicab in a place where it may be readily viewed by passengers.

I. Rates established by a licensee shall not be less than the minimum rate established under Section 3-4-13 and shall be reasonable. Thirty days before implementing any rate, the licensee shall file a copy of the proposed rates with the City Recorder and maintain on file with the City Recorder a current rate schedule for taxicab service.

J. A customer of a taxicab service shall be charged for service rendered only according to the rates established and filed as required by subsection I of this section.

K. Each licensee and driver shall cause a complete and accurate record of each trip of each taxicab to be made on a daily trip sheet showing the time required to respond to the customer's request for taxicab service, the time and place of origin and destination of the trip, the number of passengers carried, the mileage and the amount of fare collected.

L. Each licensee shall maintain a complete set of records indicating income and expenses for each taxicab operated.

M. Each licensee shall maintain a record of all complaints received either in writing by telephone regarding taxicab service.

N. Limousines shall be required to be equipped with a cellular telephone for emergency purposes. The telephone number shall be listed publicly in the Florence area telephone directory under the name of the limousine service.

**3-4-15: NUMBER AND TYPE OF VEHICLES:**

Not including licensees who will only be operating limousines: (Ord 10, Series 1995)

1. Each licensee shall own or have the exclusive use and control of not less than two taxicabs at all times, which shall be used exclusively as taxicabs for business conducted under the City's license.

2. Each taxicab shall have a manufacturer's declared carrying capacity of at least five persons and be equipped with at least four doors, other than van-type vehicles which may have three entrance doors plus a rear cargo door.

**3-4-16: EQUIPMENT:**

A. Except for limousines, each taxicab shall be equipped with the following:

   1. The company name and telephone number where service can be requested, prominently displayed on the exterior of the vehicle;

   2. A properly functioning taxi radio of modern design, on a clear, coordinated, taxicab frequency for the purpose of rapidly dispatching calls for service;

   3. A taximeter in accurate operating condition, with a lighted face which can be read from the passenger seat at all times;

4. A statement posted in a conspicuous place in the passenger compartment showing the address and telephone number of the owners to which complaints should be directed and a notice that a record of all complaints shall be open to inspection and review by the City at any time on its request.

B. Except for limousines, each taxicab operated by a licensee shall be painted the same color.

C. Each limousine shall conspicuously place in the passenger compartment a statement showing the address and telephone number of the owners to which complaints should be directed and state that a record of all complaints shall be open to inspection and review by the City at any time upon its request.

D. Replacement vehicles shall comply with the provisions of this Chapter.

**3-4-17: TAXICAB VEHICLE MAINTENANCE:**

Each vehicle operating under this chapter shall be maintained in a clean, sanitary, safe and mechanically sound condition. No driver shall drive a vehicle which does not comply with the requirements of this chapter, and no licensee shall allow such a vehicle to be driven. The City Recorder may order any taxicab found to be unsafe or in any way suitable to be immediately removed from service and any problems corrected before the taxicab is again placed in service.

**3-4-18: INSURANCE:**

No licensee shall drive or cause or allow to be driven, any taxicab in the City unless the licensee has a policy of liability insurance which is in full force and effect, insuring the operation of the taxicabs operating under this chapter, and which provides minimum coverage of at least the amounts specified for municipal liability in ORS 30.270 or successor statute for injury or destruction of property or for bodily injury or death.

**3-4-19: BOND REQUIRED:**

Each licensee shall post and maintain a five-thousand-dollar bond acceptable to the City Recorder which shall be available to satisfy any claims against the licensee, either in the nature of fines imposed by the City for violations of this chapter or civil judgments entered against the licensee arising out of licensee's taxicab service.

**3-4-20: INDEMNIFICATION:**

A. Each licensee shall agree to pay all damages and penalties the City may legally be required to pay as a result of granting such license and shall agree to defend and indemnify the City against all claims resulting from the granting of such a license. These damages arising out of the operation or maintenance of a taxicab as authorized by this chapter whether or not any act or omission complained of is authorized or prohibited by this chapter.

B. By its application and the granting of an operator's license, the licensee agrees to pay all necessary and reasonable expenses incurred by the City in defending itself under this section, including, but not limited to, reasonable attorney's fees.

**3-4-21: TRANSFER OF OPERATOR'S LICENSE:**

No operator's license may be sold, assigned, mortgaged or otherwise transferred without the consent of the City Recorder. Such transfer shall be subject to the same terms, conditions and requirements as the application for the original license.

**3-4-22: TAXI STAND PERMIT - TERM AND FEE:**

A. No licensee or driver of any taxicab shall stand or permit to stand any such taxicab while waiting employment at any place upon any portion of the streets of the City other than at certain places designated by the City Manager and assigned to the licensee.

B. No taxicab or other vehicle shall occupy a regularly established taxi stand unless such vehicle is a taxicab operated by the licensee to whom such taxi stand has been assigned as herein provided.

C. In the event that two or more licensees are providing taxicab services in the City, the City Recorder shall assign taxi stands to each licensee. Licensees desiring taxi stands shall apply to the City Recorder, on a form provided by the City, describing the location of the proposed stand.

D. The annual fee for a taxi stand permit shall be set by Council Resolution and shall be paid before the permit is issued. All taxi stand permits shall expire on December 31 of the year the permit is issued any may be renewed upon payment of the annual fee on or before January 1st of the following year.

**3-4-23: INSPECTION OF BOOKS AND RECORDS:**

The City Recorder or any person authorized by the City Recorder shall have the right to inspect all books and records of any licensee or driver required by this chapter or pertaining to the taxicab business, at all reasonable times and places. Such records shall be kept available for inspection at the licensee's office in Florence for at least four years.

**3-4-24: INSPECTION OF VEHICLES:**

The City Recorder may cause any taxicab to be inspected at any time to determine its condition. Such inspections shall be performed at the sole discretion of the City Recorder and the cost of such inspections shall be borne by the licensee.

**3-4-25: SUSPENSION, DENIAL OR REVOCATION OF LICENSES OR PERMITS:**

A. The Committee is authorized to deny any application for a license or permit or to suspend any license or permit issued pursuant to this chapter after reasonable notice and opportunity granted to the applicant or holder thereof to be heard, if the Committee finds probable cause to believe that the applicant or holder has:

1. Been found guilty of any violation of this chapter; or

2. Been convicted of an offense against person or property for which a sentence of incarceration could have been imposed under Oregon law, or having a character, reputation or moral integrity inimical to the public safety or the general welfare of the City;

3. Knowingly made any false, misleading or fraudulent statement of a material fact in the application for a license or permit, or in any report or record required to be filed with any governmental entity; or

4. Failed to comply with any of the general ordinances of the City applicable to the business or merchant activities of the application, licensee or permittee.

B. In addition to the grounds in Subsection A of this section, the Committee may deny an application for operator's license or suspend or revoke an operator's license upon finding that:

1. An additional operator's license would be unreasonably detrimental to the availability or quality of taxicab service within the City;

2. The applicant, operator or key personnel fails to meet the requirements of this chapter, or is doing business in violation of this chapter or applicable Federal, State, County or City law.

3. The applicant, operator or key personnel has provided false or misleading material, information, or has omitted disclosure of a material fact on the application or related materials, or on his/her business records;

4. The applicant's, operator's or key personnel's past or present violation of law or ordinance presents a reasonable doubt about the applicant's or operator's ability to provide taxicab service without endangering property or the public health and safety; or

5. The information supplied for the review does not indicate that the applicant or key personnel has the experience, knowledge or ability to provide the services required under this chapter.

C. In addition to the grounds in Subsection A of this section, the Committee may deny an application for driver's permit or suspend or revoke a driver's permit if the City Recorder determines the applicant unfit based on the factors in Section 3-4-8 or if a permittee is convicted of a violation of this chapter or similar regulations of another municipality, or is convicted of a violation of any of the statutes of the State involving the operation of a motor vehicle, or if the Committee has reasonable grounds to believe that the permittee would endanger life or property while operating a motor vehicle.

D. In the absence of finding a basis to deny an application or to revoke or suspend a license or permit, the Committee shall grant the license or permit which shall be issued by the City Recorder.

E. The City Recorder shall provide written notice to the applicant, licensee or permittee of his/her recommendation to the Committee that the application, license or permit be denied or revoked. When the application is for a new taxi service operator's license, a copy of the written notice shall also be given to any existing licensee. The notice shall state the reason for the recommendation and shall inform the applicant, licensee or permittee of the right to present evidence, testimony and arguments to the Committee before it renders a decision in the matter.

F. The City Recorder's notice shall be given at least 15 days before the Committee considers the matter. When the City Recorder is recommending revocation of a license or permit because of a violation of this Chapter, if the licensee or permittee corrects the violation within the 15 days, the City Recorder may withdraw his/her recommendation and the proceedings shall cease unless the Committee directs to the contrary.

G. The Committee shall consider the City Recorder's recommendation by conducting a hearing at which it shall receive any relevant evidence, testimony and argument the City Recorder, the applicant, the licensee, the permittee or others may wish to present. While proceedings before the Committee are not bound by the rules of evidence used by courts of law, the decision of the Committee shall be based on substantive evidence. The decision shall include the Committee's findings and shall be in writing. The Committee's decision shall be mailed or personally served upon the applicant, licensee or permittee and any other requesting notice of the decision.

H. A person whose applicant for a license has been denied or whose license has been revoked may, after one year from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

**3-4-26: SUMMARY SUSPENSION OF OPERATOR'S LICENSE OR PERMITS:**

A. Notwithstanding the requirements of Section 3-4-25, if the conduct of a licensee or permittee creates an eminent threat to life or property, the City Recorder may summarily order the licensee or permittee to cease the activity creating the threat. In the event the licensee or permittee fails to promptly cease the threatening activity and correct the threatening condition, the City Recorder may, without further notice or opportunity to be heard, suspend the license or permit. If the activities of the licensee or permittee causes any property to be or remain in the public way, the City Recorder may cause the property of the licensee or permittee to be removed from the public way and assess the costs of such removal to the licensee or permittee.

B. A summary suspension under this section may be appealed by the licensee or permittee in the manner set forth in Section 3-4-27.

**3-4-27: APPEAL:**

A. An applicant whose application for a license or permit has been denied, or a licensee or permittee whose license or permit has been denied renewal, been suspended or is revoked or an existing licensee that has appeared and offered testimony or objection to the issuance of another license may appeal the decision within ten days after the date of notice of the approval, denial, suspension, or revocation. The appeal shall be in writing, filed with the City Recorder and shall state:

1. The name and address of the appellant;

2. The nature of the determination being appealed;

3. The reason the determination is incorrect; and

4. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed. Within 30 days of the Committee's decision, the City Council on its own motion may initiate review of any Committee decision.

B. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.

C. Unless all parties to the appeal and the City Recorder agree to a longer period, an appeal shall be heard by the Council within 45 days of the receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the parties.

D. The Council shall hear and determine the appeal on the basis of the appellant's notice of appeal, the record of the Committee's consideration of the matter and any oral or written argument the parties may present. At the hearing the appellant and any other party that appeared before the Committee may present oral argument personally or by counsel.

E. If the appeal is from the Committee's denial of the appellant's request, the appellant shall carry the burden of proving that he/she is entitled to the remedy sought.

F. The Council shall render its decision by resolution within 30 days of the hearing date. The decision of the Council shall be final.

**3-4-28: ADMINISTRATIVE RULES:**

The City Recorder may propose administrative rules to implement the administration of this Chapter. Such rules or amendments thereto shall be effective after review by the Committee and approval by the City Council.

**3-4-29: CITY ENFORCEMENT:**

A. The City shall enforce the provisions of this Chapter by administrative, civil or criminal action or any combination thereof as necessary to obtain compliance with this Chapter.

B. Except as limited by paragraph C of this subsection, the penalty for violating any provision of this Chapter shall be that established in Chapter 1-4 of this Code.

C. The penalty for violation of this Chapter which is also a violation of State law or regulation shall not exceed the penalty imposed by State law or regulation for the same conduct.

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Amended by Ord 7, Series 1993
Amended by Ord 10, Series 1995
Section 3-4-2 amended by Ordinance No. 17, Series 2018 – effective February 1, 2019

TITLE 3
CHAPTER 6

# ALARM SYSTEMS

SECTION:

3-6-1: Purpose
3-6-2: Definitions
3-6-3: Alarm Business Permit
3-6-4: Alarm System Standards
3-6-5: Automatic Dialing Devices
3-6-6: Allocation of Revenues
3-6-7: Revocable Permit
3-6-8: Prohibitions
3-6-9: Penalties

**3-6-1: PURPOSE:** The purpose of this Section is to protect the emergency services of the City from misuse, and is to govern burglary and robbery alarm systems, and to regulate alarm businesses. (Ord 17, Series 1991).

**3-6-2: DEFINITIONS:**

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| ALARM BUSINESS | The business by any individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any alarm system in or on any building, structure or facility, or providing alarm monitoring services. (Ord 17, Series 1991). |
| ALARM MONITORING | Any services provided an alarm user to assist in fulfilling the purpose of the alarm system, including receiving initial reports of alarm system activation, notifying alarm user and others when an alarm occurs, resetting or arranging for an alarm system to be reset, and performing other similar services. Alarm monitoring does not include public police department services. (Ord 17, Series 1991). |
| ALARM SYSTEM | Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of a fire, medical emergency, robbery, burglary, or other activity requiring urgent attention to which firefighters, police or other emergency personnel are expected to respond. Alarm system includes but is not limited to equipment designed to transmit a signal or a message to a central alarm receiving station. This definition does not include alarm systems for motor vehicles. (Ord 17, Series 1991). |
| ALARM USER | The person in control of premises wherein an alarm system has been installed. |
| AUTOMATIC DIALING DEVICE | A device which is interconnected to a telephone line and is programmed to Transmit by voice message or code signal a selected telephone number indicating a need for emergency response. |
| BURGLARY ALARM | An alarm system signaling an entry or attempted entry into the area protected by the system. |
| CHIEF OF POLICE | The Chief of the City Police Department, or the Chief's designee. (Ord 17, Series 1991). |
| FALSE ALARM | An alarm signal eliciting an emergency response where an emergency situation does not in fact exist. False Alarms shall also include an alarm user or operators failure to cancel Police Department response to an alarm that has been activated in error. (Amended Ord. 22, 2008) |

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| INTERCONNECT | To connect an alarm system including an automatic dialing device to a telephone line, either directly or through a mechanical device that uses a telephone line to transmit a message upon the activation of the alarm system. (Ord 17, Series 1991). |
| MEDICAL EMERGENCY ALARM SYSTEM | An alarm system signaling an emergency requiring an response for a physically disabled person, a person with special medical conditions, or a person 60 years of age or older. (Ord 17, Series 1991). |
| ROBBERY ALARM SYSTEM | An alarm system signaling a robbery or attempted robbery. |

**3-6-3: ALARM BUSINESS PERMIT:**

A. Every alarm business doing business within an area for which the City Police Department provides or dispatches emergency response, shall furnish its customer with instructions that provide information to enable the customer to operate the alarm system properly and to locate and obtain service for the alarm system at any time. (Ord 17, Series 1991).

B. Every alarm business shall be required to have and maintain a business license as required by Chapter 3-1 of this Code prior to installation of any alarm system or the provision of alarm monitoring services. (Ord 17, Series 1991).

**3-6-4: ALARM SYSTEM STANDARDS:**

A. Standard: The number of false alarms received by the Florence Police Department shall not be three (3) or more within any three month period, or five (5) within a twelve (12) month period, per service address.

B. If the Police Department records indicate an alarm user has violated the standards in subsection A of this section:

1. The Chief of Police shall notify the affected alarm user by personal service or by certified mail of such fact and direct that the Florence Police Department may elect not to respond to any further alarm calls at said service address. The notice will state that the service address is being placed on a non-response list for alarms, and that the service address will remain on the list until a reinstatement fee set by resolution of the City Council has been paid.

2. If, after receiving notice as described above, an alarm user submits written evidence to the Chief of Police showing measures have been taken to eliminate or correct the cause(s) of false alarm(s) at the affected service address; the Chief of Police may, at his or her discretion, reinstate response to the service address for any future alarms with a one-time only exemption of the reinstatement fee. Any future reinstatements will require payment of the reinstatement fee in full.

C. An alarm system which sounds a false alarm that is audible from outside the premises is hereby declared to be a nuisance and may be abated as unnecessary noise. However, if an audible alarm persists and the alarm user cannot be located after a reasonable effort, the audible alarm may be summarily abated by the Chief of Police or the Chief's designee entering the premises and disconnecting the alarm and then securing the premises. The cost of such abatement shall be the obligation of the alarm user. Upon receiving notice of the costs the user shall pay them within 10 days or request a hearing as provided in Subsection E of this Section.

D. A fee, set by Council Resolution, shall be charged to a business or residence with outside audible alarms for each false alarm over two (2) within any three month period, or four (4) within a twelve (12) month period per user. (Ord 17, Series 1991).

E. Hearings: An alarm user may appeal any action taken by the City of Florence pursuant to this code section. To appeal, they shall file a written request for a hearing with the City Recorder within 10

days of receiving notice of such action. The hearing shall be before the City Council or its designee. The Chief of Police and the requester shall have the right to present written and oral evidence. If the City council finds that the alarm user is in violation of this chapter, that decision shall be final.

**3-6-5: AUTOMATIC DIALING DEVICES:**

A. Except as allowed in Section 3-6-7 of this Chapter it is unlawful for any person to program an automatic dialing device connect to any telephone line assigned to the City.

B. It is unlawful for any alarm user to fail to disconnect or reprogram an automatic dialing device upon receipt of written notice from the Chief of Police that the device is programmed in violation of this section. (Ord 17, Series 1991).

**3-6-6: ALLOCATION OF REVENUES:** All fees and fines collected pursuant to this Chapter shall be General Fund revenues of the City. (Ord 17, Series 1991).

**3-6-7: REVOCABLE PERMIT:** When the Chief of Police determines it is in the public interest to provide alarm monitoring service for an acute care hospital or for other essential public services where rapid police response is essential for public safety, the Chief may issue a revocable permit allowing the installation of an alarm monitor within the police department. Such permit may be revoked by the Chief of Police at any time upon reasonable notification. (Ord 17, Series 1991)

**3-6-8 PROHIBITIONS:**

A. No person shall activate or cause to be activated a robbery alarm in a case of shoplifting, disorderly conduct, or other criminal incident other than a robbery or attempted robbery. "Robbery" is the use, attempted use, or threat of physical force upon another person in connection with the commission of a theft or other crime at the premises at which the robbery alarm is installed. The misuse of a robbery alarm shall be deemed a false alarm for the purposes of this Chapter. (Ord 17, Series 1991).

B. Except on the occurrence of a medical emergency or other emergency for which an ambulance response is appropriate, no person shall activate or cause to be activated a medical emergency alarm. (Ord 17, Series 1991).

**3-6-9: PENALTIES:** Violation of any provision of this Chapter is a civil offense punishable by a fine of not more than $500. (Ord 17, Series 1991).

<u>Amended by:</u>
Ord 17, Series 1991 effective October 16, 1991
Ord. 22, Series 2008 updated Feb. 2010 effective Jan. 1, 2009

TITLE 3
CHAPTER 7

# TRANSIENT ROOM TAX

SECTION:

3-7-1: Definitions
3-7-2: Levy
3-7-3: Collection
3-7-4: Operator's Duties
3-7-5: Exemptions
3-7-6: Registration
3-7-7: Returns
3-7-8: Penalties and Interest
3-7-9: Deficiencies, Fraud, Evasion, Delay
3-7-10: Redeterminations
3-7-11; Security for Collection
3-7-12; Lien
3-7-13; Refunds
3-7-14; Collection Fee
3-7-15; Administration
3-7-16; Appeal to City Manager
3-7-17; Appeal to Council
3-7-18; Gifts and Contributions
3-7-19; Violations
3-7-20; Penalties

**3-7-1: DEFINITIONS:** In this Chapter, the following mean:

ACCRUAL — A system of accounting in which the rent due from a transient is entered on the records of the operator when the rent is earned, whether or not it is paid.

CASH — A system of accounting in which the rent due from a transient is not entered on the records by the operator until the rent is paid.

COUNCIL — The City Council of the City of Florence

HOTEL — A structure, or portion of a structure, which is occupied or intended or designed for transient occupancy for a period of 30 days or less for dwelling, lodging, or sleeping purposes, and includes a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or similar structures or portions thereof so occupied for less than a 30 day period.

The use or possession, or the right to use or possess a room in a hotel or similar structure or portion thereof, for lodging or sleeping purposes.

OPERATOR — The person who is the proprietor of a hotel in any capacity and, where the operator performs those functions through a managing agent other than an employee, the managing agent shall have the same duties and liabilities as the principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall constitute compliance by both.

PERSON — An individual, firm, partnership, joint venture, association, social club or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

The consideration charged for the occupancy of space in a hotel whether valued in money, goods, labor, credits, property, or other consideration, valued in money without any deduction, and whether received by the operator or not.

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| RENT PACKAGE PLAN | The consideration charged for both food and rent with a single rate that includes the total of both. The applicable amount for determination of the transient room tax under this Chapter shall be the same amount charged for rent when not a part of a package plan. |
| RECREATIONAL VEHICLE PARK (RV) | A development which is occupied or intended or designed for transient occupancy for thirty (30) days or less, on which travel trailers, pickup campers, tent trailers, tents, self-propelled motorized vehicles are parked or set up, the purpose of such development being to provide to the public a temporary location for dwelling, lodging or sleeping purposes whiles traveling, vacationing or recreating, but excluding recreational vehicle parks operated by federal government. |
| TAX | The tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections. |
| TAX ADMINISTRATOR | The City Recorder of the City of Florence. |
| TRANSIENT | An individual who exercises occupancy, or is entitled to occupancy in a hotel or RV park for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. In determining the 30-day period, the day a transient checks out of the hotel shall not be included, if the transient is not charged rent for that day. Unless there is a written agreement between the operator and the transient providing for a longer period of occupancy, an individual so occupying space in a hotel or RV park shall be deemed a transient until a period of 30 consecutive calendar days has expired. A person who pays for lodging on a monthly basis, without regard to the number of days in the month, shall not be deemed a transient. (Ord.726, 9-25-84) (Ord. No. 11, Series 2008) |

**3-7-2: LEVY:** Each transient shall pay a tax of four percent (4%) of the rent charged by the operator for the privilege of occupancy in a hotel or RV park. The tax constitutes a debt owed by the transient to the City and is extinguished only by payment to the operator or the City. The transient shall pay the tax to the operator of the hotel or RV park at the time the rent is paid, which shall be entered on the operator's records when the rent is collected, if the operator maintains records on the accrual basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the hotel or RV park, the Tax Administrator may require that the tax be paid directly to the City. For purposes of determining the tax due, the rent paid or charged for occupancy shall exclude amounts charged or received by the operator for the sale of goods, services, or commodities, incidental to the room, or accommodation. (Ord. 19 Series 1985) (Ord.10, Series 2008)

**3-7-3: COLLECTION:**

A. Each operator renting a room in this city, the occupancy of which is not exempted under Section 3-7-5 of this Chapter, shall collect a tax from the occupant of the room. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City. For rent collected on portions of a dollar, the first once cent (0.02) of tax shall be collected on twenty-five cents (0.25) through forty-nine cents (0.49), inclusive; the second one cent (0.01) of tax shall be collected on fifty cents (0.50) through seventy-four cents (0.74) inclusive; the third one cent (0.0l) of tax shall be collected on seventy-five cents (0.75) to one dollar ($1.00) inclusive.

B. If payment of rent is deferred or credit is extended, payment of the tax to the operator may be deferred until the rent is actually paid. The operator shall not be liable for the tax until the deferred payment or credit is paid.

C. The Tax Administrator may adopt rules and regulations consistent with the provisions of this Chapter as are deemed necessary to assist in the enforcement thereof.

**3-7-4: OPERATOR'S DUTIES:** The tax imposed by this Chapter shall be collected by the operator at the same time as the rent is collected from the transient. The amount thereof shall be separately stated upon

the operator's records and on any rental receipt delivered to the transient by the operator. No operator shall advertise that the tax or any part thereof will be assumed or absorbed by the operator, that it will not be added to the rent, or that, when added, any part will be refunded. (Ord. 726, 9-25-84)

**3-7-5: EXEMPTION:** The tax imposed by this Chapter shall not be imposed upon or collected from:

A. A person who occupies premises subject to the tax for a period of more than 30 consecutive calendar days;

B. A person who pays for lodging rents a private home, vacation cabin, or like facility on a monthly basis, irrespective of the number of days in the month; (Ord 10, Series 2008)

C. A person whose rent is of a value of less than $2.00 per day;

D. An occupant paying rent for a hospital room to a medical clinic, convalescent home, or home for aged persons. (Ord. 726, 9-25-84)

E. A person occupying space in a mobile home park. (Ord No. 3, Series 1985) (Ord. 11, Series 2008)

**3-7-6: REGISTRATION:**

A. Every person engaging in the business of an operator of a hotel or RV park in this City shall, within 15 calendar days after commencing the business, complete, sign, and file with the Tax Administrator the registration form provided by the Tax Administrator. Failure to so register shall not relieve an operator from the obligation to pay the tax imposed by this Chapter and shall constitute a separate violation hereof.

B. The registration form shall contain:

1. The name under which the operator transacts or intends to transact business;

2. The location of the place or places of business; and,

3. Such other information as may be necessary to facilitate collection of the tax.

C. Within 10 days after receipt of the registration form, the Tax Administrator shall issue a certificate of authority to the registrant to collect the tax from occupants of the hotel or accommodation, with a duplicate thereof for each additional place of business of the registrant. Each certificate and duplicate thereof shall state, but not be limited to:

1. The name of the operator;

2. The place of business to which it is applicable, and the address thereof;

3. The date when the certificate is issued; and

4. A statement that "This transient occupancy registration certificate signifies that the person named on the face hereof has fulfilled the requirements of the transient room tax provisions of the City of Florence by registration with the Tax Administrator for the purpose of collection from transients the city's room tax and remitting the tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of the City. This certificate does not constitute a permit.", and shall be prominently displayed so as to be readily visible to all occupants and persons seeking occupancy therein. (Ord. 726, 9-25-84)

**3-7-7: RETURNS:**

A. All taxes collected by an operator are due and payable on the fifteenth day of the month for the preceding month, and are delinquent on the last day of the month in which they are due.

B. On or before the fifteenth day of the month following each month of collection, the operator shall file a return for that month's tax collections with the Tax Administrator in such form as prescribed by the Tax Administrator.

C. The return shall show the amount of tax collected or otherwise due for the period for which the return is filed; the total rentals upon which the tax is collected or otherwise due; gross receipts of the operator for the period; the amount of any exempt rents; and a detailed explanation of any discrepancy in the amounts.

D. The return, together with payment of the amount of tax due, shall be filed with the Tax Administrator's office, either by personal delivery or mail. If the return is mailed, the postmark shall be considered the date of delivery for determining whether it is timely filed.

E. The Tax Administrator may, for good cause, extend the time for making any return or paying any tax for a period not to exceed one month. No further extension may be granted except by the City Manager. An operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due, without proration for a fraction of a month. If the return is not filed and the tax and interest due is not paid by the end of the extension period, then the interest shall become a part of the tax for purposes of computation of the penalties prescribed in Section 3-7-8 of this Chapter.

F. The Tax Administrator may require returns and payment of taxes for other than monthly periods of he deems it necessary in individual cases in order to insure payment or to facilitate collection by the City of the amount of taxes. (Ord. 726, 9-25-84)

**3-7-8: PENALTIES AND INTEREST:**

A. An operator who has not been granted an extension of time for remittance of the tax due who fails to remit the tax imposed by Section 3-7-2 of this Chapter prior to delinquency, shall, in addition to the amount of the tax, pay a penalty of ten percent (10%) of the amount of the tax due.

B. An operator who fails to pay any delinquent remittance within a period of 30 days following the date on which the remittance first becomes delinquent, and who has not previously been granted an extension of time for remittance of the tax, in addition to the amount of the tax and the ten percent (10%) penalty first imposed under paragraph A above, shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due.

C. If the Tax Administrator determines that the nonpayment of any tax due under Section 3-7-2 of this Chapter is due to fraud or an intent to evade the provisions thereof, in addition to the penalties stated in paragraphs A and B above, a penalty of twenty-five percent (25%) of the amount of tax shall be added thereto.

D. In addition to any penalties imposed, an operator who failed to remit any tax imposed by Section 3-7-2 of this Chapter shall pay interest on the amount of the tax due, exclusive of penalties, at the rate of one half of one percent per month or fraction thereof, without proration for portions of a month, from the date on which the remittance first becomes delinquent until paid in full.

E. Every penalty imposed, and such interest as accrues under the provisions of this section, shall be merged with and become a part of the tax required to be paid. (Ord. 726, 9- 25-84)

**3-7-9: DEFICIENCIES, FRAUD, EVASION, DELAY:**

A. If the Tax Administrator determines that a return required by this Chapter is incorrect, the Tax Administrator may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any other information in the Tax Administrator's possession. One or more deficiency determinations may be made of the amount due for one or more periods, and the amount so determined shall be immediately due and payable upon service of notice as herein provided, and shall be subject to penalties for deficiencies as set forth in Section 3-7-8 of this Chapter. In making a deficiency determination, the Tax Administrator:

1. May offset overpayments, if any, which may have been previously made against any underpayment for a subsequent period or periods, or against penalties and interest, on the underpayments. The interest on underpayments shall be computed as set forth in Section 3-7-8 of this Chapter.

2. Shall give a written notice of the determination to the operator or occupant, either personally or by mail. If by mail, the notice shall be addressed to the operator's address as it appears in the records of the Tax Administrator, and shall be deemed given on the date of deposit in the United States Post Office, postage prepaid.

B. Except in the case of fraud or intent to evade the provisions of this Chapter, or the rules and regulations promulgated pursuant hereto, a deficiency determination
shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the deficiency is proposed to be determined, or within three years after the return is filed, whichever period expires the later.

C. A deficiency determination shall become due and payable immediately upon receipt of the notice by the operator, and shall become final at the expiration of ten days from the date of the notice, unless the operator has petitioned for redemption and refund within the ten-day period.

D. If an operator fails or refuses to collect the tax or to make any report required by this Chapter within the time or times required herein, or to remit the tax or any portion thereof required to be remitted, or makes a fraudulent return, or in any other manner willfully attempts to evade the provisions of this Chapter, the Tax Administrator shall proceed to obtain facts and information on which to base an estimate of the tax due, and shall thereafter determine and assess against the operator the tax, interest, and penalties provided for by Sections 3-7-2 and 3-7-8 of this Chapter. In the event such a determination is made, the Tax Administrator shall give notice in the manner prescribed in Section 3-7-9 of this Chapter of the amount so assessed. The determination and notice shall be made and mailed within three years after discovery by the Tax Administrator of any fraud, intent to evade, failure or refusal to collect the tax, or failure to file a required return. Any deficiency determination shall become due and payable immediately upon receipt of the notice, and shall become final within 10 days after the date thereof. The operator may, however, petition for redemption and refund prior to the date the determination becomes final.

E. If the Tax Administrator believes that either the collection of any tax or any amount of tax required to be collected and paid to the City by Section 3-7-2 of this Chapter, or any deficiency determination made under this Section is jeopardized by delay, the Tax Administrator shall make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount so determined under this Section shall be immediately due and payable by the operator after service of notice thereof. The operator may, however, after payment of the amount determined, petition for redemption and refund of the determination, or a portion thereof, providing the petition is filed within 10 days from the date of service of the Tax Administrator's notice. (Ord. 726, 9-25-84)

**3-7-10: REDETERMINATIONS:**

A. Any person against whom a determination is made under Section 3-7-9 of this Chapter, or any person directly interested in the determination, may petition for a redetermination and redemption and refund within the time provided in that Section.
If a petition for redetermination and refund is not filed within the time required, the determination shall become final.

B. If a petition for redetermination and refund is timely filed, and if so requested in the petition, the Tax Administrator shall grant an oral hearing on reconsideration of the determination, and provide 10 days written notice to the petitioner of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

C. As a result of the hearing, the Tax Administrator may decrease or increase the amount of the determination, and if an increase is determined, the amount thereof shall be payable immediately upon the conclusion of the hearing.

D. The Tax Administrator's order or decision upon the petition for redetermination and redemption and refund shall become final 10 days after the service thereof upon the petitioner, unless prior to the expiration of the 10 day period an appeal from the order or decision is filed with the City Manager by the petitioner.

E. No petition for redetermination and redemption and refund, nor an appeal there from shall be heard or considered unless the operator first complies with the payment provisions of this Section. (Ord. 726, 9-25-84)

**3-7-11: SECURITY FOR COLLECTION:**

A. If considered necessary in order to assure compliance with the provisions of this Chapter, an operator subject to the transient room tax may be required to deposit with the Tax Administrator such security in the form of cash, bond, or other assets as the Tax Administrator may require. The amount of the security shall be fixed and determined by the Tax Administrator in such manner as deemed appropriate, but shall not be greater than twice the operator's estimated average monthly liability for the period for which returns are filed, or five thousand dollars ($5,000), whichever amount is the lesser. Subject to the limitations herein provided, the amount of the security may be increased or decreased by the Tax Administrator.

B. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination by the Tax Administrator under the provisions of this Chapter becomes final, the Tax Administrator may bring an action in the courts of the State, or any other state, or of the United States, in the name of the City, to collect the amount of delinquent tax, together with penalties and interest. (Ord. 726, 9-25-84)

**3-7-12 LIEN:**

A. The tax imposed by Section 3-7-2 of this Chapter, together with the interest and penalties provided for in Section 3-7- 8 of this Chapter, the filing fees paid to the Department of Records of Lane County, Oregon, and advertising costs which may be incurred when the tax becomes delinquent under Section 3-7-7 of this Chapter shall be, and until paid remain, a lien from the date of its recording with the Department of Records of Lane County, Oregon, superior to all subsequent recorder liens on all tangible personal property used in the hotel of an operator within Florence, and when so recorded, may be foreclosed on and sold as necessary to discharge the lien. Notice of lien may be issued by the Tax Administrator whenever the operator is in default in the payment of the tax, interest and penalty, and shall be recorded with the Department of Records of Lane County, Oregon, with a copy sent to the delinquent operator. The personal property subject to the lien and seized by any deputy of the Tax Administrator may be sold by the Tax Administrator at public auction after 10 days' notice thereof published in a newspaper in the City.

B. Any such lien shall, upon the payment in full to the City of the taxes, penalty and interest for which the lien has been imposed, be released by the Tax Administrator. The operator or person making the payment shall receive a receipt therefore stating that the full amount of the taxes, penalties, and interest have been paid and that the lien is thereby released and the record of lien satisfied. (Ord. 726, 9-25-84)

**3-7-13: REFUNDS:** In the event a tax imposed under Section 3-7- 8 of this Chapter has been paid more than once, or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, providing a written verified claim therefore on a form provided by the Tax Administrator, is filed with the Tax Administrator within three years from the date of payment, which states the specific reason upon which the claim is founded. If the claim is approved, the excess amount collected or paid may be refunded or may be credited to any amounts then due and payable from the operator from whom it was originally collected or by whom it was originally paid, and the balance may be refunded. All refunds shall be charged to the Transient Room Tax Fund. (Ord. 726, 9-25-84)

**3-7-14: COLLECTION FEE:** An operator liable for the collection and remittance of the tax imposed by Section 3-7-2 of this Chapter may withhold 5 percent (5%) of the net tax due to cover the operator's expense in the collection and remittance of the tax. (Ord. 726, 9-25-84)

**3-7-15: ADMINISTRATION:**

A. All monies collected pursuant to the provisions of this Chapter shall be deposited to the credit of the Transient Room Tax Fund.

B. Each operator shall maintain guest records of room rentals and accounting books and records of the rentals, which shall be retained for a period of three years and six months after they first come into existence.

C. After notification to the operator, the Tax Administrator, or any person authorized in writing by the Tax Administrator may during the operator's normal business hours examine the books, papers, and accounting records relating to room rentals of any operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

D. Neither the Tax Administrator nor any person having an administrative or clerical duty under the provisions of this Chapter may make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a transient occupancy registration certificate, or pay a transient room tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particulars thereof, set forth in any statement or application, or permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof, to be seen or examined by any person. Nothing in this subsection shall, however, prevent:

1. The disclosure to, or the examination of records and equipment by another City official, employee, or tax- collecting agent for the sole purpose of administering or collecting the tax;

2. The disclosure, after the filing of a written request therefore, to the taxpayer himself or his receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any such tax paid, any such tax unpaid, or the amount of any such tax required to be collected, together with interest and penalties thereon, provided the City Attorney approves each such disclosure. The Tax Administrator may refuse to make the disclosures referred to in this paragraph when in the opinion of the Tax Administrator the public interest would suffer thereby.

3. The disclosure of the names and addresses of any person to whom transient occupancy registration certificates have been issued; and

4. The disclosure of general statistics regarding taxes collected or business one in the City. (Ord. 726, 9-25-84)

**3-7-16: APPEAL TO CITY MANAGER:** Any person aggrieved by a decision of the Tax Administrator may appeal the decision to the City Manager by filing a notice of appeal with the Tax Administrator within 10 days of the serving or mailing of the notice of the decision. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant 10 days' written notice of the time and place of the hearing. (Ord. 726, 9-25-84)

**3-7-17: APPEAL TO THE COUNCIL:** Any person aggrieved by a decision of the City Manager under Section 3-7-16 of this Chapter may appeal the decision to the Council by filing a written notice of appeal with the Tax Administrator within 10 days of the serving or mailing of the City Manager's decision. The Tax Administrator shall transmit the notice, together with the file of the appealed matter to the Council, which shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than 10 days' written notice of the time and place of the hearing of the appeal. (Ord. 726, 9-25-84)

**3-7-18: GIFTS AND CONTRIBUTIONS:** The Tax Administrator may, on behalf of the City, accept gifts or contributions from an operator outside the City limits who would be subject to the tax imposed by Section 3-7-2 of this Chapter of located within the
City, and any amounts so received shall be deposited to the
credit of the Transient Room Tax Fund. (Ord. 726, 9-25-84)

**3-7-19: VIOLATIONS:** No operator, or other person subject to the provisions of this Chapter shall:

1. Fail or refuse to register as required by Section 3-7-6 of this Chapter;

2. Fail or refuse to furnish any return required to be made under Section 3-7-7 of this Chapter or to furnish a supplemental return or other data required by the Tax Administrator;

3. Render a false or fraudulent return under Section 3-7-7 of this Chapter; or

4. Render, sign or verify any false or fraudulent report regarding the transient room tax. (Ord. 726, 9-25-84)

**3-7-20: PENALTIES:** Any person willfully violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof be punishable therefore by a fine of not more than $500 or by imprisonment for not more than six months, or by both such fine and imprisonment. (Ord. 726, 9-25-84)

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Ord. 10, Series 2008
Ord. 11, Series 2008

TITLE 3
CHAPTER 8

# BINGO LICENSE

REPEALED BY ORDINANCE NO. 1, SERIES 2014

TITLE 3
CHAPTER 9

# BICYCLE-POWERED TRANSPORTATION DEVICES

SECTION:


3-9-1: Definitions
3-9-2: License and Permit Required
3-9-3: Application - Information, Requirements
3-9-4: Term of License
3-9-5: Operator's License Fee
3-9-6: Driver's Permit - Term, Fee, Standards
3-9-7: Operating Regulations
3-9-8: Equipment Maintenance
3-9-9: Insurance
3-9-10: Bond
3-9-11: Indemnity
3-9-12: Suspension, Denial, Revocation
3-9-13: Summary Suspension
3-9-14: Appeal
3-9-15: Administrative Rules
3-9-16: Enforcement


**3-9-1: DEFINITIONS:** As used in this chapter, unless the context clearly indicates otherwise, the following words and phrases mean:

| | |
|---|---|
| BICYCLE-POWERED TRANSPORTATION | A vehicle other than a taxicab or other motor vehicle, that has three or more wheels and is propelled by pedal power or a power assist engine of not more than 50 cc's, that is used for the transportation of one or more passengers for hire. |
| CITY RECORDER | The person so designated by the City Manager to perform the functions described in this chapter. |
| COMMITTEE | The Transportation Committee of the City of Florence. |
| DRIVER | Any person in direct and immediate possession or charge of a bicycle-powered transportation device, either as an agent, employee, or otherwise of the owner, or as owner, or under the direction of the owner. |
| LICENSEE | The holder of an operator's license as described in this chapter. |
| OPERATOR'S LICENSE | A license to operate a bicycle-powered transportation device business as provided by this chapter. |
| OWNER | Any person having use or control of any bicycle-powered transportation device, whether as owner, lessee or otherwise, and also includes any shareholder, partner or associate with an ownership interest in the bicycle-powered transportation device business. |

**3-9-2: LICENSE AND PERMIT REQUIRED:** No person shall operate a bicycle-powered transportation device business within the City without first obtaining a license as provided in this chapter. No person shall drive a bicycle-powered transportation device within the City without first having secured a permit therefore, and no bicycle-powered transportation device shall be operated in violation of this chapter.

**3-9-3: APPLICATION - INFORMATION, REQUIREMENTS:**

A. An application for an original operator's license shall be filed with the City Recorder on a form provided by the City, verified under penalty of perjury, accompanied by the non-refundable application investigation fee in an amount set by Council resolution, and contain the following:

1. The name, business address, residence address and date of birth of the owner(s) or person(s) applying;

2. The name(s), business address, residence address and date of birth of each officer(s) and key personnel of the proposed business;

3. The business name under which the bicycle-powered transportation device service shall operate, the business address and telephone number;

4. The make, type, year of manufacture, and seating capacity of the bicycle-powered transportation devices the applicant intends to operate;

5. A description of the proposed color scheme, insignia, or other distinguishing characteristics of the proposed bicycle-powered transportation device business;

6. A statement of whether the applicant or any officer or key personnel of the applicant have:

   a. Been convicted of any felony, misdemeanor or violation of any municipal ordinance or state law (other than minor traffic and parking offenses), the nature of the offense and the punishment or penalty assessed;

   b. Had a business license or bond denied, revoked or suspended and, if so, a description of the reason for such revocation or suspension.

7. The rate(s) the applicant proposes to charge for the bicycle-powered transportation device service;

8. A description of the applicant and applicant's officers and key personnel prior business and work experience; and

9. Such other relevant information as the City Recorder may deem necessary for the proper protection of the public.

B. Each licensed bicycle-powered transportation device operator shall continue to keep the information provided in its application current, and shall inform the City Recorder of any changes within ten days of the occurrence.

**3-9-4: TERM OF LICENSE:** An operator's license is issued for a term of one year, except, all operator licenses shall expire on December 31st of the year issued. If a licensee intends to continue to operate in the next following license year, not less than thirty days prior to the license expiration date, he/she shall advise the City Recorder of his/her intent to renew the license and submit the annual license fee, as described in Section 3-9-5 to the City Recorder.

**3-9-5: OPERATOR'S LICENSE FEES:** The annual license fee for an operator's license shall be set by Council resolution, and shall be based on a per type and/or class of bicycle-powered transportation device(s) the applicant intends to operate. The annual license fee shall be paid before a license will be issued, and thereafter shall be paid on or before January 1st of each year. If the initial operator's license is issued on or after July 1st, the first license fee shall be reduced by one-half for the initial license year. The per bicycle-powered transportation device license fee rate shall be paid on each new device added throughout the license year which does not replace a comparable currently permitted device.

**3-9-6: DRIVER'S PERMIT - APPLICATION, TERM, FEES, STANDARDS:**

A. Application for a bicycle-powered transportation device driver's permit shall be made to the City Recorder on a form provided by the City and accompanied by the payment of a non-refundable original application investigation fee as set by Council resolution. Upon approval of the application, the annual license fee as set froth in Subsection B of this section must be paid before the license is granted. Applications shall contain the name, address, date of birth, Oregon driver's license number of the applicant, any other relevant information requested by the City Recorder, and shall be accompanied by a current photograph of the applicant. Each applicant shall provide satisfactory proof to the City Recorder that the applicant possesses the appropriate valid Oregon driver's license. Each applicant shall be fingerprinted.

B. Each person approved to drive a bicycle-powered transportation device shall pay an annual permit fee as set by Council resolution. All permits shall expire on December 31st of the year issued. If the original permit is issued on or after July 1st the permit fee may be reduced by one-half the annual fee for the initial permit year. Permits may be renewed upon payment of the annual permit fee on or before January 1st of each year.

C. The City Recorder shall review each application to determine the applicant's fitness to operate a bicycle-powered transportation device. Among the factors which may be considered are:

1. Whether the applicant has any physical or mental condition which would, in the judgment of the City Recorder, impair the applicant's ability to safely operate a bicycle-powered transportation device;

2. The applicant's prior criminal history;

3. Prior traffic violations by the applicant and prior violations of municipal regulations of the City or other municipalities governing bicycle-powered transportation device services;

4. The applicant's motor vehicle driving safety record;

5. Any other relevant factors which the City Recorder may deem necessary.

**3-9-7: OPERATING REGULATIONS:**

A. Each licensee shall maintain an office or place of business within the City, equipped with a telephone where the licensee or other personnel may be contacted. At the time a license is issued, the licensee shall certify to the City Recorder the number and/or type of bicycle-powered transportation devices that will be available to serve the public, the hours the services will be available, and the rates to be charged for the services.

B. Bicycle-powered transportation device shall be operated only on the specific routes which are pre-approved by the Committee. Operation of a bicycle-powered transportation device at any location within the City not previously approved by the Committee shall constitute grounds for revocation of the operator's license and/or driver's permit.

C. Each driver, if requested, shall give a correct receipt upon payment of the correct rate for the service provided.

D. No person may refuse to pay the lawful bicycle-powered transportation device rate as approved by the Committee after employing or hiring the bicycle-powered transportation device.

E. The driver of a bicycle-powered transportation device shall not permit its stated passenger capacity limitation to be exceeded.

F. Each licensee and driver shall promptly notify the City Police Department within twenty-four hours of any property of value left in any bicycle-powered transportation device by any passenger.

G. The driver's permit shall be displayed in the bicycle-powered transportation device where it may be readily viewed by passengers at all times that the bicycle-powered transportation device is in operation.

H. The licensee's rate schedule shall be posted in each bicycle-powered transportation device in a place where it may be readily viewed by passengers.

I. Rates established by a licensee shall not be less than the minimum rate approved by the Committee. Thirty days before implementing any changes in the rates, the licensee shall file a copy of the proposed rates with the City Recorder, and upon approval thereof by the Committee, maintain a current rate schedule for the bicycle-powered transportation device services on file with the City Recorder.

J. A customer of a bicycle-powered transportation device service shall be charged for service rendered only according to the rates established and filed as required by this section.

K. Each licensee and driver shall cause a complete and accurate record of each trip of each bicycle-powered transportation device to be made on a daily trip sheet, the form of which shall be approved by the City Recorder, showing the time and place of origin and destination of each trip, the number of passengers carried, and the amount of fare collected.

L. Each licensee shall maintain a complete set of records indicating income and expenses for each bicycle-powered transportation device operated.

M. Each licensee shall maintain a record of all complaints received either in writing or by telephone regarding bicycle-powered transportation device service.

**3-9-8: EQUIPMENT - MAINTENANCE:**

A. Each bicycle-powered transportation device shall be equipped with red taillights, a reflectorized caution symbol sign mounted on the back of the device, and carriage lamps or headlights. The design and operation of the device shall comply with all other State and local regulations for non-motorized vehicles operating on public streets.

B. All aspects of the bicycle-powered transportation device service, including the device, driver, and signage, shall maintain a clean appearance at all times during hours of operation.

C. Each bicycle-powered transportation device operating under this chapter shall be maintained in a clean, sanitary, safe and mechanically sound condition. No driver shall operate a bicycle-powered transportation device which does not comply with the requirements of this chapter, and no licensee shall allow such a bicycle-powered transportation device to be operated. The City Recorder may order any bicycle-powered transportation device found to be unsafe or in any way unsuitable to be immediately removed from service and any problems corrected before the bicycle-powered transportation device is again placed in service.

D. The licensee shall comply with all requests by the City for safety inspections of bicycle-powered transportation devices. Unless expressly authorized in writing by the City, no bicycle-powered transportation device shall be operated following a request for a special safety inspection until after the safety inspection has been passed.

**3-9-9: INSURANCE:**

No licensee shall operate or cause or allow to be operated, any bicycle-powered transportation device in the City unless the licensee has a policy of liability insurance which is in full force and effect, insuring the operation of the bicycle-powered transportation devices operating under this chapter, and which provides coverage of at least the minimum amounts specified for municipal liability in the Oregon Tort Claims Act for injury or destruction of property or for bodily injury or death.

**3-9-10: BOND REQUIRED:**

Each licensee shall post and maintain a five thousand dollar ($5,000) bond acceptable to the City Recorder which shall be available to satisfy any claims against the licensee, either in the nature of fines imposed by the City for violations of this chapter or civil judgment entered against the licensee arising out of licensee's bicycle-powered transportation device service.

**3-9-11: INDEMNIFICATION:**

A. Each licensee shall agree to pay all damages and penalties the City may legally be required to pay as a result of granting such license and shall agree to defend and indemnify the City, its officers, employees and agents against all claims resulting from the granting of such a license. These damages or penalties shall include, but not be limited to, damages arising out of the operation or maintenance of a bicycle-powered transportation device as authorized by this chapter whether or not any act or omission complained of is authorized or prohibited by this chapter.

B. By its application and the granting of an operator's license, the licensee agrees to pay all necessary and reasonable expenses incurred by the City in defending itself under this section, including, but not limited to, reasonable attorney's fees.

**3-9-12: SUSPENSION, DENIAL OR REVOCATION OF LICENSES OR PERMITS:**

A. The Committee is authorized to deny any application for a license or permit or to suspend any license or permit issued pursuant to this chapter after reasonable notice and opportunity granted to the holder thereof to be heard, if the Committee finds probable cause to believe that the holder has:

1. Been found guilty of any violation of this chapter; or

2. Been convicted of an offense against person or property for which a sentence of incarceration could have been imposed under Oregon law, or having a character, reputation or moral integrity inimical to the public safety or the general welfare of the City;

3. Knowingly made any false, misleading or fraudulent statement of material fact in the application for a license or permit, or in any report or record required to be filed with any governmental entity; or

4. Failed to comply with any of the general ordinances of the City applicable to the business or merchant activities of the applicant, licensee or permittee.

B. In addition to the grounds in Subsection A of this section, the Committee may deny an application for operator's license or suspend or revoke an operator's license upon finding that:

1. The applicant, operator or key personnel fails to meet the requirements of this chapter, or is doing business in violation of this chapter or applicable Federal, State, County or City law;

2. The applicant, operator or key personnel has provided false or misleading material, information, or has omitted disclosure of a material fact on the application or related materials, or on his/her business records;

3. The applicant's operator's or key personnel's past or present violation of law or ordinance presents a reasonable doubt about the applicant's or operator's ability to provide bicycle-powered transportation device service without endangering property or the public health and safety;

4. The information supplied for the review does not indicate that the applicant or key personnel has the experience, knowledge or ability to provide the services required under this chapter.

C. In addition to the grounds in Subsection A of this section, the Committee may deny an application for driver's permit or suspend or revoke a driver's permit if the City Recorder determines the applicant unfit based on the factors in Section 3-9-6 or if a permittee is convicted of a violation of this chapter or similar regulations of another municipality, or is convicted of a violation of any of the statutes of the State involving the operation of a motor vehicle, or if the Committee has reasonable grounds to believe that the permittee would endanger life or property while operating a motor vehicle.

D. The City Recorder may refuse to issue a bicycle-powered transportation device permit for any bicycle-powered transportation device found not to comply with the requirements of this chapter.

E. The City Recorder shall provide written notice to the applicant, licensee or permittee of his/her recommendation to the Committee that the application, license or permit be denied or revoked. The notice shall state the reason for the recommendation and shall inform the applicant, licensee or permittee of the right to present evidence, testimony and arguments to the Committee before it renders a decision in the matter.

F. The City Recorder's notice shall be given at least 15 days before the Committee considers the matter. When the City Recorder is recommending revocation of a license or permit because of a violation of this Chapter, if the licensee or permittee corrects the violation within the 15 days, the City Recorder may withdraw his/her recommendation and the proceedings shall cease unless the Committee directs to the contrary.

G. The Committee shall consider the City Recorder's recommendation by conducting a hearing at which it shall receive any relevant evidence, testimony and argument the City Recorder, the applicant, the licensee, the permittee or others may wish to present. While proceedings before the Committee are not bound by the rules of evidence used by courts of law, the decision of the Committee shall be based on substantive evidence. The decision shall include the Committee's findings and shall be in writing. The Committee's decision shall be mailed or personally served upon the applicant, licensee or permittee and any other requesting notice of the decision.

H. A person whose application for a license has been denied or whose license has been revoked may, after one year from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

**3-9-13: SUMMARY SUSPENSION OF OPERATOR'S LICENSE OR PERMITS:**

A. Notwithstanding the requirements of Section 3-9-12, if the conduct of a licensee or permittee creates an eminent threat to life or property, the City Recorder may summarily order the licensee or permittee to cease the activity creating the threat. In the event the licensee or permittee fails to promptly cease the threatening activity and correct the threatening condition, the City Recorder may, without further notice or opportunity to be heard, suspend the license or permit. If the activities of the licensee or permittee causes any property to be or remain in the public way, the City Recorder may cause the property of the licensee or permittee to be removed from the public way and assess the costs of such removal to the licensee or permittee.

B. A summary suspension under this section may be appealed by the licensee or permittee in the manner set forth in Section 3-9-14.

**3-19-14: APPEAL:**

A. An applicant whose application for a license or permit has been denied, or a licensee or permittee whose license or permit has been denied renewal, been suspended or is revoked may appeal the decision within ten days after the date of notice of the denial, suspension, or revocation. The appeal shall be in writing, filed with the City Recorder and shall state:

1. The name and address of the appellant;

2. The nature of the determination being appealed;

3. The reason the determination is incorrect; and

4. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed. Within ten days of the Committee's decision, the City Council on its own motion may initiate review of any Committee decision.

B. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.

C. Unless all parties to the appeal and the City Recorder agree to a longer period, an appeal shall be heard by the Council within 20 days of the receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the parties.

D. The Council shall hear and determine the appeal on the basis of the appellant's notice of appeal, the record of the Committee's consideration of the matter ad any oral or written argument the parties may present. At the hearing the appellant may present oral argument personally or by counsel.

E. If the appeal is from the Committee's denial of the appellant's request, the appellant shall carry the burden of proving that he/she is entitled to the remedy sought.

F. The Council shall render its decision by resolution within 20 days of the hearing date. The decision of the Council shall be final.

**3-9-15: ADMINISTRATIVE RULES:**

The City Recorder may propose administrative rules to implement the administration of this Chapter. Such rules or amendment thereto shall be effective after review by the Committee and approval by the City Council.

**3-9-16: CITY ENFORCEMENT:**

A. The City shall enforce the provisions of this Chapter by administrative, civil or criminal action or any combination thereof as necessary to obtain compliance with this Chapter.

B. Except as limited by paragraph C of this subsection, the penalty for violating any provision of this Chapter shall be that established in Chapter 1-4 of this Code.

C. The penalty for violation of this Chapter which is also a violation of State law or regulation shall not exceed the penalty imposed by State law or regulation for the same conduct.

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Adopted by Ordinance No. 9, Series 1995
Section 3-9-1 amended by Ordinance No. 17, Series 2018 – effective February 1, 2019

TITLE 3
CHAPTER 10

# SOCIAL GAMING

SECTION

10-1-1: Definitions
10-1-2: Authorization
10-1-3: Violations and Penalties

**10-1-1: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

| | |
|---|---|
| HOUSE | The person or persons operating a social game. |
| SOCIAL GAME | A game, other than a lottery, between players in a private business, private club, or place of public accommodation where no house player, house bank or house odds exists and there is not house income from the operation of the social game. |

**10-2-2: AUTHORIZATION:** Pursuant to ORS 167.121, social games are permitted within the City with the following limitations:

A. The social game can only be conducted within a private business, a private club, or a place of public accommodation;

B. No house player, house bank, or house odds may exist;

C. There can be no house income from the operation of the social game;

D. No social game shall be played or permitted in any private business, private club, or place of public accommodation except in a designated unlocked portion of the establishment;

E. For the duration of the social game, the facility used for the social game shall be open for inspection by law enforcement officers for the purpose of inspecting the premises and any social gaming activities to ensure compliance with this Chapter;

F. No private business, private club, or place of public accommodation may operate for the sole purpose of providing a place at which social games are conducted;

G. Persons under 18 years of age are not permitted in the room or enclosure where the game takes place;

H. The social game shall not be visible from a public right-of-way;

I. The house, or an authorized representative of the house, shall be onsite at the location of the social game for the entire duration of the social game; and

J. The house shall be the responsible party for ensuring that the social game is conducted as authorized and limited by this Chapter and the house shall be the responsible party for any violation of this Chapter by the house or any person acting on behalf of the house.

**10-1-3: VIOLATION-PENALTY:** Any person who conducts or permits to be conducted any social gaming in violation of this Chapter commits a misdemeanor and, if found guilty, shall be punished by a fine not to exceed Five Hundred ($500.00) or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment.

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Established by Ordinance No. 17, Series 2010 effective 10-4-10

TITLE 3
CHAPTER 11

# RETAIL TAX ON MARIJUANA ITEMS

SECTION:


3-11-1: Definitions
3-11-2: Tax Imposed
3-11-3: Collection
3-11-4: Accounting and Records
3-11-5: Penalties and Interest
3-11-6: Appeal
3-11-7: Refund
3-11-8: Tax Collection by Another Agency


**3-11-1: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

| | |
|---|---|
| CITY | The City of Florence |
| TAX ADMINISTRATOR | City Manager of the City of Florence, the City Manager's designee, and/or another individual or entity designated by the City to collect tax on behalf of the City. |
| CONSUMER | A person who purchases, acquires, owns, holds or uses marijuana items other than for the purpose of resale. |
| MARIJUANA ITEM | Marijuana, cannabinoid product, cannabinoid concentrates and cannabinoid extracts as defined in ORS 475B.015 |
| MARIJUANA RETAILER | A person licensed under ORS 475B.015 who sells marijuana items to a consumer in the State of Oregon |
| PERSON | Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies |
| RETAIL SALE PRICE | The total consideration paid to a marijuana retailer for a marijuana item by or on behalf of a consumer, excluding any tax |

**3-11-2: TAX IMPOSED:** The City of Florence hereby imposes a tax on each marijuana item sold to a consumer within the City of Florence by a marijuana retailer. The Florence City Council shall set the tax rate by resolution; however, the tax rate adopted by the City Council shall not exceed the maximum rate allowed under state law. Until such time as the City Council may lower the tax rate by resolution, the initial tax rate shall be three percent (3%) of the retail sale price for each marijuana item sold. The tax constitutes a debt owned by the consumer to the City and shall be extinguished only by payment to the marijuana retailer or the City.

**3-11-3: COLLECTION:** The consumer shall pay the tax to the marijuana retailer at the time of purchase or sale of the marijuana item. Every marijuana retailer shall collect the tax from the consumer at the sale of a marijuana item. The tax collected by the marijuana retailer shall be held in trust by the marijuana retailer for payment to the City. The marijuana retailer shall remit the tax to the Tax Administrator. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the administration, collection and enforcement of the tax authorized by this Ordinance.

**3-11-4: ACCOUNTING AND RECORDS:**

A. Every marijuana retailer must keep and preserve, in generally accepted accounting format used for reporting revenue and taxes due on business activity, detailed records of all sales made and all taxes collected. Every marijuana retailer must keep and preserve such records for a period of six (6) years. The Tax Administrator shall have the right to inspect all such records at reasonable times.

B. For purposes of determining the accuracy of any tax or for the purpose of an estimate of taxes due, the Tax Administrator may examine any books, papers, records, or memoranda bearing upon the marijuana retailer's tax returns, including copies of the marijuana retailer's state and federal income tax returns and copies of the marijuana retailer's state marijuana tax returns. All books, invoices and other records shall be made available within the City for examination by the Tax Administrator during regular business hours.

**3-11-5: PENALTIES AND INTEREST:**

A. Any marijuana retailer who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of ten percent of this amount of the tax due in addition to the amount of the tax.

B. Any marijuana retailer who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of thirty days following the date on which the remittance first becomes delinquent shall pay a second delinquency penalty of fifteen percent of the amount of the tax due plus the amount of the tax and the ten percent penalty first imposed.

C. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions of this Chapter, a penalty of twenty-five percent of the amount of the tax shall be added to the amount of the remittance due, in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof, without proration for portions of a month, or the amount of the tax due, exclusive of penalties, from the date on which the remittance first becomes delinquent, until paid.

E. Every penalty imposed and any interest that accrues under the provisions of this Chapter shall be merged with, and become a part of, the tax required to be paid.

**3-11-6: APPEAL:**

A. Any person aggrieved by any decision of the Tax Administrator may appeal the City Manager by filing a notice of appeal with the Tax Administrator within ten days of the date the notice of the decision is served or mailed. The Tax Administrator shall fix a time and place for hearing the appeal and shall give the appellant ten days' written notice of the time and place of the hearing.

B. Any person aggrieved by any decision of the City Manager under subsection A of this Section may appeal to the Council by filing a notice of appeal with the Tax Administrator within ten days of the City Manager's decision is served or mailed. The Tax Administrator shall transmit the notice, together with the file of the appealed matter, to the Council, who shall fix a time and place for hearing the appeal. The Council shall give the appellant not less than ten days written notice of the time and place of hearing the appeal.

**3-11-7: REFUND:** Whenever the amount of any tax imposed under this Chapter has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the Tax Administrator approves the claim, the excess amount collected or paid may be refunded to, or may be credited on any amounts then due and payable from, the marijuana retailer from whom it was collected or by whom it was paid, and the balance may be refunded to the marijuana retailer or the marijuana retailer's administrators, executors or assignees.

**3-11-8: TAX COLLECTION BY ANOTHER AGENCY:** Pursuant to an agreement with an Oregon government agency, the City Council may authorize the retail tax on marijuana items established by this Chapter to be collected and administered by the other government agency. In authorizing the other government agency to collect and administer the City's retail tax on marijuana items, the City Council shall authorize the agreement by resolution after making a finding that the tax collection procedures of the other government agency provide sufficient procedural protections for taxpayers. Upon adoption of the Council's resolution, and notwithstanding Section 3-11-5, 3-11-6, and 3-11-7, the tax collection and enforcement procedures of the other governmental agency shall govern the tax imposed under Section 3-11-2 as provided in the agreement.

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Established by Ord. No. 10, Series 2016 – effective January 1, 2017
Amended by Ord. No. 17, Series 2016 – effective January 4, 2017

TITLE 3
CHAPTER 12

# PROHIBITIONS ON POLYSTYRENE FOAM

SECTION:


3-12-1: Purpose
3-12-2: Definitions
3-12-3: Prohibition on PSF Uses
3-12-4: Exemptions on PSF Use
3-12-5: Enforcement


**3-12-1: PURPOSE:** This Chapter is enacted to provide for the heath and welfare of the citizens of Florence and preserve the scenic quality and natural environment of the City and its surrounding area.

**3-12-2: DEFINITIONS:** For the purpose of this Chapter, certain words, terms and phrases are defined as follows:

| | |
|---|---|
| PERSON | Any natural person, firm, corporation, partnership, government entity, or other organization or group however organized. |
| POLYSYTRENE FOAM (PSF) | Blown polystyrene and expanded and extruded foams (sometimes incorrectly called Styrofoam) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres, injection molding, foam molding, and extrusion blow molding. For the purposes of this Chapter, the term polystyrene shall not include clear, solid polystyrene. |
| PSF CONTAINER | Containers made from polystyrene foam, including but not limited to cups, bowls, tubs, plates, trays, clamshell containers, egg cartons, and bait containers. For the purposes of this Chapter, the term PSF container shall not include trays containing raw meat or seafood intended for human consumption, and shall not include coolers or ice chests. |

**3-12-3: PROHIBITION ON PSF USES:**

A. No person shall package, sell, or serve food or beverages in any PSF container.

B. No person shall package, sell, or provide bait in any PSF container.

C. No person shall sell or provide PSF containers.

D. No person shall dispose of any PSF container in any location other than a trash or recycling receptacle, where PSF container foam recycling is available.

**3-12-4: EXEMPTIONS FOR PSF USE:**

A. The City Manager may exempt a person or persons from the provisions of this chapter in situations where:

1. Compliance with the provisions of this chapter would deprive a person of a legally protected right.

2. An emergency for the immediate preservation of the public peace, health, or safety exists.

B. The City Manager may grant an exemption on the City Manager's own request or upon written request of any impacted person. If the request for an exemption comes from a person, the City Manager shall provide a reasonable opportunity for the person to submit written or oral support for granting the exemption. The City Manager shall make written findings inn granting or denying any exemption. The City Manager's decision shall be the City's final decision.

**3-12-5: ENFORCEMENT:**

A. Violations of this chapter shall be punishable by a fine not exceeding $250 for the first violation in a one-year period or a fine not exceeding $500 for the second and each subsequent violation in a one-year period.

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Established by Ord. No. 12, Series 2017 – effective January 1, 2018

# TITLE 4

# BUILDING REGULATIONS


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TITLE 4
CHAPTER 1

# BUILDING REGULATIONS


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**4-1-1: CODES ADOPTED:** In addition to compliance with this Chapter and other ordinances of the City, the City of Florence adopts the following Building Administrative Code.

**A. TITLE:** These regulations shall be known as the Building Administrative Code, may be cited as such and will be referred to herein as "this code."

**B. PURPOSE:** The purpose of this code is to provide for the administration and enforcement of the Oregon Specialty Codes.

**C. SCOPE:** The provisions of this code shall serve as the administrative, organizational and enforcement rules and regulations for the Specialty Codes which regulate site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within this jurisdiction.

**D. CONFLICTS:** Where in any specific case there is a conflict between this Code and Oregon Revised Statute, the statute shall govern.

**4-1-2: APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT.** Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the Specialty Codes for new facilities, except as specifically provided in this section.

**4-1-2-1: ADDITIONS, ALTERATIONS OR REPAIRS:**

A. Additions, alterations or repairs may be made to a building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the Specialty Codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of the provisions of the Specialty Codes nor all such additions or alterations cause the existing building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. A building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. A building plus new additions shall not exceed the height, number of stories and area specified by the Building Code for new buildings.

Additions or alterations shall not be made to an existing building or structure when the existing building or structure is not in full compliance with the provisions of the Building Code except when the addition or alteration will result in the existing building or structure being no more hazardous based on life safety, fire safety and sanitation, than before such additions or alterations are undertaken.

1. Exception: Alterations of existing structural elements, or additions of new structural elements, which are not required by Section 4-1-2-2 and which are initiated for the purpose of increasing the lateral-force-resisting structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

    a. The capacity of existing structural elements required to resist forces is not reduced, and

    b. The lateral loading to required existing structural elements is not increased beyond their capacity, and

    c. New structural elements are detailed and connected to the existing structural elements as required by these regulations, and

    d. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations, and

    e. An unsafe condition as defined above is not created.

Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect a structural member or a part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the building Official. Installation or replacement of glass shall be as required for new installations.

B. Minor additions, alterations, and repairs to existing building service equipment installations may be made in accordance with the Specialty Codes in effect at the time the original installation was made, subject to approval of the Building Official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, unsanitary or overloaded.

**4-1-2-2: EXISTING INSTALLATIONS:** Building service equipment lawfully in existence at the time of the adoption of the Specialty Codes may have their use, maintenance or repair continued if the use maintenance or repair is in accordance with the original design and a hazard to life, health, or property has not been created by such building service equipment.

**4-1-2-3: EXISTING OCCUPANCY**: Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the building Code, and provided continued use is not dangerous to life, health, and safety.

**4-1-2-4: MAINTENANCE:** Buildings, structures and building service equipment, existing and new, and parts thereof shall be maintained in a safe and sanitary condition. Devices or safeguards which are required by the Specialty Codes shall be maintained in conformance with the Specialty Codes under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this subsection, the Building Official may cause a structure to be reinspected.

**4-1-2-5: MOVED BUILDINGS:** Buildings or structures and building service equipment moved into or within this jurisdiction shall comply with the provisions of the specialty Codes for new buildings or structures and their building service equipment.

**4-1-2-6: TEMPORARY STRUCTURES:** Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around an injunction with construction work may be erected by special permit from the Building official for a limited period of time. Buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

**4-1-2-7: HISTORIC BUILDINGS:** Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building, structure, or its building service equipment may be made without conforming to the requirements of the Specialty Codes when authorized by the building Official, provided:

A. 1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.

2. Unsafe conditions as described in this code are corrected.

3. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

**4-1-3: DEFINITIONS:** For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Where terms are not defined, they shall have their ordinarily accepted meanings with the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

ADDITION: An extension or increase in floor area or height of a building or structure.

ALTER OR ALTERATION: A change or modification in construction or building service equipment.

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| APPROVED: | As to materials, types of construction, equipment and systems, refers to approval by the Building Official as the result of investigation and tests conducted by the Building Official, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations. |
| APPROVED AGENCY: | An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when the agency has been approved by the Building Official. |
| BUILDING: | A structure used or intended for supporting or sheltering a use or occupancy. |
| BUILDING CODE: | The Oregon Structural Specialty Code. (OSSC) |
| BUILDING, EXISTING: | A building erected prior to the adoption of this code, or one for which a legal building permit has been issued. |
| BUILDING OFFICIAL: | The officer or other designated authority charged with the administration and enforcement of this code or a regularly authorized deputy. |
| BUILDING SERVICE EQUIPT. | Refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting and transportation facilities essential to the occupancy of the building or structure for its designated use. |
| DANGEROUS BLDGS CODE: | The Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by this jurisdiction. |
| DWELLING CODE: | The OREGON RESIDENTIAL SPECIALTY CODE (ORSC) |
| ELECTRICAL CODE: | The Oregon Electrical Specialty Code. (OESC) |
| ELEVATOR CODE: | The safety code for elevators, dumbwaiters, escalators and moving walks as adopted by this jurisdiction. |
| JURISDICTION: | The City which adopts this code for administrative regulations within its area of authority. |
| LISTED & LISTING: | Terms referring to equipment and materials which are shown in a list published by an approved testing agency, qualified and equipped for experimental testing and maintaining an adequate periodic inspection of current productions and which listing states that the material or equipment complies with accepted national standards which are approved, or standards which have been evaluated for conformity with approved standards. |
| MANUFACTURED HOME INSTALLATION CODE: | The Oregon MANUFACTURED DWELLING INSTALLATION Specialty Code. |
| MANUFACTURED HOME PARK CODE: | The Oregon Manufactured Home Park Construction Specialty Code. |

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| MECHANICAL CODE: | The Oregon Mechanical Specialty Code. |
| OCCUPANCY: | The purpose for which a building or part thereof, is used or intended to be used. |
| OWNER: | Any person, agent, firm or corporation having legal or equitable interest in the property. |
| PERMIT: | An official document or certificate issued by the Building Official authorizing performance of a specified activity. |
| PERSON: | A natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid. |
| PLUMBING CODE: | The Oregon Plumbing Specialty Code. (OPSC) |
| RECREATIONAL VEHICLE | The Oregon Recreational Vehicle Park Construction |
| PARK CODE: | Specialty Code. |
| REPAIR: | The reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance. |
| SHALL: | As used in this code is mandatory. |
| SPECIALTY CODES: | Refer to those Specialty Codes adopted by the State of Oregon which constitute the Oregon Building Code which have been delegated to this jurisdiction for enforcement containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures and building service equipment as herein defined. |
| STRUCTURAL OBSERVATION: | The visual observation of the structural system, including but not limited to, the elements and connections at significant construction stages, and the completed structure for general conformance to the approved plans and specifications, performed by the design professional or an approved alternate. (Reports of structural observation shall be submitted to the Building Official.) Structural observation does not include or waive the responsibility for the inspections required by this code. |
| STRUCTURE: | That which is built or constructed, an edifice or building of any kind, any piece of work artificially built up or composed of parts jointed together in some definite manner. |
| REFERENCE STANDARDS: | Those standards published by nationally recognized testing and standards organizations and referenced in the building codes adopted by this jurisdiction. |

VALUATION OR VALUE: As applied to a building and its building service equipment, shall be the estimated cost to construct or replace the building and its building service equipment in kind, based on current replacement costs from the BUILDING SAFETY JOURNAL Building valuation data table; or if inconclusive, as determined by the Building Official.

**4-1-4: CONFLICTING PROVISIONS:**

A. When conflicting provisions or requirements occur between this code, the Specialty Codes and other codes or laws, the most restrictive shall govern.

B. When conflicts occur between the Specialty Codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

C. Where in a specific case different sections of the Specialty Codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. When there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**4-1-4-1: ALTERNATE MATERIALS, METHODS OF DESIGN AND METHODS OF CONSTRUCTION:**

A. The provisions of the Specialty Codes are not intended to prevent the use of any material, method of design or method of construction not specifically prescribed by the specialty Codes, provided an alternate has been approved and its use authorized by the Building Official.

B. 1. The Building Official may approve an alternate, provided the Building Official finds that the proposed design is satisfactory and complies with the provisions of the Specialty Codes and that the material, method of work offered is, for the purpose intended, at least the equivalent of that prescribed in the Specialty Codes in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

2. The Building Official shall require that sufficient evidence or proof be submitted to substantiate claims that may be made regarding its use. The details of an action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

**4-1-4-2: MODIFICATIONS:** Whenever there are practical difficulties involved in carrying out the provisions of the Specialty Codes, the Building Official may grant modifications for individual cases.

A. 1. The Building Official shall first find that a special individual reason makes the strict letter of the Specialty Codes impractical and the modification is in conformity with the intent and purpose of the Specialty Codes, and that such modification does not lessen health, life safety and fire safety requirements or any degree of structural integrity. The details of granting modifications shall be recorded and entered in the files of the code enforcement agency.

**4-1-4-3: TESTS:**

A. Whenever there is insufficient evidence of compliance with the provisions of the Specialty Codes or evidence that materials or construction do not conform to the requirements of the Specialty Codes, the Building Official may require tests as evidence of compliance to be made at no expense to the jurisdiction.

B. Test methods shall be as specified by the Specialty Codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Building Official shall determine test procedures.

C. Tests shall be made by an approved agency. Reports of such test shall be retained by the Building Official for the period required for the retention of public records.

## 4-1-5: ORGANIZATION AND ENFORCEMENT

**4-1-5-1: AUTHORITY - CREATION OF ENFORCEMENT AGENCY:** There is hereby established in this jurisdiction a code enforcement agency which shall be under the administrative and operational control of the Building Official.

Whenever the term or title "administrative authority" "responsible official" "building official" "chief inspector" "code enforcement officer" or other similar designation is used herein or in any of the Specialty Codes it shall be construed to mean the Building Official designated by the appointing authority of this jurisdiction.

**4-1-5-2: POWERS AND DUTIES OF BUILDING OFFICIAL:** The Building Official is hereby authorized and directed to enforce all the provisions of this code and the referenced Specialty Codes. For such purposes, the Building Official shall have the powers of a law enforcement officer.

**4-1-5-3: DEPUTIES:** In accordance with prescribed procedures and with the approval of the appointing authority, the Building Official may appoint such number of technical officers and inspectors and other employees as shall be authorized from time to time. The Building Official may deputize such inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

**4-1-5-4: RIGHT OF ENTRY:** When necessary to make an inspection to enforce any of the provisions of this code and the Specialty Codes, or when the Building Official has reasonable cause to believe that there exists in any building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at all reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied, that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. Should entry be refused, the building official shall have recourse to the remedies provided by law to secure entry.

**4-1-5-5: STOP ORDERS:** When work is being done contrary to the provisions of this code, the Specialty Codes, or other pertinent laws or ordinances implemented through the enforcement of this code, the Building official may order the work stopped by notice in writing served on persons engaged in the doing or causing such work to be done, and such persons shall forthwith stop the work until authorized by the Building Official to proceed with the work.

**4-1-5-6: OCCUPANCY VIOLATIONS:** When a building or structure or building service equipment therein regulated by this code and the Specialty Codes is being used contrary to the provisions of such codes, the Building Official may order such use discontinued by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of such codes.

**4-1-5-7: AUTHORITY TO DISCONNECT UTILITIES:** The Building Official or his/her designee shall have the authority to disconnect a utility service or energy supplied to the building, structure or building service equipment therein regulated by this code or the Specialty Codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility,

owner and occupant of the building, structure or building service equipment in writing, of such disconnection immediately thereafter.

**4-1-5-8: ABATEMENT:**

A. Authority to Abate. A condition caused or permitted to exist in violation of this code or the Specialty Codes is a public nuisance which may be abated by any of the procedures set forth by City Ordinance or state statutes.

B. Authority to Condemn Building Service Equipment:

1. When the Building Official ascertains that building service equipment regulated in the Specialty Codes has become hazardous to life, health or property, or has become insanitary, the Building Official shall order in writing that such notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

2. When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore shall be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

3. When any building service equipment is maintained in violation of the Specialty Codes and in violation of a notice issued pursuant to the provisions of this section, the Building Official shall institute appropriate action to prevent, restrain, correct or abate the violation.

**4-1-5-9: CONNECTION AFTER ORDER TO DISCONNECT:** Persons shall not make connections from an energy, fuel or power supply nor supply energy or fuel to building service equipment which as been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the building Official authorizes the reconnection and use of such equipment.

**4-1-5-10: LIABILITY:**

A. The Building Official charged with the enforcement of this code and the Specialty Codes, acting in good faith and without malice in the discharge of his duties, shall not thereby be rendered personally liable for damage that may accrue to persons or property as a result of an act or omission in the discharge of the assigned duties.

B. A suit brought against the Building Official or employee because of such act or omission performed by the Building Official or employee in the enforcement of the provisions of this code or enforced by the code enforcement agency shall be defended by this jurisdiction until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by this jurisdiction.

C. Where Building Official is a contracted service, the contractor will defend, Indemnify and hold harmless the CITY, its officials, employees and agents from any claims, suits, or actions arising out of acts by contract, his employees, agents and subcontractors outside the scope of the Contract Agreement while on duty as a Building Official for the CITY.

D. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling a building, structure or building service equipment therein for damages to persons or property caused by defects, nor shall the code enforcement agency or its parent jurisdiction be held as assuming such liability by reason of the inspections authorized by this code or permits or certificates issued under this code.

**4-1-5-11: COOPERATION OF OTHER OFFICIAL AND OFFICERS:** The Building Official may request, and shall receive, the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this code or other

**4-1-5-12: UNSAFE BUILDINGS, STRUCTURES OR BUILDING SERVICE EQUIPMENT:**

A. Buildings or structures regulated by this code and the Specialty Codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

B. Building service equipment regulated by such codes, which constitutes a fire, electrical or health hazard, or an unsanitary condition, or is otherwise dangerous to human life is, for the purpose of this section, unsafe. Use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

C. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

D. Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Dangerous Buildings Code or such alternate procedure as may be adopted by this jurisdiction. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body may institute other appropriate action to prevent, restrain, correct or abate the violation.

**4-1-5-13: BOARD OF APPEALS:** In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretations of the Specialty Codes, there shall be and is hereby created a board of appeals consisting of the members of the City Council of this jurisdiction. The Building Official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. 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.

**4-1-5-14: LIMITATIONS OF AUTHORITY:** The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code or the administrative provisions of the Specialty Codes nor shall the board be empowered to waive requirements of either this code or the Specialty Codes.

**4-1-5-15: VIOLATIONS AND PENALTIES:**

A. Violation. It shall be unlawful for a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done contrary to or in violation of this code and Specialty Codes.

B. Penalties. Violation of a provision of this code shall be subject to an administrative civil penalty not to exceed $5,000 for each offense, or in the case of a continuing offense, not more than $1,000 for each day of the offense, and shall be processed in accordance with the procedures set forth in this section.

C. Cumulative Remedies. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under this code, other applicable City ordinances, and state law.

**4-1-5-16: BUILDING OFFICIAL—AUTHORITY TO IMPOSE ADMINISTRATIVE CIVIL PENALTY:**

A. Civil Penalties. Upon a determination by the Building Official that any person, firm, corporation or other entity however organized has violated a provision of this chapter or a rule adopted thereunder, 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 as provided by this section. For purposes of this section, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, also includes the owner. This authority in no way precludes the Building Official from attempting to secure voluntary compliance prior to issuing an order to correct a violation.

B. Order to Correct. Prior to issuing a notice of civil violation and imposing an administrative civil penalty under this section, the Building Official shall issue an order to correct a violation (Order to Correct) to one or more of the responsible persons. Except where the Building Official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five calendar days.

C. Notice of Civil Violation. Following the date or time by which the correction must be completed as required by an Order to Correct, the Building Official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the Building Official may issue a notice of civil violation and assess an administrative civil penalty to each responsible person to whom an Order to Correct was issued.

D. Knowing, Intentional or Repeat Violations. Notwithstanding subsection 4-1-5-16-B, the Building Official may issue a notice of civil violation and assess an administrative civil penalty without having issued an Order to Correct where the Building Official determines that the violation was knowing, intentional, or a repeat of a similar violation.

E. Penalty Considerations. In assessing an administrative civil penalty authorized by this section, the Building Official shall consider:

1. The person's cooperativeness and past history in taking steps to correct the violation;

2. Any prior violations of this code, of the Specialty Codes, or other City ordinances;

3. The gravity and magnitude of the violation;

4. Whether the violation was repeated or continuous; and

5. Whether the violation was caused by an unavoidable accident, negligence, or an intentional act.

F. Notice Requirements. A notice of civil violation issued under this section shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. Every notice shall:

1. Describe the alleged violation, including any relevant code provision numbers, ordinance numbers, or other identifying references;

2. State that the City intends to assess a civil penalty for the violation and state the amount of the civil penalty and other penalties imposed;

3. State the date on which the Order to Correct was issued and the time by which correction was required, or, if the penalty is imposed pursuant to subsection 4-1-5-15-D of this code, a short and plain statement of the basis for concluding that the violation was knowing, intentional, or repeated;

4. State that the party may challenge the assessment of civil penalty to the board of appeals; and

5. Describe the process and the deadline for informing the City that the party is challenging the assessment of the civil penalty.

G. Appeal. Any person, firm, corporation or other entity however organized who is issued a notice of civil penalty may appeal the penalty to the board of appeals. The provisions of section 4-1-5-17 of this code shall govern any requested appeal.

H. Penalty Final. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, if no appeal is timely filed with the board of appeals.

I. Continuing Violations. Each day the violator fails to remedy the code violation shall constitute a separate violation.

J. Additional Penalties. The civil administrative penalty authorized by this section shall be in addition to: (1) assessments or fees for any costs incurred by the City in remediation, cleanup, or abatement, and (2) any other actions authorized by law, provided that the City shall not issue a citation to Municipal Court for a violation of this code.

**4-1-5-17: APPEAL PROCEDURES**

A. Appeal Contents. Any recipient aggrieved by a notice of civil penalty may, within 14 days after receipt of the notice, appeal in writing to the board of appeals. The written appeal shall be accompanied by an appeal fee in an amount set by Council resolution and shall include:

1. The name and address of the appellant;

2. The nature of the matter being appealed;

3. The reason appellant claims the Building Official's determination is incorrect; and

4. Appellant's desired determination of the appeal.

If appealed, the civil penalty shall become final, if at all, upon issuance of the board of appeals' decision affirming the Building Official's assessment.

B. Hearing Date and Notice. Unless the appellant and the City agree to a longer period, an appeal shall be heard by the board of appeals within 30 days of the receipt of appellant's notice of intent to appeal. At least 10 days prior to the hearing, the City shall mail notice of the time and location thereof to the appellant.

C. Hearing Procedure. The board of appeals shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the board of appeals deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The burden of proof shall be on the Building Official. The rules of evidence as used by courts of law do not apply.

D. Decision. The board of appeals shall issue a written decision within 10 days of the hearing date. The written decision of the board of appeals is final.

E. Fee Refundability. Other than as provided in this subsection, the appeal fee is non-refundable. If the Building Official's assessment is not affirmed, the board of appeals may refund all or part of the appeal fee upon appellant's motion.

**4-1-5-18: UNPAID PENALTIES:**

A. Penalty Collection. Failure to pay an administrative penalty imposed pursuant to this code within 10 days after the penalty becomes final shall constitute a separate violation. The Building Official is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection 4-1-5-18-B below, other provisions of this code, or state statute.

B. Assessment Lien. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from a prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty becomes final, the Building Official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the City's lien docket. At the time such an assessment is made, the Building Official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the City's lien docket. The lien shall be enforced in the same manner as all City liens. Interest shall commence from the date of entry of the lien in the lien docket.

C. Additional Penalties. 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 certificates of occupancy.

**4-1-6: PERMITS AND INSPECTIONS**

**4-1-6-1: PERMITS REQUIRED:** Except as specified in 4-1-6-2, no building, structure or building service equipment regulated by this code and the Specialty Codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Building Official.

**4-1-6-2: WORK EXEMPT FROM PERMIT:** A permit shall not be required for the types of work in each of the separate classes of permit as listed below. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the Specialty Codes or any other laws or ordinances of this jurisdiction.

**4-1-6-3: BUILDING PERMITS:** Work exempt from permit. Permits shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

A. Nonhabitable one-story detached accessory structure, provided the floor area does not exceed 200 square feet (18.58 $m^2$) or a height of 10 feet (3048 mm) measured to the eave .

B. Except for barriers around swimming pools as required in Appendix G of the RESIDENTIAL SPECIALTY CODE , fences not over 6 feet (1829 mm) high.

C. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

D. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

E. Concrete sidewalks, slabs and driveways not more than 30 inches (762 mm) above adjacent grade and not over any basement or story below.

F. Painting, papering, tiling, carpeting, cabinets, counter tops, interior wall, floor or ceiling covering and similar finish work.

G. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.

H. Swings and other playground equipment accessory to a one or two-family dwelling.

I. Window awnings and patio covers supported by an exterior wall not over 120 square feet (11 $m^2$) in area.

J. Nonbearing partitions, except when such partitions create habitable rooms.

K. Replacement or repair of siding not required to be fire resistant.

L. Retrofitted insulation

M. Masonry repair.

N. Porches and decks, where the floor or deck is not more than 30 inches (762 mm) above grade, and where the edge of the porch, deck or floor does not come closer than 3 feet (914 mm) to property lines.

O. Gutters and downspouts.

P. Door and window replacements where no structural member is changed.

R. Reroofiing, except in wildfire hazard zones or where replacement or repair of roofing does not exceed 30 percent of the required live load design capacity and is not required to be fire resistant.

S. Plastic glazed storm windows.

T. Frame-covered accessory buildings not more than 500 square feet (37.16 $m^2$) in area, one story in height or closer than 3 feet (914 mm) to the property line, where the structure is composed of a rigid framework to support tensioned fabric membrane that provides a weather barrier.

**4-1-6-4: PLUMBING PERMITS:** The stopping of leaks in drains, water, soil, waste or vent pipe; provided however, that if any concealed trap, drainpipe, water, soil, water or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection as provided in this code.

The clearing of stoppages or the repairing of leaks in pipes valves or fixtures, and the removal of reinstallation of water closets, provided such repairs do not involve or require replacement or rearrangement of values, pipes or fixtures.

**4-1-6-5: ELECTRICAL PERMITS:** Repairs and Maintenance: A permit shall not be required for minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved, permanently installed receptacles.

**4-1-6-6: MECHANICAL PERMITS:** A mechanical permit shall not be required for the following:

A. Portable cooking or clothes drying appliances.

B. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

C. Portable heating appliances.

D. Portable ventilation appliances.

E. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

F. Portable evaporative cooler.

G. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors by 1 horsepower (746 W) or less.

H. Other portable appliances such as freezers, washing machines, refrigerators, portable barbeques grills, etc.

**4-1-7: APPLICATION FOR PERMIT:** To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

A. Identify and describe the work to be covered by the permit for which application is made.

B. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

C. Indicate the use or occupancy for which the proposed work is intended.

D. Be accompanied by plans, diagrams, computations and specifications and other data as required in Section 4-1-7-1 and the BUILDING CODE.

E. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.

F. Be signed by the applicant, or the applicant's authorized agent.

G. Give such other data and information as may be required by the Building Official.

**4-1-7-1: SUBMITTAL DOCUMENTS:**

A. Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted in one or more sets with each application for a permit.

B. When such plans are not prepared by an architect or engineer, the Building Official may require the applicant submitting such plans or other data to demonstrate that State law does not require that the plans be prepared by a licensed architect or engineer.

C. The Building Official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such even if not required by State law.

EXCEPTION: The Building Official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

**4-1-7-2: INFORMATION ON PLANS AND SPECIFICATIONS:**

A. Plans and specifications shall be drawn to scale on substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations.

B. Plans for buildings more than two stories in height of other than Group R, Division 3 and Group U Occupancies shall indicate how required structural and fire-resistive integrity will be maintained when a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

**4-1-7-3: ARCHITECT OR ENGINEER OF RECORD:** When it is required that documents be prepared by an architect or engineer:

A. The Building Official may require the owner to engage and designate on the building permit application, an architect or engineer who shall act as the architect or engineer of record.

B. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all of the duties required of the original architect or engineer of record.

C. The Building Official shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

**4-1-7-4: DEFERRED SUBMITTALS:**

A. For the purposes of this section, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the Building Official within a specified period.

B. Deferral of any submittal items shall have prior approval of the Building official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the Building Official.

C. Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Building Official with a notation indicating that the deferred submittal documents have been approved by the Building Official.

**4-1-7-5: INSPECTION AND OBSERVATION PROGRAM:**

A. When special inspection is required by this code, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors.

B. The special inspector shall be employed by the owner, the engineer or architect or record, or an agent of the owner, but not the contractor or any other person responsible for the work.

C. 1. When structural observation is required by this code, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

2. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

**4-1-8: PERMITS ISSUANCE:**

**4-1-8-1: ISSUANCE:**

A. 1. The application, plans, specifications, computations and other data filed by an applicant for 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.

2. If the building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and the Specialty Codes and other pertinent laws and ordinances, and that the fees specified in this code have been paid, the Building Official shall issue a permit therefore to the applicant.

B. 1. When a permit is issued when plans are required, the Building Official shall endorse in writing or stamp the plans and specifications APPROVED or REVIEWED.

2. Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Building Official, and all work regulated by this code shall be done in accordance with the approved plans.

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

**4-1-8-2: RETENTION OF PLANS:** One set of approved plans, specifications and computations shall be retained by the Building Official for a period of not less than 90 days from the date of completion of the work covered therein and as prescribed by rule or law (OAR); and one set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

**4-1-8-3: VALIDITY OF PERMIT:**

A. The issuance 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 code or the Specialty Codes, or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.

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

**4-1-8-4: EXPIRATION:** Every permit issued by the Building Official under the provisions of the Specialty Codes 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. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one half the amount required for a new permit for such work, 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. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

**4-1-8-5: SUSPENSION OR REVOCATION:** The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this code and the Specialty Code when the permit is issued in error or on the basis of incorrect information supplied, or in violation of an ordinance or regulation or the provisions of these codes.

**4-1-9: FEES:** Fees shall be assessed in accordance with the provisions of this section or shall be as set forth in the fee schedule adopted by the City Council.

**4-1-9-1: PERMIT FEES:**

A. The fee for each permit shall be in accordance with uniform fee methodology prescribed by the State of Oregon and the schedule established by the City.

B. The determination of value or valuation under any of the provisions of these codes shall be made by the Building Official. The value to be used in computing the building permit and building plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air-conditioning, elevators, fire-extinguishing systems and other permanent equipment.

**4-1-9-2: PLAN REVIEW FEES:**

A. When submittal documents are required by Section 4-1-7-1, a plan review fee shall be paid at the time of permit issuance. Said plan review fee shall be 65 percent of the permit fee.

B. The plan review fees specified in this section are separate fees from the permit fees and are in addition to the permit fees.

C. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items an additional plan review fee shall be charged.

D. Plans requiring a fire-life safety review as required by ORS 479.155 (2) and OSSC 106.3 shall be assessed an additional fee of 40% of the permit fee.

**4-1-9-3: EXPIRATION OF PLAN REVIEW:**

A. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official.

B. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once.

C. An application shall not be extended if this code or any other pertinent laws or ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

**4-1-9-4: INVESTIGATION FEES: WORK WITHOUT A PERMIT:**

**4-1-9-5: INVESTIGATION:** Whenever work for which a permit is required by this code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

**4-1-9-6: FEE:** An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. The investigation fee shall be the actual or average cost of investigation to ensure the unpermitted work complies with the state building code. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either this code or the Specialty Codes nor from the penalty prescribed by law. Permits for emergency repairs obtained within five business days after commencement of the repair are not subject to the “investigative fee.”

**4-1-9-7: FEE REFUNDS:**

A. The Building Official may authorize refunding of a fee paid hereunder which was erroneously paid or collected.

1. The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

2. The Building Official may authorize refunding of not more than 80 percent of the plan review fee paid with an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any examination time has been expended.

3. The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

**4-1-10: INSPECTIONS:**

**4-1-10-1: GENERAL:**

A. Construction or work for which a permit is required shall be subject to inspection by the Building Official and the construction or work shall remain accessible and exposed for inspection purposes until approved by the Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section 4-1-11.

1. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor this City shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

B. The Building Official may implement additional or alternate inspection procedures or requirements by written administrative rules.

C. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the City. Inspection presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the City shall not be valid.

D. A survey of the lot may be required by the Building Official to verify that the structure is located in accordance with the approved plans.

**4-1-10-2: INSPECTION RECORD CARD:** Work requiring a permit shall not be commenced until the permit holder or the agent of the permit holder shall have posted or otherwise made available an inspection record card such as to allow the Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Building official.

**4-1-10-3: INSPECTION REQUESTS:**

A. It shall be the duty of the person doing the work authorized by a permit to notify the Building Official that such work is ready for inspection. The Building Official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the Building Official.

B. There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

**4-1-10-5: REQUIRED BUILDING INSPECTIONS:**

A. Reinforcing steel or structural framework of a part of a building or structure shall not be covered or concealed without first obtaining the approval of the Building Official.

B. The Building Official, upon notification, shall make the following inspections:

1. Foundation Inspection: To be made after excavations for footings are complete and required reinforcing steel is in place. For concrete foundations, required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except when concrete is ready-mixed in accordance with U.B.C. Standard 19-3, the concrete need not be on the job. When the foundation is to be constructed of approved treated wood, additional inspections may be required by the Building Official.

2. Concrete slab or under-floor inspection: To be made after in-slab or under-floor building service equipment, conduit, piping accessories, and other ancillary equipment items are in place but before any concrete is placed or floor sheathing installed, including the subfloor.

3. Frame Inspection: To be made after the roof, framing, fire blocking, and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing, and hearing wires, pipes, and ducts are approved.

4. Lath and/or Wallboard Inspection: To be made after lathing and wallboard, interior and exterior, is in place but before plaster is applied or before wallboard joints and fasteners are taped and finished.

5. Final Inspection: To be made after finish grading and the building is completed and ready for occupancy.

**4-1-10-6: REQUIRED BUILDING SERVICE EQUIPMENT INSPECTIONS:**

A. Building Service equipment for which a permit is required by this code shall be inspected by the Building Official. Building service equipment intended to be concealed by a permanent portion of the building shall not be concealed until inspected and approved. When the installation of building service equipment is complete, and additional and final inspection shall be made.

B. Building service equipment regulated by the Specialty Codes shall not be connected to the water, fuel or power supply or sewer system until authorized by the Building Official.

**4-1-10-7: OPERATION OF BUILDING SERVICE EQUIPMENT:** The requirements of this section shall not be considered to prohibit the operation of building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of such building service equipment has been filed with the building Official not more than 48 hours after the replacement work is completed, and before any portion of such building service equipment is concealed by permanent portions of the building.

**4-1-10-8: OTHER INSPECTIONS:** In addition to the called inspections specified above, the Building Official may make or require other inspections of construction work to ascertain compliance with the provisions of this code or Specialty Codes and other laws which are enforced by the code enforcement agency.

**4-1-10-9: REINSPECTIONS:**

A. 1. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

2. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building official.

B. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the Specialty Codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

C. To obtain a reinspection, the applicant shall file an application in writing upon a form furnished for that purpose, and pay the reinspection fee in accordance with the Specialty Code or as set forth in the fee schedule adopted by this City.

D. In instances where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid.

**4-1-11: SPECIAL INSPECTIONS:** In addition to the inspections required by Section 4-1-10, the owner or the engineer or architect of record acting as the owner's agent shall employ one or more special inspectors who shall provide inspections during construction as required by the Building Code (OSSC Chapter 17). Special inspectors shall be approved as required in 4-1-11-1.

**4-1-11-1: SPECIAL INSPECTOR:** The Special inspector shall be a qualified person who shall demonstrate competence, to the satisfaction of the Building Official, for inspection of the particular type of construction or operation requiring special inspection.

**4-1-11-2: DUTIES AND RESPONSIBILITIES OF THE SPECIAL INSPECTOR:**

A. The special inspector shall observe the work assigned for conformance with the approved design drawings and specifications.

B. 1. The special inspector shall furnish inspection reports to the Building Official, the engineer or architect of record, and other designated persons. Discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and to the Building Official.

2. The special inspector shall submit a final signed report stating whether the work requiring special inspection was, to the best of the inspector's knowledge, in conformance with the approved plans and specifications and the applicable workmanship provision of these codes.

**4-1-11-3: WAIVER OF SPECIAL INSPECTION:** The Building Official may waive the requirement for the employment of a special inspector if the construction is of minor nature.

**4-1-12: STRUCTURAL OBSERVATION:**

A. Structural observation shall be provided when one of the following conditions exists:

1. The structure is defined in Building Code Chapter 16 as an Occupancy Category III or IV. (Critical or essential facility.)

2. When so designated by the architect or engineer of record, or

3. When such observation is specifically required by the Building Official for unusual lateral-force-resisting systems or irregular structures as defined in OSSC Chapter 16 .

B. The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer or architect responsible for the structural design, to perform structural observation as defined in OSSC Chapter 16 . Observed deficiencies shall be reported in writing to the owner's representative, contractor and the Building Official. The engineer or architect shall submit a statement in writing to the Building Official stating that the site visits have been made.

**4-1-13: CONNECTION TO UTILITIES:**

**4-1-13-1: ENERGY CONNECTIONS:** Persons shall not make connections from a source of energy, fuel or power to building service equipment which is regulated by the Specialty Codes and for which a permit is required by this code, until approved by the Building Official.

**4-1-13-2: TEMPORARY CONNECTIONS:** The Building Official may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment, or for use under a temporary certificate of occupancy.

**4-1-14: CERTIFICATE OF OCCUPANCY:**

**4-1-14-1: USE OF OCCUPANCY:** Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the Building Official has issued a certificate of occupancy therefore as provided herein.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the City shall not be valid.

**4-1-14-2: CHANGE IN USE:** Changes in the character or use of a building shall not be made except as specified in the Building Code.

**4-1-14-3: CERTIFICATE ISSUED:**

A. After the Building Official inspects the buildings or structure and finds no violations of the provisions of this code or other laws which are endorsed by the code enforcement agency, the Building Official shall issue a certificate of occupancy which shall contain the following:

1. The building permit number.
2. The address of the building.
3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of this code for the group and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the Building Official

**4-1-14-4: TEMPORARY CERTIFICATE:** If the Building Official finds that substantial hazard will not result from occupancy of a building or portion thereof before the same is completed, a temporary certificate of occupancy for the use of a portion or portions of a building or structure may be issued prior to the completion of the entire building or structure.

**4-1-14-5: POSTING:** The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Building Official.

**4-1-14-6: REVOCATION:** The Building Official may, in writing, suspend or revoke a certificate of occupancy issued under the provisions of this code when the certificate is issued in error, or on the basis of incorrect information, or when it is determined that the building or structure or portion thereof is in violation of an ordinance, regulations or the provisions of this code.

## 4-1-15: BUILDING SITE ELEVATION, CONTROL OF LOCAL FLOODING AND EROSION PREVENTION

### 4-1-15-1: BUILDING SITE ELEVATION:

A. Due to extended periods of rainfall, low areas without sufficient drainage are subject to ponding and flooding can occur in areas near drainage ways and creeks.

B. 1. Adjacent to Paved Streets: The top of the stem wall, or if concrete slab construction, the floor level, is to be set a minimum of six inches (6") above the crown of the adjacent street.

Exception: The City's Engineer may recommend a higher elevation to insure that crawl spaces are not flooded, if the area has a high groundwater table.

2. Adjacent to Existing Unimproved Streets: For building site elevations on unpaved streets, the City's Engineer will determine correct height.

3. Near Creeks and Drainage Ways: The applicant for the building permit shall show high water levels and building site elevations on the plot plan submitted on all building lots adjacent to creeks and drainage ways.

a. These elevations are to be established by a licensed engineer and the plot plan must carry his stamp.

b. The Engineer must state in writing that expected flood levels have been established and the building is at an elevation to escape any expected flooding.

4. Sloping Lots Below Adjacent Street Level, With Sufficient Drainage: The top of the stem wall may be placed below street level if the following criteria can be met.

a. Sufficient drainage can be shown to exist.

b. The area has no history of flooding or high groundwater table.

### 4-1-15-2 DRAINAGE DITCHES, DRAINAGE WAYS:

A. Obstruction of ditched or natural drainage ways on public or private property is prohibited.

B. Rerouting and culverting of existing drainage ways must be approved by the City Engineer.

C. The City Engineer may require engineered sizing or routing of drainage ditches or culverts before approving such change.

### 4-1-15-3: SECURING LOOSE, OPEN OR RAW SAND:

A. Prior to taking any of the following actions, any person, firm, corporation, or public agency (city, special district, county, state or federal) shall contact the Community Development Department staff to determine if such actions are likely to cause off-site movement or displacement of loose sand in ways that would damage adjacent properties or create unsafe traffic conditions:

1. Excavation
2. Removal of any natural or planted ground cover, trees, shrubs, grass
3. Alteration or removal of any existing building or structure

If determination is made that there is a real possibility that movement of sand would cause damage to adjacent properties or create unsafe traffic conditions, then a Sand Management Plan will be required.

B. The Sand Management Plan shall set out the means by which the applicant will ensure that its actions will not result in the off-site movement or displacement of loose, open or raw sand onto any public way, or public or private property by action of wind or water erosion. If the Community Development Department determines that the Plan includes measures (vegetative, mechanical, and/or other means of sand management) to reasonably ensure that the proposed action's movement or displacement of sand will not result in damage to adjacent properties or unsafe traffic conditions, then the Sand Management Plan will be approved.

C. The following shall constitute a violation of this section of Title 4 of the Florence City Code:

1. Taking any actions listed in Section A without a City-approved Sand Management Plan; or
2. Violating a provision of an approved Sand Management Plan.

In the case of such a violation, the City shall mail notice of the violation(s) by certified letter, return receipt requested, to the violating person, firm, corporation or public agency. Such notice shall describe the violation(s) and shall require compliance with this Section of Title 4 of the Florence City Code within 30 working days of receipt of the notice of violation.

D. If the violation(s) is not corrected within 30 working days of receipt of the notice of violation, the City hereby has the authority to cause the violation(s) to be corrected, and to bill the violator for costs of the corrections plus a 10% administrative fee. If the bill is not paid within 30 days from the date of billing, the City may place a lien in the amount of the correction costs plus a 10% administrative fee against the subject property and/or business in a manner authorized by law.

**4-1-16: MINOR ACCESSORY BUILDINGS OR ADDITIONS; PLACEMENT APPROVAL PERMITS:**

A. Permits:

1. Application for permits will be made at the Building Department.

2. Placement permit approval will be given by the Building Official or his deputy after ascertaining that the structure will comply with Title 10, zoning requirements, of this Code.

3. Separate plumbing, electrical or mechanical permits will be required, if applicable.

B. Fees: A fee, to be set by resolution, shall be charged for each placement permit, payable when the permit is issued.

C. Inspections: An inspection will be made to insure the placement is according to the approved plan.

D. Compliance with Codes: A placement permit will not require a structural inspection for compliance with Building Codes. However, a placement permit shall not grant authorization for any work to be done in any manner in violation of the provisions of any laws or ordinances of this jurisdiction, including requirements of the Structural Specialty Code as adopted by the State of Oregon. (Ord. 635, 10-28-80)

Amended by Ord. No. 2 Series 1990 Effective January 1, 1990
Amended by Ord. No. 5 Series 1994 Effective July 1, 1994
Amended by Ord. No. 6 Series 1997 Effective April 21, 1997
Amended by Ord. No. 7 Series 2000 Effective December 7, 2000
Amended by Ord. No. 8, Series 2003 Effective May 7, 2003
Amended by Ord. No. 2, Series 2010, Effective January 4, 2010
Section 4-1-9-6 Amended by Ord. No. 6, Series 2014, effective November 5, 2014

TITLE 4
CHAPTER 4

# FLOOD DAMAGE PREVENTION

SECTION:


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**4-4-1: PURPOSE:** It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

A. To protect human life and health.

B. To minimize expenditure of public money and costly flood control projects.

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

D. To minimize prolonged business interruptions.

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

G. To ensure that potential buyers are notified that property is in an area of special flood hazard.

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**4-4-2: METHODS OF REDUCING FLOOD LOSSES:** In order to accomplish its purposes, this Chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

C. Controlling the alteration of natural flood plains, stream channels and natural protective barriers, which help accommodate or channel flood waters.

D. Controlling filling, grading, dredging and other development which may increase flood damage.

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**4-4-3: DEFINITIONS:**

**4-4-3-1: CONSTRUCTION OF WORDS:** Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable applications.

**4-4-3-2: GENERAL DEFINITIONS:**

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| APPEAL | A request for a review of the Floodplain Manager interpretation of any provision of this Chapter or a request for a variance. |
| AREA OF SHALLOW FLOODING | A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one foot to three feet (1'- 3'); a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding. |
| AREA OF SPECIAL FLOOD HAZARD | The land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. Designation on maps always includes the letters A or V. |
| BASE FLOOD | The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V. |
| BASEMENT | Any area of building having its floor subgrade (below ground level) on all sides. |
| BREAKAWAY WALL | A wall that is not part of the structural support of a building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. |
| COASTAL HIGH HAZARD AREA | Means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V. |
| CRITICAL FACILITY | A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospital, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. |
| 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, drilling operations, storage of equipment and materials, and substantial damage located within the area of special flood hazard. |

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| ELEVATED BUILDING | For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns. |
| EXISTING MANUFACTURED HOME PARK OR SUBDIVISION | A manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (Including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted flood plain management regulations. |
| EXPANSION OF EXISTING MANUFACTURED HOME PARK OR SUBDIVISION | The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads). |
| FLOOD OR FLOODING | A general and temporary condition of partial or complete inundation of normally dry land areas from:<br>1. The overflow of inland or tidal waters, and/or<br>2. The unusual and rapid accumulation of runoff of surface waters from any source. |
| FLOOD INSURANCE RATE MAP (FIRM) | The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community, and filed with the Floodplain Manager. |
| FLOOD INSURANCE STUDY | The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood, and filed with the Floodplain Manager. |
| FLOODWAY | The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1') |
| FREEBOARD | A one-foot factor of safety above flood level to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as the hydrological effect of urbanization of the watershed. |
| LOWEST FLOOR | The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 4-4-6-2. |
| HABITABLE FLOOR | Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor". |

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| MANUFACTURED HOME | A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. |
| MANUFACTURED HOME PARK OR SUBDIVISION | A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. |
| NEW CONSTRUCTION | Structures for which the "start of construction" commenced on or after the effective date of this chapter. |
| NEW MANFACTURED HOME PARK OR SUBDIVISION | A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations. |
| RECREATIONAL VEHICLE | A vehicle which is:<br>a. Built on a single chassis;<br>b. 400 square feet or less when measured at the largest horizontal projection;<br>c. Designed to be self-propelled permanently towable by a light duty truck;<br>d. Designed primarily not for use as a permanent dwelling but as a t temporary living quarters for recreational, camping, travel or seasonal use. |
| START OF CONSTRUC-TION | Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. |
| STRUCTURE | A building, as defined in City Code Section 10-1-4, and includes any walled and roofed building including a gas or liquid storage tank that is principally above ground. |
| SUBSTANTIAL DAMAGE | Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent (50%) of the market value of the structure before the damage occurred. |

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| SUBSTANTIAL IMPROVEMENT | Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either:<br><br>1. Before the improvement or repair is started, or<br><br>2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.<br><br>The term does not, however, include either:<br><br>1. Any project for improvement of a structure to comply with existing State or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or<br><br>2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. |
| VARIANCE | A grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter. |
| WATER DEPENDENT | A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operation. |

**4-4-4: GENERAL PROVISIONS:**

**4-4-4-1: LANDS TO WHICH THIS CHAPTER APPLIES:** This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Florence, hereinafter known as the City.

**4-4-4-2: BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:** The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Florence", dated May 17, 1982, Panel No. 4101230001 B with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of their regulations. The Flood Insurance Study is on file with the Floodplain Manager, Florence City Hall, 250 Highway 101, Florence, Oregon.

**4-4-4-3: COMPLIANCE:** No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall be prosecuted as set forth in section 6-1-1B in this code. Nothing herein contained shall prevent the City of Florence from taking such other lawful action as is necessary to prevent or remedy any violation.

**4-4-4-4: 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 City Code title, chapter or section, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**4-4-4-5: 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 governing body.

C. Deemed neither to limit nor repeal any other powers granted under State statutes.

**4-4-4-6: WARNING AND DISCLAIMER OF LIABILITY:** The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

**4-4-5 ADMINISTRATION:**

**4-4-5-1: ESTABLISHMENT OF DEVELOPMENT PERMIT:** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 4-4-4-2. The permit shall be for all structures including, manufactured homes as set forth in Definitions, Section 4-4- 3, and for all other development including fill and other activities, also as set forth in the Definitions, Section 4-4-3. Application for a development permit shall be made on forms furnished by the Floodplain Manager and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

B. Elevation in relation to mean sea level to which any structure has been floodproofed.

C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 4-4-6-2B.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**4-4-5-2: DESIGNATION OF THE FLOODPLAIN MANAGER:** The Planning Director or his/her designee is hereby appointed to administer and implement this Chapter in accordance with its provisions

**4-4-5-3: DUTIES AND RESPONSIBILITIES:**

A. FLOODPLAIN MANAGER: Duties of the Floodplain Manager shall include, but are not limited to:

1. Permit Review.

a. Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

b. Review all development permits to determine that all necessary permits have been obtain from those Federal, State or local governmental agencies from which prior approval is required. Copies of such permits shall be maintained on file.

2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 4-4-4-2, Basis for Establishing the Areas of Special Flood Hazard, the Floodplain Manager shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer Section 4-4-6-2A, Specific Standards - Residential Construction, and Section 4-4-6-2B, Specific Standards - Nonresidential Construction and section 4-4-6-3, Encroachments.

3. Information to be Obtained and Maintained.

   a. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 4-4-5-3-A2, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable flood (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

   b. For all new or substantially improved floodproofed structures:

      i. Verify and record the actual elevation (in relation to sea level), and

      ii. Maintain the floodproofing certifications required in Section 4-4-5-1B.

   c. Maintain for public inspection all records pertaining to the provisions of this Chapter.

4. Alteration of Watercourses.

   a. Notify affected jurisdictions, and the Director of the Department of State Lands, 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 said watercourse so that the flood carrying capacity is not diminished.

5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4-4-5-4.

6. Communication.

   a. Communicate to the Building Official the applicable flood zone, base flood elevation (BFE) for building permits and freeboard requirements for lowest floor and mechanicals.

   b. Make substantial damage and improvement calculations.

   c. Inspect development to assure compliance with the local flood hazard regulations.

   d. Acknowledge Endangered Species Act (ESA) compliance for LOMR-F applications.

   e. Assist Federal Emergency Management Agency (FEMA) in preparation and revision of flood maps.

   f. Verify BFEs estimated by non-state and federal agencies.

   g. Assist residents in obtaining information on flood hazards, map data, flood insurance and proper construction measures.

h. Notify landowners in writing of insurance implications when issuing a variance approved under 4.4.5.4. Retain documentation of notification.

B. BUILDING OFFICIAL: Duties of the Building Official shall include, but are not limited to:

a. Ensure the lowest floor is elevated to or above BRE + freeboard established by the Floodplain Administrator.

b. Ensure mechanical equipment and ducting is installed to or above BFE + freeboard established by Floodplain Administrator.

c. Ensure installation of adequate flood openings.

d. Ensure use of flood resistant materials below BFE.

e. Ensure enclosed areas below BFE are outfitted to allow only parking, building access and storage.

**4-4-5-4: VARIANCE PROCEDURE:**

A. Appeal Board.

1. The Planning Commission, as established by the City, shall hear and decide appeals and requests for variances from the requirements of this Chapter.

2. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Manager in the enforcement or administration of this Chapter.

3. A written appeal shall be filed with the Floodplain Manager within fifteen (15) days after receiving notification of the decision of the Floodplain Manager. Such appeal shall state the grounds for appealing such decision and setting forth the alleged error in detail.

4. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others.

b. The danger of life and property due to flooding or erosion damage.

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

d. The importance of the services provided by the proposed facility to the community.

e. The necessity to the facility of a waterfront location, where applicable.

f. The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage.

g. The compatibility of the proposed use with existing and anticipated development.

h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.

i. The safety of access to the property in times of flood for ordinary and emergency vehicles.

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

5. Upon consideration of the factors of Section 4-4-5-4A.4, and the purposes of this Chapter, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

6. A decision of the Planning Commission may be appealed to the City Council, by filing a written appeal with the Planning Department within fifteen (15) days after the date of the planning Commission decision. Such appeal shall state the grounds for appealing such decision and setting forth the alleged error. The City Council review is an inspection of the record to determine whether there is evidence to support the findings and that the findings are sufficient to support the Planning Commission decision.

7. The Floodplain Manager shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

B. Conditions for Variances.

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

2. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one- half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-f) in Section 4-4-5-4A.4 have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause.

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant.

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or create nuisances or, cause fraud on or victimization of the public as identified in Section 4-4-5-4-A.4.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

8. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4-4-5-4-B-1, and otherwise complies with Sections 4-4-6-1-A and 4-4-6-1-B of the General Standards.

**4-4-6: PROVISIONS FOR FLOOD HAZARD PROTECTION:**

**4-4-6-1: GENERAL STANDARDS:** In all areas of special flood hazards the following standards are required:

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 must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

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 and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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 discharge from the systems into flood waters.

D. 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 not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

**4-4-6-2: SPECIFIC STANDARDS:** In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4-4-4-2, Basis for Establishing the Areas of Special Flood Hazard, or Section 4-4-5-3B. Use in other Base Flood Data, the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation. (Ord. 20 Series 1994)

2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the manager as set forth in Section 4-4-5-3A.

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 4-4-6-2-A.

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on the community's FIRM on sites:

   (i) Outside of a manufactured home park or subdivision,
   (ii) In a new manufactured home park or subdivision,
   (iii) In an expansion to an existing manufactured home park or subdivision, or
   (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage: as the result of a flood;

   Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

   (i) The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or
   (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

D. Recreational Vehicles: Recreational vehicles placed on sites within ZONES A1-30, AH, and AE on the community's FIRM either:

   (i) Be on the site for fewer than 180 consecutive days.
   (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has not permanently attached additions; or
   (iii) Meet the requirements of Section 4-4-6-2C.

E. Floodways: Located within areas of special flood hazard established in 4-4-4-2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4-4-6.

**4-4-6-3: ENCROACHMENTS:**

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot (1') at any point. (Ord. 661,11-24-81)

**4-4-6-4: STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)**

Shallow flooding areas appear on FIRMS as AO zones with depth designations. The base flood depths in these zones range from 1to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

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

2. New construction and substantial improvements of nonresidential structures within AO zones shall either:

   (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
   (ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as described in Section 4-4-6-2, B-3.

3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structure.

4. Recreational vehicles placed on sites within AO Zones on the community's FIRM either:

   (i) Be on the site for fewer than 180 consecutive days,
   (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
   (iii) Meet the requirements of Section 4-4-6-2C.

Amended by Ord. 1, Series 1987
Amended by Ord. 20, Series 1994
Amended by Ord. 9, Series 1999
Amended by Ord. 6, Series 2017 – effective 5.17.17

TITLE 4
CHAPTER 5

# ABATEMENT OF DANGEROUS BUILDINGS

SECTION:

4-5-1: Purpose
4-5-2: Definitions
4-5-3: Enforcement
4-5-4: Notices & orders of Building Official
4-5-5: Appeal
4-5-6: Review by Council
4-5-7: Abatement by City
4-5-8: Assessment
4-5-9: Penalties

**4-5-1: PURPOSE:** It is the purpose of this code to provide an equitable and practicable method, to be cumulative with and in addition to, any other remedy provided by law, whereby buildings or structures which from any cause endanger the life, health, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

**4-5-2: DEFINITIONS:**

DANGEROUS BUILDINGS

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

1. Any building or structure, exclusive of the foundation, that shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its nonsupporting members, exterior walls or coverings.

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2. Any building or structure that has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or a harbor for vagrants.

3. Any building or structure that has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, as specified in the Building Code or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.

4. Any building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

5. Any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, as determined by the Fire Marshal or Electrical Inspector to be a fire hazard.

6. Any building or structure which contains any combination of unsafe conditions or items, including open and abandoned buildings, which could endanger other property or human life.

7. Any portion of a building structure that remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

PERMIT — The term "permit" shall mean building permit, electrical permit, etc., as the context may require. The term shall also include a combination permit, when appropriate.

PERSON IN CHARGE OF PROPERTY — An agent, occupant, lessee, tenant, contract purchaser, owner, or other person having possession or control of property or the supervision of any construction project.

**4-5-3: ENFORCEMENT:**

A. General:

1 .Administration. The Building Official is hereby authorized to enforce the provisions of this code.

2. Inspections. The Health Officer, the Electrical Inspector, the Fire Marshal, and the Building Official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

3. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

4. When the Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this code.

"Authorized Representative" shall include the officers named in Section 4-5-3-A (2) and their authorized inspection personnel.

B. Abatement of Dangerous Buildings: All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this code.

C. Violations: It shall be unlawful for any person, firm or corporation to enlarge, alter, improve, convert, occupy, or maintain any building or structure or cause or permit the same to be done in violation of this code.

1. Any building declared a dangerous building under this ordinance either shall be repaired in accordance with the current building code or shall be demolished at the option of the building owner.

2. If the building or structure is in such condition as to make it immediately dangerous to life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

3. All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with an in the manner provided by this code and Sections 305 and 306 of the Building Code.

D. Extension of Time to Perform Work: Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition's, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal his notice and order.

**4-5-4: NOTICES AND ORDERS OF BUILDING OFFICIAL:**

A. Commencement of Proceedings. Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation or demolition of the building.

B. Notice and Order. The Building Official shall issue a notice and order directed to the person in charge of property. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 4-5-2 of this Code.

3. A statement of the action required to be taken as determined by the Building Official.

a. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commended within such time (not to exceed 60 days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.

b. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Building Official to be reasonable.

c. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall

determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed. Council may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

5. Statements advising that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Council, provided the appeal is made in writing as provided in this code and filed with the Building Official within 30 days from the date of service of such notice and order. Failure to appeal or take action to remedy the nuisance shall be cause to take the matter before the Council.

C. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the owner or person in charge of property, and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section.

D. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at the address as it appears on the last equalized assessment roll of the county or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such
notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

E. Compliance. Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by him under Subsection 4-5-4-B, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and approved by the Building Official. Any person violating this subsection shall be guilty of a misdemeanor.

**4-5-5 APPEAL:**

A. Form of Appeal. Any person entitled to service under Section 4-5-4-C may appeal from any notice and order or any action of the Building Official under this code by filing at the office of the Building Official a written appeal containing:

1. A list of names of all appellants participating in the appeal.

2. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

3. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

4. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

5. The signatures of all parties named as appellants and their official mailing addresses.

6. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the Building Official; provided, however, that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 4-5-5-A, such appeal shall be filed within 10 days from the date of the service of the notice and order of the Building Official.

B. Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the Building Official shall present it at the next regular meeting of the Council.

C. Scheduling, Notice and Hearing of Appeal. A hearing for appeal from the Building Official's notice shall be conducted as provided in Section 4-5-7.

D. Staying of Order Under Appeal. Except for vacation orders made pursuant to Section 4-5-5, enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal which is properly filed.

**4-5-6 REVIEW BY COUNCIL:**

A. If compliance is not had with the order within the time specified therein, or if an appeal has been properly and timely filed, the Building Official shall report the matter to the Council. The Council shall, within a reasonable time, fix a time and place for a public hearing.

B. Mailed Notice. The City Recorder shall notify the person in charge of property and any occupants of the building by certified or registered mail. The notice shall state:

a. That a hearing will be held concerning the nuisance character of the property.

b. A description of the property and alleged nuisances.

c. The time and place of the hearing.

A copy of this notice shall be posted on the building.

C. Published and Posted Notices. At least ten (10) days prior to the hearing date, the City shall publish a notice of the hearing in a newspaper of general circulation within the City or post notices in at least three public places in the City.

D. Hearing.

1. At the hearing, the owner or responsible parties shall have the right to be heard.

2. If the Council determines that the building is dangerous, or that a nuisance exists the Council may by resolution:

a. Order the building to be demolished; or

b. Order the building to be made safe and prescribe what must be done to make it safe.

In the resolution, the Council may set a time, not less than 10 days, within which the order must be obeyed.

E. Council Orders; Notice. Notice of the Council's determination and orders by the Council shall be sent by certified or registered mail to the owner of the building. If the Council determines that the building is a public nuisance, as defined in Section 4-5-2, the notice shall state that if the building is not repaired or condition abated within the time specified by the order, the building shall be demolished or condition abated at the expense of the owner of the property on which it is located.

**4-5-7 ABATEMENT BY THE CITY:** If the Council orders are not complied with, the City Manager shall cause the demolition or work to be done and direct that it be undertaken by City personnel and equipment or that bids be obtained according to applicable local and state contracting laws and regulations.

**4-5-8 ASSESSMENT:**

A. The City Recorder shall forward to the owner, or person in charge of property by registered or certified mail, a notice stating:

1. The total cost of abatement, including the administrative costs.

2. That the costs as indicated will be assessed to and become a lien against the property unless paid within 10 days from the date of the notice.

3. That if the owner objects to the costs of the abatement as indicated, a written notice of objection may be filed with the City Recorder not more than 10 days from the date of the notice.

B. If the costs of the abatement are not paid within 10 days from the date of the notice of costs or, if an objection was filed, within 10 days from the Council determination, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution and shall be entered in the docket of City liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.

C. The lien shall bear interest at a rate set by the Council at the hearing specified in Section 4-5-7-D. The interest shall begin to run from the date of entry of the lien in the lien docket.

D. Collection of the lien shall be in accordance with ORS 223.510 to 223.595.

**4-5-9 PENALTIES:** In lieu of, or in addition to, other remedies prescribed by this code, a public nuisance may be abated as provided by Section 6-1-8-5 and penalties imposed as provided by Section 6-1-10-6 of the Florence City Code.

Ord. No. 3, Series 1987

TITLE 4
CHAPTER 6

# VEGETATION PRESERVATION

SECTION:

4-6-1: Purpose
4-6-2: Definition
4-6-3: Vegetation Clearing Permit Required
4-6-4: Procedure for Obtaining Permit
4-6-5: Appeal of Design Review Board Action
4-6-5: Penalties

**4-6-1: PURPOSE:** The City Council finds that it is necessary to regulate tree and vegetation removal on private property to:

1. Provide for revegetation and maintenance of plant materials on private property;

2. Preserve the scenic quality of the City by retaining native vegetation;

3. Protect the property from storm run-off and wind erosion.

**4-6-2: DEFINITIONS:** As used in this Chapter, the following definitions apply:

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|---|---|
| **CLEAR** | The use of manual or mechanical equipment to remove vegetation material and root mass necessary to the survival of the vegetation. |
| **FELL** | To remove or sever a tree or the intentional use of any procedure to cause the death or substantial destruction of the tree. Fell does not include normal pruning, trimming or topping of trees. |
| **NATIVE VEGETATION** | Those woody plant species native to this region including, Shorepine, Fir, Hemlock, Spruce, Cedar, Rhododendron, Wax Myrtle, Manzanita, Madrone, Kinikinic, Salal and other associated plants. |
| **OCCUPIED PARCEL** | Real property within the boundaries of a tax lot as found in the Lane County, Oregon, tax records, with one or more structures thereon, or a parcel that has been approved for a dwelling. |
| **PARCEL** | Real estate within the boundaries of a tax lot as found in the Lane County, Oregon, tax records. |
| **TREE** | A living, standing, woody plant having a trunk 25 inches in circumference (approximately eight inches in diameter) measured at a point 4½ feet above mean ground level at the base of the trunk. |

**4-6-3: VEGETATION CLEARING PERMIT REQUIRED:**

A. A vegetation clearing permit shall be required in any of the following circumstances:

1. Clearing native vegetation from any property within 120 feet or within the direct line of sight from Highway 101, Highway 126, Munsel Lake Road, 9th Street, Bay Street, Rhododendron Drive, and areas which have been designated by the City as a significant riparian corridor, significant wetland buffer zone, greenbelt, or view corridor.

2. Removing native vegetation from any parcel for which a valid building permit has not been issued.

3. When the Planning Commission or Design Review Board has required such a permit as a condition of approval for land development.

B. Exemptions: Subsection A of this section does not apply to removal or clearing of native vegetation under the following conditions:

1. Action by a public employee by an employee of a corporation holding a public franchise which allows clearing or removal of vegetation or an authorized contractor to protect human life or property; install or restore services; improve deeded rights-of-way; or to maintain or restore vision clearance at street or alley intersections.

2. Clearing or felling of native vegetation in conjunction with development of a single-family or duplex dwelling on a parcel located within a zoning district which permits such use outright, except in locations specified in Section 4-6-3-A-1.

3. Clearing or felling of native vegetation on a residential building lot within an approved Planned Unit Development (PUD), except in locations specified in Section 4-6-3-A-1.

4. Cutting and trimming of native vegetation necessary for site surveying or topographical mapping.

5. Removal or trimming of trees and shrubs required by Code Section 8-4-2. (This section amended by Ordinance No. 22 Series 1994).

**4-6-4: PROCEDURE FOR OBTAINING A VEGETATION CLEARING PERMIT:**

A. A vegetation clearing permit application is required unless the application includes a concurrent application for a building permit or Conditional Use Permit, except that the criteria in FCC 4-6-4 C shall also apply to any removal of native vegetation from a significant riparian or wetland buffer zone requested as part of a setback adjustment granted under FCC 10-7-4.

B. All requests for a Vegetation Clearing Permit shall be submitted to the Planning on a form available from that department, and containing the following minimum information. (See FCC 10-7-4 for additional submission requirements for areas within significant wetland or riparian buffer zones):

1. Name, address, telephone number of applicant, property description and date;

2. Lot dimensions and footprint of structure(s) drawn to scale;

3. A plot plan showing trees or native vegetation to be removed and reason for clearing or felling, and location of proposed structures and other improvements;

4. A description of any plan to replace, landscape, or otherwise reduce the effect of removal of vegetation and time of implementation.

C. The Planning Department shall process the Vegetation Removal Permit application through the Administrative Review Procedures in FCC Title 10 Chapter 1 within thirty (30) days of filing a complete application. Review and approval shall be based on the following criteria, as applicable to the request:

1. The necessity to remove native vegetation in order to construct proposed improvements or otherwise utilize the property in a reasonable manner consistent with the City Code and policies;

2. The environmental and physical impacts such clearing may have, including visual drainage, wind erosion, protection of adjoining property and structures, and impacts on significant riparian corridors or wetland buffer zones. Impacts on any affected significant wetland or riparian buffer zones shall be supported by a qualified professional or through consultation with staff from the Soil and Water Conservation District, Siuslaw Watershed Council, Oregon Department of Fish and Wildlife (ODFW), Oregon State University (OSU), or another person or agency with knowledge or experience with the affected resource.

3. The adequacy of the applicant's proposed landscaping or revegetation plan, including plant selection, staking, irrigation, and other maintenance provisions. (This section amended by Ordinance No. 22 Series 1994).

**4-6-5: APPEAL OF DESIGN REVIEW BOARD ACTION:**

Any decision of the Design Review Board may be appealed to the City Council in accordance with the procedures specified in Code Section 10-1-1-6. (This section amended by Ordinance No. 22 Series 1994).

**4-6-6: PENALTIES:** Failure to obtain a permit, or comply with a condition or requirement of this Chapter shall be deemed a violation of City Code and subject to one or more of the following penalties:

A. Replacement of damaged or removed vegetation which approximates the site condition prior to the offense;

B. Replacement of damaged or removed vegetation which has been determined by the Planning Commission to provide sufficient mitigation of the offense within a reasonable time-frame;

C. Pursuant to the General Penalty clause contained in Code Section 1-4-1, each offense shall be punishable by a fine not to exceed five hundred dollars ($500.00), each day constituting a separate offense.

D. Withholding or revocation of a business license, final PUD or subdivision approval, building permits, and suspension of building inspections until each offense has been satisfactorily mitigated. (This section amended by Ordinance No. 22 Series 1994).

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Amended by Ordinance No.22 Series 1994 effective 11-22-94
Amended by Ordinance No. 2, Series 2013 effective 10-5-13

TITLE 4
CHAPTER 7

# SIGN REGULATIONS

SECTION


4-7-1 Purpose
4-7-2 Definitions
4-7-3 General Requirements
4-7-4 Exempts Signs
4-7-5 Prohibited
4-7-6 Nonconforming Signs
4-7-7 Exemptions from requirement for permit
4-7-8 Temporary Signs
4-7-9 Sign Districts – General
4-7-10 Residential Sign Districts
4-7-11 Airport/Industrial Sign District
4-7-12 Commercial Sign District
4-7-13 Old Town Sign District
4-7-14 Professional Office Sign District
4-7-15 School Sign District
4-7-16 Measurements
4-7-17 Projecting Signs
4-7-18 Wall Signs
4-7-19 Roof Signs
4-7-20 Freestanding Signs other than Monument Signs
4-7-21 Monument Signs
4-7-22 Awning Signs
4-7-23 Changing Image and Electronic Reader board Signs
4-7-24 Automobile Service Station Signs
4-7-25 Illumination – General Restrictions
4-7-26 Construction and Maintenance Standards
4-7-27 Sign Permit Application
4-7-28 Appeal of Decision on Sign Permit
4-7-29 Adjustments
4-7-30 Inspections
4-7-31 Enforcement of Sign Code – General Provisions
4-7-31-1 Enforcement – Sign in Public Right-of-Way or on City-Owned Real Property
4-7-31-2 Enforcement – Sign on Private Property or on Non-City-Owned Public Property, Other than on Public Right-of-Way
4-7-32 Removal of Unsafe Signs
4-7-33 Removal of Abandoned Signs
4-7-34 Violations
4-7-35 Penalties and Other Remedies
4-7-36 Amendments


## 4-7-1: PURPOSE:

A. The purposes of this chapter are to:

1. Protect the health, safety, property and welfare of the public,
2. Provide a neat, clean, orderly and attractive appearance of the City,
3. Improve the effectiveness of signs,

4. Provide for safe and orderly construction, location, erection and maintenance of signs,

5. Prevent proliferation of signs and sign clutter, minimize adverse visual safety factors to travelers on public rights-of-way and on private areas open to public travel, and

6. Achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

B. To achieve these purposes, it is necessary to regulate the design, quality of materials, construction, location, electrification, illumination, and maintenance of signs that are visible from public property, public rights-of-way and private areas open to public travel.

**4-7-2: DEFINITIONS:**

For the purposes of the Florence Sign Code, unless the context indicates otherwise: words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; undefined words have their ordinary accepted meaning; and, the following words and phrases mean:

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| A-FRAME SIGN | A double-faced temporary sign composed of two sign boards attached at the top and separate at the bottom, not permanently attached at the ground. |
| ABANDONED SIGN | A sign structure that has been damaged, and repairs and restoration are not started within 180 days of the date the sign was damaged, or are not diligently pursued, once started. |
| ALTER | To make a change to a sign or sign structure, including but not limited to, changes in area, height, projection, illumination, shape, materials, placement and location on a site. Altering a sign does not include ordinary maintenance or repair, repainting an existing sign surface, including changes of message or image, or exchanging the display panels of a sign. |
| ATHLETIC SCOREBOARD | A sign erected next to an athletic field by the owner or operator of the field and which is visible to spectators. |
| AUTOMOBILE SERVICE STATION | A retail place of business engaged primarily in the sale of motor fuels. |
| AWNING | A shelter projecting from and supported by the exterior wall of a building constructed of rigid or non-rigid materials on a supporting framework. |
| AWNING SIGN | A sign attached to or incorporated into an awning. |
| BALLOON SIGNS | A sign consisting of` a membrane that relies on internal gaseous pressure or a semi-rigid framework for maintaining its form. |
| BANNER | A sign made of fabric or other non-rigid material with no enclosing framework designed for temporary use. |
| BENCH SIGN | A sign on an outdoor bench. |
| BILLBOARD | A sign on which any sign face exceeds two hundred square feet in area. |

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| BLANKETING | Blocking a pedestrian's or motorist's view of a projecting sign by another projecting sign. |
| BOUNDARIES OF A SITE | The area inside the legal lot lines of a site, not including any property in a public right-of-way. |
| BUILDING ELEVATION AREA | The area of a single side of a building, measured in square feet and calculated by multiplying the length of the side of the building by the height of the building to the roof line. If the roof line height varies along the side of the building, the average of the lowest and highest roof line height on that side shall be used in the calculation. |
| BUILDING FRONTAGE, PRIMARY | The ground floor lineal length of a building wall that faces a street, driveway, parking lot, courtyard or plaza and has an entrance or exit open to the general public. |
| BUILDING FRONTAGE, SECONDARY | The ground floor lineal length of a building wall that faces a street, driveway, parking lot, courtyard or plaza and does not have an entrance or exit open to the general public. |
| BUILDING OFFICIAL | The Building Official or his or her designee. |
| CANOPY | A permanent roofed structure which may be freestanding or attached to a building, but which is not a completely enclosed structure or awning. |
| CHANGING IMAGE SIGN | Any sign that changes message or image through the use of any automated, mechanical or electronic method. |
| CLEARANCE | The distance between the average grade below a sign to the lowermost portion of the sign. |
| CITY | The City of Florence. |
| CITY ENGINEER | The City Engineer or his or her designee. |
| CITY MANAGER | The City Manager or his or her designee. |
| CITY RECORDER | The City Recorder or his or her designee. |
| COMMUNITY DEVELOPMENT DIRECTOR | The Community Development Director or his or her designee. |
| COMMUNITY EVENT | An activity or event identified as such by the City Council. |
| DWELLING | Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation. |
| ENTERPRISE | Any legal business or other defined entity with an established purpose and scope. |
| FILING | Depositing a document in the United States mail, postage prepaid and accurately addressed to the city, or leaving a copy with the city recorder at City Hall during work hours. For purposes of this chapter, a document is "filed" on the date it is received at City Hall. |
| FIRE MARSHAL | The Fire Marshal or his or her designee. |

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| FLAG | A rectangular piece of fabric of distinctive design that is displayed hanging free from a staff, halyard or building to which it is attached. A flag is often used to display the symbol of the United States, a nation, state, local government, business, organization or a person. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported. |
| FLASHING SIGN | A sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. |
| FREESTANDING SIGN | A sign wholly supported by integral pole(s), post(s), or other structure or frame that is not affixed to a building, the primary purpose of which is to support the sign and connect it to the ground. A freestanding sign does not include a portable sign. |
| GRADE | For freestanding signs, “grade” is the average level of the ground measured five feet from either end of the base of the sign, parallel to the sign face. For signs mounted on buildings, the grade is the average level of the sidewalk, alley or ground below the mounted sign measured five feet from either end of the sign face. |
| HANDHELD SIGN | A hand-carried sign of six square feet or less in area, worn or carried by a person when being displayed. |
| HEIGHT | The vertical distance measured from grade to the highest attached component of a sign including the supporting structure. |
| HISTORICAL OR LANDMARK MARKER | A sign constructed in close proximity to a historic place, object, building, or other landmark recognized by an official historical resources entity, where the sign is constructed by the owner of the historic property and does not exceed twenty square feet in size. |
| HISTORICAL SIGN | A sign designated as a historic or cultural resource under city, state or federal law or a sign that is an historical element of an historical landmark. |
| ILLUMINATED SIGN | A sign illuminated by an internal light source or an external light source primarily designed to illuminate the sign. The illumination is “external” when the light source is separate from the sign surface and is directed to shine upon the sign and “internal” when the light source is contained within the sign, but does not include signs where the text or image is composed of dot matrix or LEDs. External illumination is “direct” when the source of light is directly seen by the public, such as a floodlight, and “indirect” when the source of light is not directly seen by the public, such as cove lighting. |

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| INTERIOR SIGN | A sign erected and maintained inside of a building, including, but not limited to, a sign attached to or painted on the inside of windows. This definition does not include text, pictures, graphics, or similar representations in display windows. |
| LAWN/YARD SIGN | A temporary freestanding sign made of lightweight materials such as cardboard or vinyl that is supported by a frame, pole or other structure placed directly in or upon the ground without other support or anchor. |
| LED | A semiconductor diode that coverts applied voltage to light and is used in digital displays. |
| LOT | A single unit of land that is created by a subdivision of land. |
| MAINTENANCE | Normal care or servicing needed to keep a sign functional or perpetuate its use, such as cleaning, replacing or repairing a part made unusable by ordinary wear, and changing light bulbs. |
| MARQUEE | A permanent roofed structure attached to or supported by a building. |
| MENU BOARD | A sign placed at the beginning of a drive-up service lane of a food service establishment that includes a two-way speaker system for taking food orders. |
| MONUMENT SIGN | A freestanding sign that is placed on a solid base that extends a minimum of twelve inches (12”) above the ground and extends at least seventy-five percent (75%) of the length and width of the sign with a support structure that is incorporated into the overall design of the sign. The above ground portion of the base is considered part of the total allowable height of a monument sign. |
| NAME PLATE | A permanent wall sign located on the front facade of a residential structure. |
| NEON SIGN | A sign internally illuminated by a light source consisting of neon or other gas contained in a tube, except for fluorescent lights. |
| NONCONFORMING SIGN | A sign that was lawful when it was constructed but does not meet the requirements of the Florence Sign Code. When a sign permit is granted prior to the effective date of the ordinance codified in this chapter that complies with then existing requirements, the sign is conforming if it is erected within ninety days of the effective date of the ordinance codified in this chapter. |
| NUMERIC INFORMATION SIGN | A sign only displaying current numeric measurements such as time, date, temperature, or stock indices. |
| OWNER | The person owning title to real property on which a sign is located, or the contract purchaser of the real property as shown on the last available complete assessment roll in the office of county assessor. “Owner” also includes the owner of a sign who has a continuing lease of the real property on which the sign is located. |

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| PENNANT | A sign device made from a strip of flexible material intended to wave in the wind. |
| PERSON | Every person, firm, partnership, association, Tribe or Tribal Council, or corporation. |
| PLANNED UNIT DEVELOPMENT | A tract or tracts of land developed as a planned unit development under city zoning / development ordinances. |
| POLE SIGN | A sign that is a freestanding sign connected to the ground by one or more supports with the lower edge of the sign separated vertically from the ground by a distance of nine feet or greater as measured from grade. |
| PORTABLE SIGN | A sign which is not affixed to a building or other structure, or the ground in a permanent manner and is designed to be moved from place to place. |
| PRINCIPAL USE | A nonresidential use of property by an owner or lessee. Multiple principal uses may be located on a lot or development. |
| PROJECTING SIGN | A sign, other than a wall sign, that projects from, and is supported by or attached to a roof or wall of a building or structure. |
| PUBLIC RIGHT-OF-WAY | Travel area dedicated, deeded or under control of a public agency, including but not limited, to highways, public streets, bike paths, alleys and sidewalks. |
| PUBLIC SIGN | A sign erected, constructed, or placed within the public right-of-way or on public property by or with the approval of the governmental agency having authority over, control of, or ownership of the right-of-way or public property. |
| READER BOARD | A permanent sign providing information in a horizontal linear format, that can be changed either manually through placement of letters or symbols on tracks mounted on a panel, or electronically, through use of an array of lights in a dot matrix configuration, from which characters can be formed. |
| REPAIR | Mending or replacing broken or worn parts with comparable materials. |
| ROOF ELEVATION AREA | The area of a single plane of a roof, measured in square feet and calculated by multiplying the difference between the height of the ridge and the height of the eave by the distance between opposing rakes. |
| ROOF LINE | The ridge of a roof or the top edge of a building parapet, whichever is higher, excluding any cupolas, chimneys or other minor projections. |
| ROOF SIGN | A sign erected upon, against, or over the roof of any building or structure. |
| SEASONAL HOLIDAY DECORATIONS | Every type of decoration displayed during and around a federally recognized holiday or local festival on a seasonal basis, whether illuminated or not, and buildings or any other structure. For the purposes of this section, local festivals include but are not limited to Rhododendron Days and the Chowder Blues and Brew Festival. |

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| SETBACK | The horizontal distance from the property line to the sign, measured at the closest points of the sign to the property line. |
| SIGN | Any writing, video projection, illumination, pictorial representation, illustration, decoration, emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, statue, or any other figure or character that is used to communicate an informational message and:<br>A. Is a structure or any part thereof (including the roof or wall of a building); <u>or</u><br>B. Is written, printed, projected, painted, constructed, or otherwise placed or displayed upon or designed into a structure or an outdoor screen or monitor, or a board, plate canopy, awning, marquee, or a vehicle, or upon any material object, device, or surface whatsoever.<br>The scope of the term “sign” does not depend on the content of the message or image being conveyed.<br>Building design elements (such as decorative design features, sculpture, and fountains and art work) that do not communicate an informational message are not “signs.” |
| SIGN AREA | The projected area of the sign measured within lines drawn between the outermost points of a sign or the sign frame/cabinet if present, but excluding essential sign structure, such as foundations, or supports. For the purposes of this code, measurements shall be determined as further specified in Section 4-7-15 of this chapter. |
| SIGN BAND | A continuous horizontal band located on a facade where there are no doors, windows or other architectural features. |
| SIGN COPY | The message or image conveyed by a sign. |
| SIGN FACE | A surface of the sign containing copy as seen in one elevation view. |
| SIGN HEIGHT | The average level of the grade below the sign to the topmost point of the sign including the supporting sign structure, foundations, and supports. |
| SITE | A lot or parcel or group of adjacent lots or parcels. Multiple uses with a common parking area or common structure(s), or both shall be considered one site. A single use occupying one or more detached structures with its own parking area(s) shall be considered one site. A site can be vacant. |
| STREET FRONTAGE | The length or width of a site, measured along a line separating the site from a street or public right-of-way. |
| STRUCTURE | That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground. |

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| SUBDIVISION | A site with four or more lots. |
| SUPPORTING STRUCTURE | A structure specifically intended for supporting or containing a sign. |
| SUSPENDED SIGN | A sign suspended from the underside of a canopy, awning, eve, or marquee. |
| TEMPORARILY ATTACHED | Attached to a building, structure, vegetation or the ground in a manner than is easily removable. |
| TEMPORARY BUSINESS | A temporary business as defined by the city of Florence Municipal Code. |
| TEMPORARY SIGN | A sign that is temporarily attached to a building, structure, vegetation, or the ground. Temporary signs include, but are not limited to, A-frames, banners, flags, pennants, balloons, blimps, streamers, lawn signs and portable signs. |
| TRANSPORTATION SYSTEM PLAN (TSP) | That portion of the city of Florence Comprehensive Plan that implements the State of Oregon Transportation Planning Rule OAR 660-012. |
| TRI-VISION SIGN | A sign that contains display surfaces composed of a series of three-sided rotating slates arranged side by side, either horizontally or vertically, that are rotated by an electro-mechanical process, capable of displaying a total of no more than three separate and distinct messages, one message at a time, provided that the rotation from one message to another message is no more frequent than once every hour and the actual rotation process is accomplished in four seconds or less. A tri-vision sign is a type of changing image sign. |
| UNLAWFUL SIGN | A sign that does not conform to the provisions of this Code and is not a non-conforming sign. |
| UTILITY SIGN | A sign constructed or placed by a public utility on or adjacent to a pole, pipe, or distribution facility of the utility and within the public right-of-way or utility easement. |
| VEHICLE SIGN | A sign placed in or attached to a motor vehicle or trailer, currently registered with the Department of Motor Vehicles and legal to travel on public roadways that is used for either personal purpose or is regularly used for purposes other than the display of signs. |
| VIDEO SIGN | A sign providing information in both a horizontal and vertical format (as opposed to linear), through use of pixel and sub-pixel technology having the capacity to create continuously changing sign copy in a full spectrum of colors and light intensities. A video sign is a type of changing image sign. |
| VISION CLEARANCE AREA | A triangular area on lot at the intersection of two streets or a street and a railroad, alley, or driveway as defined and measured in the Florence City Code Title 10. |

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| WALL SIGN | A sign that is painted on a wall of a building, or a sign attached to the wall of a building and extending no more than twelve inches from a wall, or attached to or erected against a roof with a slope not more than twenty degrees (20°) from vertical, with the exposed face of the sign in a plane that is vertical or parallel to the plane of that roof, and which does not project more than eighteen inches (18”) from the wall or roof. Window signs that are permanently attached to the outside of a window are wall signs. |
| WINDOW SIGN | A sign attached to, or painted on a window, or displayed inside the building within six inches (6”) of a window or building openings so that it is viewable from the outside of the building. |
| ZONING/DEVELOPMENT ORDINANCE | The Florence City Code Title 10. |

To the extent a term used in this chapter is not defined in this Section, the term shall be interpreted to the extent possible using the Oregon Structural Specialty Code and State Electrical Code for context, when appropriate.

**4-7-3: GENERAL REQUIREMENTS:**

Except as provided in Section 4-7-7 of this chapter, no person shall erect, construct or alter a sign, or permit the same to be done, unless a sign permit has been issued by the city. A sign permit for the construction and continued use of a sign is subject to the terms and conditions stated in the permit and to the Florence Sign Code. Re-facing an existing sign, with no structural changes or change in size or type of the sign, does not constitute an alteration of a sign and does not require a sign permit.

**4-7-4: EXEMPT SIGNS:**

Except for signs prohibited by this chapter, the following signs are exempt from the provisions of the Florence Sign Code, but may be subject to other portions of the City Code:

A. All signs which are placed inside a structure or building, and which are either not visible through windows or building openings, or are not intended to be visible from outside of the structure or building.

B. Signs not visible from the public right-of-way or from public property.

C. Permitted Murals, as defined and regulated in Title 10 Chapter 26.

**4-7-5: PROHIBITED SIGNS:**

Except for nonconforming signs, the following signs are unlawful and are nuisances:

A. Abandoned signs;

B. Billboards;

C. Any sign constructed, maintained or altered in a manner not in compliance with the Florence Sign Code;

D. Any nonpublic sign constructed or maintained which, by reason of its size, location, movement, coloring or manner of illumination may be confused with or construed as a traffic control device or which hides from view any traffic control device;

E. Any sign constructed in such a manner or at such a location that it will obstruct access to any fire escape or other means of ingress or egress from a building or an exit corridor, exit hallway or exit doorway. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that it will substantially limit access to the building in case of fire;

F. Any sign located in a manner which could impede traffic on any street, alley, sidewalk, bikeway or other pedestrian or vehicular travel way;

G. Any sign equipped with moving, rotating or otherwise animated parts, except athletic scoreboards permitted under Section 4-7-7;

H. Any sign that is wholly or partially illuminated by a flashing or intermittent light, lights, lamps, bulbs, diodes or tubes. Rotary beacon lights, zip lights, strobe lights, or similar devices shall not be erected or maintained, or attached to or incorporated in any sign;

I. Any nonpublic sign within the vision clearance area provisions contained in Title 10 of the Florence City Code;

J. Any sign attached to a tree or a plant, fence or a utility pole within public right-of-way, except as otherwise allowed or required by the Florence Sign Code or other chapters of the City Code;

K. Any sign within or over any public right-of-way, or located on private property less than two feet from any area subject to vehicular travel, except for:

1. Public signs, (includes banners over the public right-of-way, with the approval of the controlling jurisdiction).

2. Temporary signs specifically allowed within the public right-of-way under Section 4-7-8 of this chapter;

L. Temporary signs, including banners, pennants, and wind signs, except as authorized by Section 4-7-7 or 4-7-8 of this chapter.

M. Unlawful signs.

N. Any sign which is judicially determined to be a public nuisance.

**4-7-6: NONCONFORMING SIGNS:**

A. Nonconforming permanent signs lawfully installed prior to adoption of this code may continue in use, subject to the restrictions in this subsection:

1. Removal Required for Specific Nonconforming Signs. All non-conforming signs shall be brought into compliance if the following occur:

a. Structural alteration of more than 50% of the replacement value of the sign, or

b. Replacement of a sign structure.

2. General Requirements for Nonconforming Signs.

a. A non-conforming sign shall not be:

1) Modified, unless the modification brings the sign into compliance with this Chapter. A change of copy is allowed.

2) Expanded.

3) Relocated, unless the modification brings the sign into compliance with this Chapter.

b. A non-conforming sign may undergo normal maintenance, except:

1) “Normal maintenance” excludes major structure repairs designed to extend the useful life of the non-conforming sign.

2) If a non-conforming sign is damaged by wind, fire, neglect or by any other cause, and such damage exceeds fifty (50) percent of its replacement value, the non-conforming sign shall be removed.

c. Vacant Businesses: A sign frame shall not be left empty, and a blank sign face shall be installed if necessary.

d. No additions or enlargements may be made to a nonconforming sign except those additions or enlargements that are required by law.

e. A sign that is replaced, or structurally altered more than 50% of the replacement value shall be brought into conformance with this chapter, except that:

1) Nonconforming signs may be repaired and maintained and may have the sign copy changed. A sign may be removed from its sign structure for repair or maintenance if a permit is obtained under this chapter.

2) Nonconforming signs may be structurally altered when the alteration is necessary for structural safety.

3) Nonconforming signs may be reconstructed if required to be moved for construction or repair of public works or public utilities and the sign reconstruction is completed within one hundred and eighty (180) days after the completion of the public works or public utility construction or repair.

f. A nonconforming sign that is damaged shall not be repaired if the estimated expense to repair the sign exceeds fifty (50) percent of the replacement cost of the sign as of the day before the sign was damaged. A damaged nonconforming sign that cannot be repaired shall be removed within one hundred and eighty (180) days. As used herein, “nonconforming sign” includes the sign structure, foundation and supports.

g. Whenever a nonconforming sign is damaged and the estimated cost to repair the sign is fifty (50) percent or less of its replacement value, it may be repaired and restored to the condition it was in before it was damaged and may continue to be used as a nonconforming sign, provided that such repairs and restoration are started within one hundred and eighty (180) days of the date the sign was damaged and are diligently pursued thereafter.

h. Whenever repairs and restoration of a damaged nonconforming sign are not started within one hundred and eighty (180) days of the date the sign was damaged or are diligently pursued once started, the sign shall be deemed abandoned.

i. Abandoned signs shall not be permitted as nonconforming signs.

j. No nonconforming sign shall be permitted to remain unless properly repaired and maintained as provided in this chapter. A sign maintained in violation of this provision shall be removed as provided in Section 4-7-30-2 of this chapter. Any nonconforming sign that is determined by the building official to be an unsafe sign shall be removed as provided by Section 4-7-31 of this chapter. Any nonconforming sign determined by the Community Development Director to be an abandoned sign shall be removed as provided in Section 4-7-32 of this chapter.

B. Nothing in this section shall be deemed to prevent the maintenance of any sign, or regular manual changes of sign copy on a sign.

C. Continuation of Non-Conforming Sign as Public Nuisance; Removal and Abatement.

1. The continuation of any nonconforming sign that is inconsistent with the standards set forth in Subsection A of this Section is hereby declared to be a public nuisance, which may be abated as provided by this section.

2. Any non-conforming sign that that is inconsistent with the standards set forth in Subsection A of this Section, shall be removed within ninety (90) days after a written notice for removal has been posted on the property upon which the sign is located, and a copy sent by certified mail, postage prepaid, to the sign owner and land owner, if different. Such notice shall state the particulars of the violation and require removal of the sign upon or before a date specified in the notice, but not less than thirty days after such posting and mailing, and that written objections to such removal may be filed with the Community Development Director on or before such date. If the non-conforming sign is not removed on or before the date specified in the notice, and if no written objections to such removal are filed, the Community Development Director may cause the removal thereof at the expense of the owner of the real property upon which such sign is located.

3. Upon receipt of timely filing of objections, the non-conforming sign shall remain in place. Hearing upon the objections shall be held before the City Council. Notice of the time, date and place of the hearing shall be personally delivered, or mailed by certified mail, postage prepaid, to the person filing such objections at the address provided in the objections, at least ten (10) days prior to the hearing. Any non-conforming sign ordered removed by the City Council shall be removed within ninety (90) days after notice of the removal order has been mailed to such objector, and if not removed within such time, the Community Development Director shall cause the removal to be made at the expense of the owner of the real property upon which such sign is located.

## 4-7-7: EXEMPTIONS FROM REQUIREMENT FOR PERMIT:

The following signs are allowed in all sign districts without a permit. Use of these signs does not affect the amount or type of signage otherwise allowed by this chapter. The painting, repainting, cleaning, maintenance and repair of an existing sign shall not require a permit, unless a substantial structural alteration or repair is made. The changing of a sign copy or message shall not require a permit. All signs listed in this section are subject to all other applicable requirements of the Florence Sign Code.

A. Signs (including name plates and dates of erection of buildings) on multifamily residential, commercial, industrial, or institutional buildings when the sign is cut into the surface or the facade of a building, or when it is constructed of stone, masonry, bronze or other material and projects no more than two (2) inches from a building, so long as the cumulative sign face(s) are eight (8) square feet or less in area;

B. One indirectly illuminated or non-illuminated sign not exceeding one and one-half (1 ½) square feet in area placed on any non-multifamily residential lot. This type of sign is typically used as a name plate;

C. Flags as defined in Section 4-7-2 are permitted at any time under the provision (1) and (2). Flag poles shall not exceed twenty-eight feet (28') in height in the residential sign district and no more than forty feet (40') in height in all other sign districts, as measured from the ground. All flags and poles shall adhere to regulations of the airport overlay district. A flag that is tattered or faded is no longer within this exemption and must be removed;

1. Flags located on private property shall be limited to limited to three (3) per site. Public or quasi-public property (e.g. library, school, college or fire station), or at

memorials or museums are not limited in the number of flags located per site. The total area for all flags on residential sign district properties on a site are limited to a sum total of forty (45) square feet in size.

2. Flags, pennants and banners located on non-residential sign district properties shall not exceed sixty (60) square feet in area per flag. Public or quasi-public property (e.g. library, school, college or fire station), or at memorials or museums may fly one U.S. flag not to exceed ninety-six (96) square feet on national holidays in accordance with the flag pole's engineering.

D. Vehicle signs;

E. Signs displayed upon a public transit or light rail vehicle;

F. Historical sign or historical or landmark markers;

G. Seasonal holiday decorations on private property;

H. Handheld signs;

I. A sign up to six (6) square feet in area and thirty inches (30") in height constructed or placed within a parking lot or internal driveway that is oriented toward the parking area or internal driveway. These signs are typically used to direct traffic and parking;

J. Any public notice required by federal, state or local law, regulation or ordinance;

K. Sign within the public right-of-way that is erected by a governmental agency, utility or contractor doing authorized work within the right-of-way;

L. A sign that does not exceed eight (8) square feet in area and six feet (6') in height, and is erected on property where there is a danger to the public or to which public access is prohibited;

M. Non-illuminated and illuminated interior signs in non-residential sign districts designed primarily to be viewed from a sidewalk or street provided the sign does not obscure more than fifty percent (50%) of any individual window;

N. Non-illuminated signs in residential sign districts designed primarily to be viewed from a sidewalk or street provided the sign does not obscure more than one (1) square foot of any individual window, door, or entryway.

O. One suspended sign for each principal use erected on property which is not considered public right-of-way, under an attached first floor awning or canopy upon a building with direct exterior pedestrian access, provided the sign does not exceed six square feet in area and has a minimum of eight feet of clearance;

P. An exterior sign erected next to an entrance, exit, rest room, office door, or telephone, provided the sign is no more than four (4) square feet in area. This type of sign is typically used to identify and locate a property feature;

Q. Signs located within a sports stadium or athletic field, or other outdoor assembly area which are intended for viewing by persons within the facility. The signs shall be placed so as to be oriented towards the interior of the field and the viewing stands;

R. Signs incorporated into vending machines automated teller machines, or gasoline pumps;

S. Temporary signs as allowed under Section 4-7-8 of this chapter;

T. Public signs;

U. Utility signs;

V. Signs for emergency services, and railroad signs;

W. Drive-up menu boards. Menu boards placed adjacent to a driveway specified for drive up transactions shall be used solely for vehicular and pedestrian product purchasing or transaction information. This sign shall be located outside of the front yard setback and will be located where the primary viewing is to the drive-up customers. Maximum height of this sign will be eight feet and maximum size will be sixty (60) square feet. Each drive up will be limited to no more than two menu boards.

**4-7-8: TEMPORARY SIGNS:**

A. Temporary signs may be erected and maintained in the city only in compliance with the regulations in this chapter, and with the following specific provisions:

1. Except as approved in connection with a community event, no temporary sign shall be internally illuminated or be illuminated by an external light source primarily intended for the illumination of the temporary sign.

2. A temporary sign shall be attached to the site or constructed in a manner that both prevents the sign from being easily removed by unauthorized persons or blown from its location and allows for the easy removal of the sign by authorized persons.

3. Except as provided in this code, temporary signs shall not be attached to trees, shrubbery, utility poles or traffic control signs or devices.

4. No temporary sign shall be erected or maintained which, by reason of its size, location or construction constitutes a hazard to the public.

B. In the school sign district, temporary signs shall be allowed without issuance of a permit.

C. In the residential sign district, the following temporary signs shall be allowed on a lot without issuance of a permit and shall not affect the amount or type of signage otherwise allowed by this chapter. This signage shall not be restricted by content, but is usually and customarily used to advertise real estate sales, political or ideological positions, garage sales, home construction or remodeling and similar activities. Signage shall be allowed for each lot as follows:

1. Signs not exceeding six (6) square feet in area or five feet (5') in height during the period from ninety (90) days before a public election or the time the election is called, whichever is earlier, to five (5) days after the public election.

2. One sign not exceeding six (6) square feet in area and five feet (5') in height which is erected for a maximum of eight (8) days in any calendar month.

3. One sign not exceeding six (6) square feet in area and five feet (5') in height during the time of sale, lease or rental of a lot or dwelling provided that the sign is removed within fifteen (15) days of the sale, lease or rental of a lot or dwelling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.

4. One sign not exceeding six (6) square feet in area during the time of construction or remodeling of the property, provided the sign is removed within seven (7) days of the completion of any construction or remodeling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously. On lots of more than one (1) acre, the sign area may be increased to thirty-two (32) square feet.

5. On property which has received subdivision or development approval from the city, from that approval until issuance of a building permit for the last lot to be sold or completion of the development project, one temporary sign not exceeding thirty-two (32) square feet in area and eight feet (8') in height on properties less than four (4) acres in size or two (2) temporary signs not exceeding sixty-four (64) square feet in area each and eight (8) feet in height on properties greater than four (4) acres in size.

6. One sign not exceeding thirty-two (32) square feet in area during the period of charitable fundraising event being conducted on the property where the sign is erected by a charitable or nonprofit organization. This sign shall not be placed more than ten (10) days prior to the event and must be removed within four (4) days following the event.

D. In any district other than the residential or school sign districts, the following temporary signs shall be allowed on a lot without issuance of a permit and shall not affect the amount or type of signage otherwise allowed by this chapter. This signage shall not be restricted by content, but is usually and customarily used to advertise real estate sales, political or ideological positions, construction or remodeling, special events and similar activities. Signage shall be allowed for each lot as follows:

1. Signs not exceeding six (6) square feet in area and five feet (5') in height, during the period from ninety (90) days before a public election or the time the election is called, whichever is earlier, to five (5) days after the public election.

2. One sign not exceeding thirty-two (32) square feet in area and eight feet (8') in height during the time of sale, lease or rental of the property provided that the sign is placed on the property for sale, lease, or rental and removed within fifteen (15) days of the sale, lease or rental of the property, or a sign not exceeding thirty-two (32) square feet in area and eight (8) feet in height during the time of construction and remodeling of the property, provided the sign is placed on the property where construction and remodeling is taking place and removed within seven days of the completion of any construction or remodeling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.

3. One sign not exceeding thirty-two (32) square feet in area during the period of charitable fundraising event being conducted on the property where the sign is erected by a charitable or nonprofit organization. This sign shall not be placed more than ten (10) days prior to the event and must be removed within four (4) days following the event.

4. One banner not exceeding thirty-two (32) square feet in area may be displayed on private property for a period of not more than thirty (30) continuous days and not more than sixty (60) days per calendar year. Registration with the City is required before the banner may be displayed. Banners that are tattered, torn or faded are not permitted to be displayed.

5. One temporary sign limited to a maximum of six (6) square feet in area and three feet (3') in height, displayed on private property and only during the business hours of operation of the responsible enterprise are permitted.

D. No temporary signs or banners shall be allowed in the public right-of-way or on public property, except for those listed in this subsection.

1. Signs owned or erected by a governmental entity shall be permitted in the right-of-way without issuance of a permit and shall not affect the amount or type of signage otherwise allowed by this chapter.

2. Temporary banners or seasonal holiday decorations which extend over a roadway or are attached to utility or streetlight poles shall be permitted in the right-of-way only with authorization granted by the City, and shall comply with the following standards:

   a. Banners or decorations which extend over a roadway shall not exceed two hundred (200) square feet in area. Banners which are attached to a single utility or streetlight poles shall not exceed thirty (30) square feet in area.

   b. Temporary banners or decorations shall be permitted only if the applicant is conducting an event or activity in the City of Florence that has been identified as a public event in Title 3 Chapter 1 of the Florence City Code or for purposes of identifying a geographic area or district of the city.

   c. Applicants requesting temporary banners placed over rights-of-way controlled by other agencies other than the City of Florence shall obtain written consent from the appropriate agency regarding the proposed banner(s) prior to submittal of an application for a sign permit. The consent shall identify any restrictions desired by the owner of the right-of-way.

   d. Except for a banner(s) identifying a geographic area or district of the city, banner(s) shall be removed within two (2) days of the applicant's event or activity giving rise to the permit.

**4-7-9: SIGN DISTRICTS – GENERAL:**

A. The following sign districts are created and applied to designated land. No permit shall be issued for any sign unless specifically allowed as an allowed sign under the terms of the applicable sign district or otherwise allowed as a nonconforming sign under Section 4-7-6 or exempted under Section 4-7-7 of this chapter. Any particular limitation in a sign district regulation shall not be construed to exclude the applicability of other restrictions imposed under this chapter.

B. The sign districts shall include all land identified on the Sign District Map.

C. Property within a newly designated sign district shall be governed by the provisions of the sign code applicable to the new sign district upon the effective date of the ordinance amending the sign map. Completed applications for sign permits made before the effective date of the sign district change will be considered under the provisions of the Florence Sign Code applicable to the sign district existing at the time the application was completed. All signs which are not in compliance with the provisions of the Florence Sign Code applicable to the newly established sign district shall be considered nonconforming signs.

**4-7-10: RESIDENTIAL SIGN DISTRICT:**

In addition to the temporary and permanent signage allowed without permits, the following signage is allowed in the residential sign district subject to the requirements of this chapter, and summarized in Table 1 of the Sign Districts Table. If there is a conflict between the table and the text, the text prevails.

A. Permitted Sign Types, Number and Area.

   Signs within the residential sign district are limited as follows and require the obtaining of permits under Section 4-7-26 of this chapter.

1. Wall Signs

One (1) wall sign per site or two (2) wall signs per site on corner lots are permitted only for the following uses:

- multi-family housing
- lodging houses
- commercial and office uses
- parks and recreation facilities
- schools, and
- charitable or religious organizations.

The sign area shall not exceed twenty-four (24) square feet per sign.

2. Freestanding Signs

a. One (1) freestanding sign per site is permitted in place of a wall sign for commercial and office uses. The sign area shall not exceed eighteen (18) square feet per sign face.

b. One (1) monument sign per site is permitted only for the following uses:

- residential subdivisions
- parks and recreation facilities
- schools, and
- charitable or religious organizations.

The sign area shall not exceed thirty-two (32) square feet per sign face.

c. Two (2) additional monument signs are allowed for residential subdivisions of five (5) acres or more in size with more than one entrance. The sign area shall not exceed thirty-two (32) square feet per sign face.

3. Readerboard Signs

a. One (1) readerboard sign per site is permitted to be incorporated within an approved monument or wall sign for parks and recreation facilities, schools and charitable or religious organizations. The readerboard sign area shall not exceed twenty-four (24) square feet of the host sign.

b. The readerboard must be permanently affixed and architecturally integrated into the host sign; a hanging readerboard box on the same sign structure does not qualify as architecturally integrated.

c. A minimum of one-hundred lineal feet (100') separation between readerboard signs on the same side of the street or highway shall be provided.

B. Maximum Sign Height.

1. Freestanding signs, other than monument signs, shall be no more than five feet (5') in height.

2. Monument signs shall be no more than ten feet (10') in height.

C. Illumination.

1. Internal illumination of wall signs is not permitted, except for multi-family housing and lodging houses.

2. Only indirect external illumination is allowed for freestanding and wall signs.

3. The illumination of signs within the residential sign district shall comply with the standards contained in Section 4-7-24 of this chapter.

D. Other Limitations.

1. Changing image signs and roof signs are not allowed in the residential sign district.

2. Except for temporary signs and signs allowed without permits as allowed under Sections 4-7-7 and 4-7-8 of this chapter, permanent wall, freestanding and monument signs are not permitted for home occupations or single-family residential uses in the residential sign district.

**4-7-11: AIRPORT/INDUSTRIAL SIGN DISTRICT:**

In addition to the temporary and permanent signage allowed without permits, the following signage is allowed in the airport/industrial sign district subject to the requirements of this chapter, and summarized in Table 2 of the Sign District Table. If there is a conflict between the table and the text, the text prevails.

A. Permitted Sign Types, Number and Area.

Signs within the airport/industrial sign district are limited as follows and require the obtaining of permits under Section 4-7-26 of this chapter.

1. Wall Signs

a. Two (2) wall signs per business are permitted. The sign area shall not exceed six percent (6%) of the wall area.

b. One (1) additional wall sign is allowed if no monument sign is installed. The sign area shall not exceed six percent (6%) of the wall area.

c. Where a readerboard sign is installed, only one (1) wall sign is permitted.

2. Projecting, Awning and Marquee Signs

a. Other signs attached to buildings, such as projecting, awning and marquee signs are allowed in place of wall signs. The sign area shall not exceed twenty-four (24) square feet per sign face.

b. Businesses with a projecting sign above a marquee sign may not also have a monument sign, nor a roof sign.

3. Roof Signs

One (1) roof sign is allowed in place of one (1) wall sign. The sign area shall not exceed sixty (60) square feet per sign face.

a. Roof signs may not extend beyond the roof line.

4. Monument Signs

a. One (1) monument sign per site and one (1) monument sign per entrance at the Florence Airport are permitted. The sign area shall not exceed sixty (60) square feet per sign face. If more than one business shares a sign, the sign area shall not exceed eighty (80) square feet per sign face.

b. Monument signs located on driveways with shared access shall contain all the names of the businesses served by that driveway.

c. Monument signs shall have at least 100 lineal feet separation between other freestanding signs on the same side of the street or highway.

5. Readerboard Signs

a. One (1) readerboard sign per site is permitted to be incorporated within an approved monument or wall sign. The readerboard sign area shall not exceed twenty-four (24) square feet of the host sign.

b. The readerboard must be permanently affixed and architecturally integrated into the host sign; a hanging readerboard box on the same sign structure does not qualify as architecturally integrated.

c. A minimum of one-hundred lineal feet (100') separation between readerboard signs on the same side of the street or highway shall be provided.

d. Electronic readerboard signs are not permitted in the airport/industrial sign district.

B. Maximum Sign Height.

Monument signs shall be no more than eight feet (8') in height, except if more than one business share a monument sign it shall be no more than ten feet (10') in height.

C. Illumination.

1. Monument signs are restricted to external illumination only.

2. The illumination of signs within the airport/industrial sign district shall comply with the standards contained in Section 4-7-24 of this chapter.

D. Other Limitations.

1. Electronic readerboard and changing image signs are not permitted in the airport/industrial sign district.

2. All signs shall adhere to the regulations of the airport overlay district of FCC 10-21-2.

3. Auto service stations shall comply with the standards specified in Section 4-7-23 of this chapter.

**4-7-12: COMMERCIAL SIGN DISTRICT:**

In addition to the temporary and permanent signage allowed without permits, the following signage is allowed in the commercial sign district subject to the requirements of this chapter, and summarized in Table 3 of the Sign Districts Table. If there is a conflict between the table and the text, the text prevails.

A. Permitted Sign Types, Number and Area.

Signs within the highway 101 sign district are limited as follows and require the obtaining of permits under Section 4-7-26 of this chapter:

1. Wall Signs

a. Two (2) wall signs per business are permitted. The sign area shall not exceed six percent (6%) of the wall area.

b. One (1) additional wall sign is allowed if no freestanding or monument sign is installed. The sign area shall not exceed six percent (6%) of the wall area.

c. Where a readerboard sign is installed, only one (1) wall sign is permitted.

2. Projecting, Awning and Marquee Signs

a. Other signs attached to buildings, such as projecting, awning and marquee signs are allowed in place of wall signs. The sign area shall not exceed twenty-four (24) square feet per sign.

b. Businesses with a projecting sign above a marquee sign may not also have a freestanding sign or a roof sign.

3. Roof Signs

a. One (1) roof sign is allowed in place of one (1) wall sign. The sign area shall not exceed sixty (60) square feet per sign face.

b. Roof signs may not extend beyond the roof line.

4. Freestanding Signs

a. One (1) freestanding sign per site is permitted.

b. Freestanding Signs, other than monument signs

Sign area shall not exceed one-hundred (100) square feet per sign face. If more than one business shares a sign, the sign area shall not exceed one-hundred and twenty (120) square feet per sign face. Signs for shopping centers shall not exceed one-hundred and forty (140) square feet per sign face.

c. Monument Signs

Sign area shall not exceed sixty (60) square feet per sign face. If more than one business shares a sign, the sign area shall not exceed eighty (80) square feet per sign face.

d. A minimum of one hundred lineal feet (100') of separation is required between signs on the same side of the street or highway.

5. Readerboard Signs

a. One (1) readerboard sign per site is permitted to be incorporated within an approved monument or wall sign. The readerboard sign area shall not exceed twenty-four (24) square feet of the host sign.

b. The readerboard must be permanently affixed and architecturally integrated into the host sign; a hanging readerboard box on the same sign structure does not qualify as architecturally integrated.

c. A minimum of one-hundred feet (100') separation between readerboard signs on the same side of the street or highway shall be provided.

B. Maximum Sign Height.

1. Freestanding signs, other than Monument Signs, shall be no more than twenty feet (20') in height.

2. Monument signs shall be no more than eight feet (8') in height, except if more than one business share a monument sign it shall be no more than ten feet (10') in height.

C. Illumination.

The illumination of signs within the highway 101 sign district shall comply with the standards contained in Section 4-7-24 of this chapter.

D. Other Limitations.

1. Auto service stations shall comply with the standards specified in Section 4-7-23 of this chapter.

2. Storefront Signage: Where a building abuts the sidewalk, the following storefront signage standards shall apply:

a. Signage shall be attached to the building: awing, projecting, window and wall signs are permitted.

b. Internal illumination is not allowed.

**4-7-13: OLD TOWN SIGN DISTRICT:**

In addition to the temporary and permanent signage allowed without permits, the following signage is allowed in the old town sign district subject to the requirements of this chapter, and summarized in Table 4 of the Sign Districts Table. If there is a conflict between the table and the text, the text prevails.

A. Permitted Sign Types, Number and Area.

Signs within the old town sign district are limited as follows and require the obtaining of permits under Section 4-7-26 of this chapter:

1. Wall Signs

a. Two (2) wall signs per business are permitted. The sign area shall not exceed six percent (6%) of the wall area.

2. Projecting, Awning and Marquee Signs

a. Other signs attached to buildings, such as projecting, awning and marquee signs are allowed in place of wall signs. The sign area shall not exceed fifteen (15) square feet per sign face.

b. Projecting sign above marquee and roof sign are not permitted.

3. Monument Signs

a. One (1) monument sign per site is permitted for buildings that do not abut the sidewalk. The sign area shall not exceed sixty (60) square feet per sign face.

b. A minimum of one hundred lineal feet (100’) of separation is required between monument signs on the same side of the street.

B. Maximum Sign Height.

Monument signs shall be no more than eight feet (8’) in height.

C. Illumination.

1. Internal illumination is not allowed.

2. The illumination of signs within the old town sign district shall comply with the standards contained in Section 4-7-24 of this chapter.

D. Other Limitations.

1. Changing image and readerboard signs are not permitted.

2. The use of plastic as part of the exterior visual effects is not permitted.

3. Storefront Signage: Where a building abuts the sidewalk, the following storefront signage standards shall apply:

a. Signage shall be attached to the building: awing, projecting, window and wall signs are permitted.

b. Monument signs are not permitted.

**4-7-14: PROFESSIONAL OFFICE SIGN DISTRICT:**

In addition to the temporary and permanent signage allowed without permits, the following signage is allowed in the professional office sign district subject to the requirements of this chapter, and summarized in Table 5 of the Sign Districts Table. If there is a conflict between the table and the text, the text prevails.

A. Permitted Sign Types, Number and Area.

Signs within the professional office sign district are limited as follows and require the obtaining of permits under Section 4-7-27 of this chapter:

1. Wall Signs

a. Two (2) wall signs per building are permitted. The sign area shall not exceed three percent (3%) of the wall area.

2. Monument Signs

a. One (1) monument sign per site is permitted, except as provided below in section A.2b. Monument sign area shall not exceed forty (40) square feet per sign face.

b. Sites with multiple public street entrances are permitted to have one monument sign at each entrance, provided there is a minimum of one hundred lineal feet (100') of separation is between other monument signs on the same side of the street.

3. Signs on Campus Facilities

a. Campus facilities are sites with a minimum of two (2) acres in size and with three (3) or more buildings on the site.

b. One (1) monument sign is permitted at each public street entrance. Monument sign area shall not exceed forty (40) square feet per sign face.

c. Except for signs located at public street entrances, signs located within a campus facility are exempt from requirements to obtain permits under Section 4-7-27 of this chapter.

B. Maximum Sign Height.

1. Freestanding signs shall be no more than eight feet (8') in height.

C. Illumination.

1. Internal illumination is not permitted on wall or freestanding signs, except for hospital/medical or emergency facility.

2. The illumination of signs within the professional office sign district shall comply with the standards contained in Section 4-7-25 of this chapter.

D. Other Limitations.

1. Changing image and roof signs are not permitted.

**4-7-15: SCHOOL SIGN DISTRICT:**

Signs located within the School Sign District are exempt from requirements to obtain permits under Section 4-7-27 of this chapter.

**4-7-16: MEASUREMENTS:**

The following shall be used in measuring a sign to determine compliance with this chapter:

A. Sign Area.

1. Sign area shall be measured as a rectangle drawn between the outermost dimensions of the frame or cabinet surrounding the display area containing the sign copy. The area of a two (2) sided sign (e.g. copy faces front and back) is measured as the area of a single face. When signs are not framed or on a base material and are inscribed, painted, printed, projected or otherwise placed upon, or attached to a building, canopy, awning or part thereof, the sign area is measured by the smallest rectangle that contains the entire sign copy.(Figure 1)

2. When signs are constructed in multiple separate pieces containing sign copy, the sign face area is determined by a perimeter drawn in straight lines, as small as possible, around all sign copy plus any frame(s) or cabinet(s). (Figure 1).

3. Where a sign is of a three-dimensional regular shape (e.g. cube, cylinder) or an irregular solid shape, the total sign area is the smallest sum of all sign face areas drawn as rectangles and projected on two perpendicular vertical planes. (Figure 2)

B. Height.

Height of sign above grade is measured from the average level of the grade below the sign to the topmost point of the sign including the supporting structure.

C. Clearance.

Clearance is measured from the average grade below the sign to the lowermost point of the sign.

D. Spacing.

1. For the purpose of applying spacing requirements to signs, distances shall be measured parallel to the centerline of the adjacent street or highway.

2. A back-to-back sign is counted as a single sign for the purpose of spacing distances.

FIGURE 1

SIGN AREAS

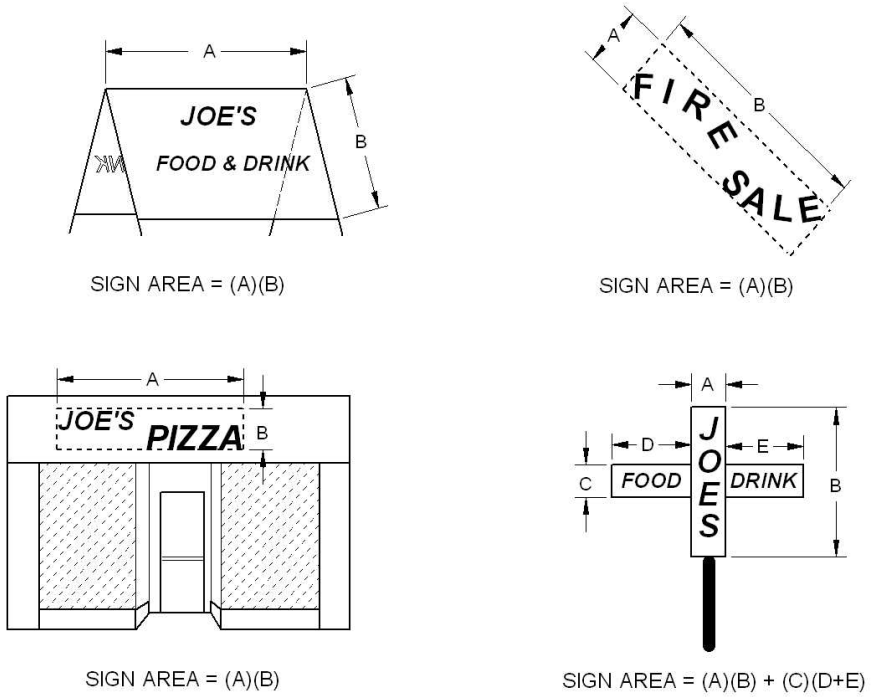
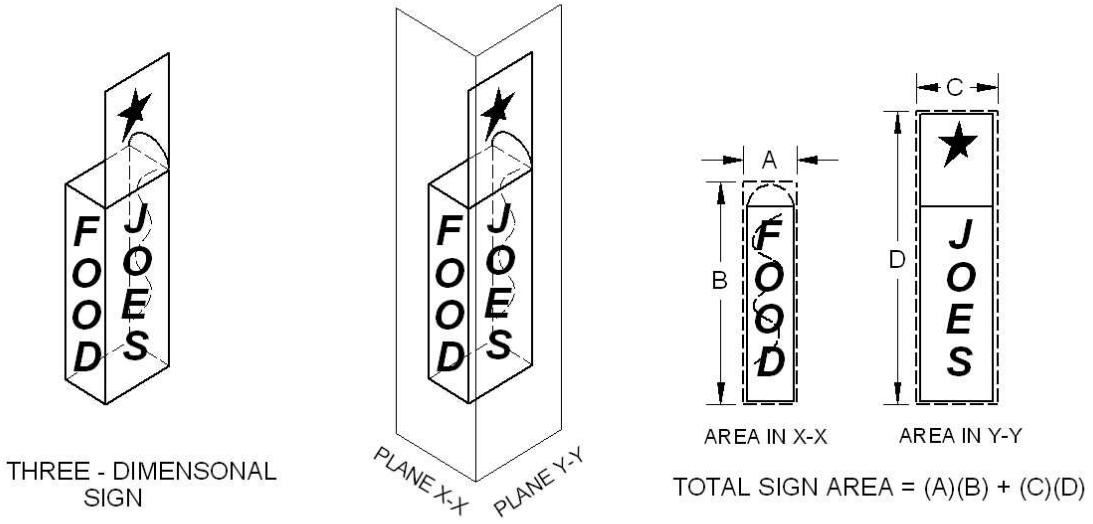



FIGURE 2

THREE-DIMENSIONAL SIGN AREA



**4-7-17: PROJECTING SIGNS:**

An otherwise authorized sign shall be permitted to project over public right-of-way if the sign meets all of the following requirements:

A. The sign and any external guy wires or similar bracing systems shall extend no more than four feet six inches (4'6") from the building face and shall be no less than eight feet (8') above the ground under the projecting sign.

B. The sign does not project above the roof line or parapet wall, whichever is higher.

C. Projecting signs shall conform to all provisions of this section which are designed to provide safe minimum clearance along public sidewalks and streets. The sign must have a minimum of eight feet (8') clearance from the ground and fifteen feet (15') where vehicle clearance is needed. The outer edge of the projecting sign must be set back a minimum of two feet (2') from the curb-line.

**4-7-18: WALL SIGNS:**

A. A wall sign shall not project more than eighteen inches (18") from the wall to which it is attached. A wall sign located on an alley frontage shall not project more than twelve inches from the wall to which it is attached and shall have fifteen feet of clearance.

B. A wall sign shall not project above the roof line, or top of the parapet wall, whichever is higher.

C. No exposed braces, guy wires, "A" frames, or similar bracing systems shall be used in constructing a wall sign.

D. The height of a wall sign attached to the end or face of a marquee shall not exceed thirty inches. The lower edge of this sign shall not extend below the marquee.

E. Wall signs on mansard roofs of forty-five degrees (45°) or less from the vertical axis may be installed if the supporting bracing is shielded from view with a solid material.

F. When a sign band is included, wall signs shall be placed within the sign band.

**4-7-19: ROOF SIGNS:**

A. Roof signs shall not extend beyond the roof line.

B. All supporting bracing of roof signs shall be shielded from view with a solid material.

**4-7-20: FREESTANDING SIGNS, OTHER THAN MONUMENT SIGNS:**

A. Each freestanding sign shall provide a landscape planter, or landscaping at the sign base unless such a planter would interfere with the circulation and/or parking of vehicles and no other practical sign location exist.

B. No part of a freestanding pole sign shall be erected or maintained within five feet (5') of a property line.

C. No part of a freestanding sign shall project or extend into any public right-of-way.

D. No freestanding sign shall block, project or extend into any vision clearance area, which is the area between thirty inches (30") and eight feet (8') overgrade.

E. A freestanding sign shall be directly supported by poles or foundation supports in or upon the ground. No external cross braces, guy wires, "T" frames, "A" frames, "trusses," or similar bracing systems shall be used to buttress, balance, or support a freestanding sign.

F. A minimum of fifteen feet (15') in clearance is required in areas accessible to vehicles. The lowest point of these signs may be less than eight feet (8') above grade in areas not accessible to vehicles when the signs are protected from physical damage by the installation of bumper poles or other ground protections.

G. Freestanding signs permitted in a Highway 101 Sign District and commercial sign district shall not be located closer than fifty linear feet from the property line of any single-family residential, multifamily residential, or restricted residential zoned property as measured along the street frontage.

**4-7-21: MONUMENT SIGNS:**

A. Each monument sign shall provide a landscape planter, or landscaping at the sign base unless such a planter would interfere with the circulation and/or parking of vehicles and no other practical sign location exist.

B. Monument signs 5' in height require a 1' setback from the right-of-way, and 1 additional foot of setback for each additional foot of height up to 8' in height.

C. No part of a monument sign shall project or extend into any public right-of-way.

D. No monument sign shall block or extend into any vision clearance area between thirty inches (30") and eight feet (8') overgrade.

**4-7-22: AWNING SIGNS:**

A. Awning signs are permitted only as an integral part of the awning to which they are attached or applied.

B. The awning supporting structure shall maintain a clearance of eight feet.

C. An awning shall not extend to within two feet from the curb. An awning shall not project above the roof line.

D. The awning sign shall extend no more than eight feet (8') from the building face and no less than eight feet (8') above the ground to the bottom of the awning the awning.

**4-7-23: CHANGING IMAGE AND ELECTRONIC READERBOARD SIGNS:**

A. Change image and electronic readerboard signs permitted under this chapter shall comply with the following standards and all other applicable requirements under this code or other applicable law:

1. The change of sign copy or image shall be no more frequent than once per hour, and the actual copy or image change shall be accomplished in four seconds or less. Once changed, the copy shall remain static until the next change.

2. A minimum of one-hundred lineal feet (100') separation between changing image or readerboard signs on the same side of the street or highway is required.

3. Sign copy or image shall not appear to flash, undulate, or pulse, or portray explosions, fireworks, flashes of lights, or blinking of chasing lights. Copy shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the sign face.

4. Illumination from changing image and electronic readerboard signs located within or adjacent to a Residential Sign District shall not exceed 25 foot candles when measured at the brightest point on the sign, at a distance of one foot (1') from the sign face using an incident light meter. Signs found to be too bright shall be adjusted or removed as directed by the Community Development Director.

5. Illumination from changing image and electronic readerboard signs located on any property in any sign district other than the Residential Sign District shall not exceed 125 foot candles when measured at the brightest point on the sign, at a distance of one foot (1') from the sign face using an incident light meter. Signs found to be too bright shall be adjusted or removed as directed by the Community Development Director.

**4-7-24: AUTOMOBILE SERVICE STATION SIGNS:**

An automobile service station sign plan shall be required for all automobile service stations. An application for an automobile service station sign plan approval shall be filed at the time permits for permanent signs on the property are sought and shall comply with the provisions contained in this section. The plan shall be reviewed under the procedures set out in Section 4-7-26 of this chapter.

A. One freestanding or monument sign not exceeding the size, height and spacing limitations authorized in the relevant sign district shall be permitted for each automobile service station. The sign area may include both a stationary sign face area and a readerboard or changing image sign area. The area of the readerboard or changing image sign may be no larger than the size of the freestanding or monument sign authorized in the relevant sign district.

B. Wall signs not exceeding the amount authorized in the relevant sign district are permitted for each automobile service station.

C. Two signs shall be permitted on the automobile service station canopy. Total sign area shall not exceed twenty percent of the visible vertical surface of the canopy face, with a maximum sign face area of fifty square feet.

**4-7-25: ILLUMINATION – GENERAL RESTRICTIONS:**

A. No sign, light, lamp, bulb, diode, tube, or device shall be used or displayed in violation of this section.

B. No light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian or the general public. Lighted signs shall be placed, shielded or deflected so as not to shine into residential dwelling units or structures, or impair the road vision of the driver of any vehicle.

C. External light sources for a sign shall be directed and shielded to limit direct illumination of any object other than the sign, including light pollution of the night sky.

D. Except for holiday seasonal decorations, temporary signs shall not be illuminated.

E. Illumination from signs located within or adjacent to a Residential Sign District shall not exceed 25 foot candles when measured at the brightest point on the sign, at a distance of one foot (1') from the sign face using an incident light meter. Signs found to be too bright shall be adjusted or removed as directed by the Community Development Director.

F. Illumination from signs located on any property in any sign district other than the Residential Sign District shall not exceed 125 foot candles when measured at the brightest point on the sign, at a distance of one foot (1') from the sign face using an incident light meter. Signs found to be too bright shall be adjusted or removed as directed by the Community Development Director.

**4-7-26: CONSTRUCTION AND MAINTENANCE STANDARDS:**

A. All permanent signs shall be constructed and erected in accordance with the requirements of the Oregon Structural Specialty Code.

B. All illuminated signs must be installed by a state-licensed contractor, subject to the requirements of the State Electrical Code. All electrically illuminated signs shall be listed, labeled, and tested by a testing agency recognized by the state of Oregon.

C. Building and electrical permits shall be the responsibility of the applicant. Prior to obtaining building and electrical permits, the applicant shall obtain a sign permit or demonstrate an exception from the permit requirements of this chapter.

D. All signs, together with all of their supports, braces, guys, and anchors shall be kept in good repair and be maintained in a safe condition. All signs and the site upon which they are located shall be maintained in a neat, clean, and attractive condition. Signs shall be kept free from excessive rust, corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept neatly painted or posted. Signs which are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed. Sign determined to be abandoned shall be removed in accordance with Section 4-7-32.

E. No sign shall be erected or maintained in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit, or standpipe. No signs shall be erected or maintained so as to obstruct any building opening to such an extent that light or ventilation is reduced below minimums required by any applicable law or provisions of this code.

**4-7-27: SIGN PERMIT APPLICATION:**

A. Except as provided in this chapter, a permit is required to erect or construct a sign, or perform structural alterations on a sign. The painting, repainting, cleaning, maintenance and repair of an existing sign shall not require a permit, unless a structural alteration is made to the support structure or enclosure box of the sign. The changing of a sign copy or message shall not require a permit.

B. An application for a sign permit shall be made on a form prescribed by the Community Development Director and shall be filed with the city. The application shall be filed by the owner of the sign or a representative of the sign's owner. A separate sign permit application is required for each sign, unless a combined application for all signs in a proposed development is proposed. The application shall include information required by the Community Development Director and the following:

1. A sketch of the site, drawn to scale, showing the approximate location of existing structures, existing signs, and the proposed sign;

2. Building frontage elevations drawn to scale, showing the sign's relative location and placement;

3. Scaled drawings or photographs of the proposed sign, showing the design, elevations, sign face dimensions and area, materials and engineering data (if required, which demonstrates its structural stability). The illustration of the proposed sign need not show the sign message, but shall show the size, style, and design of the lettering, numbers, and graphics conveying any message. The content of any message shall not be considered in the evaluation of a sign permit application;

4. An application shall be filed by the owner or the owner's representative. The owner or leaseholder of the property on which the sign is to be located shall sign the sign permit application;

5. A fee in the amount set by council resolution. When construction of a sign requiring a sign permit begins before the permit is approved, the permit fee shall be doubled.

C. When deemed necessary by the building official, building or electrical permits shall be obtained as a part of the sign permit process.

D. The Community Development Director shall grant or deny the sign permit application based upon the information submitted with the application and other information obtained by or submitted to the city.

E. A sign permit application shall be approved if:

1. The application complies with all of the applicable provisions of this chapter and any other objective requirement imposed by law. No standard shall be applied to deny a permit if the operation of that standard violates a constitutional right of the applicant. If, as part of the application, an applicant identifies a particular standard alleged to have unconstitutional effect, and provides reasons for that contention, the Community Development Director shall seek the opinion of the city attorney on the contention. If the city attorney concludes that the operation of the standard violates a constitutional right of the applicant, the Community Development Director shall not apply the standard in reviewing the application;

2. The applicable permit fee has been paid.

F. An approved sign shall be constructed and installed within six months of the final approval of the permit, including resolution of any appeal. The sign permit shall be void if installation is not completed within this period or if the sign does not conform to the approved permit. Sign permits mistakenly issued in violation of this chapter or other provisions of this code are void. If requested prior to the expiration of the permit, the Community Development Director may grant a reasonable extension of time for the installation deadline upon a showing of reasonable grounds for delay.

G. If sign does not conform to the building code after inspection, the sign will be subject to removal under Section 4-7-31 of this chapter.

H. The Community Development Director may revoke a sign permit if the director finds that there was a material and misleading false statement of fact in the permit application.

**4-7-28: APPEAL OF DECISION ON SIGN PERMIT:**

A. An applicant may appeal the denial of an application for a sign permit, conditions of approval of the allowance of a permit or revocation of the permit.

An appeal may be initiated by filing a form prescribed by the Community Development Director that is filed within twenty (20) days of the date of mailing the decision of the Community Development Director. The form shall specify the bases for the appeal.

Except as provided herein, the appeal shall be to the City Council.

B. The City Council shall conduct a public hearing on the appeal within twenty-one (21) days following the receipt of the filed notice of appeal. The City Council shall grant or deny the permit based upon the evidence at the hearing and the record of its administrative proceedings. The hearing shall be conducted under the procedures used by the City Council for a quasi-judicial hearing.

C. The City Council shall issue its decision in writing explaining the reasons why the permit was granted or denied. The decision shall be mailed to the address of the applicant on the application by regular mail.

D. In considering the appellant's contentions, the City Council shall exercise only the following review authority:

1. Determining whether the Community Development Director failed to follow applicable procedures in taking action on the permit or the sign in ways that prejudiced the rights of the appellant;

2. Determining whether the Community Development Director properly applied the provisions of this chapter;

3. Modifying the decision of the Community Development Director only to the minimum extent necessary to be consistent with the requirements of this chapter or of other laws;

4. Attaching such conditions to granting all or a portion of any appeal as necessary to achieve the purposes of this chapter.

E. When the appeal form in an appeal of a sign permit or revocation states an issue involving the application of state or federal constitutional law, the municipal court judge shall resolve the constitutional law issues on an expedited basis prior to the Council deliberations on the appeal. The court shall conduct a public hearing on the constitutional issues and may allow the reception of factual evidence. The city attorney may appear on behalf of the city. Following the hearing, the court shall issue a written opinion on the constitutional issues. If the constitutional issues are the only issues raised in the appeal, the court shall direct the Community Development Director to grant or deny the permit or revocation. The directed decision of the municipal court judge is the final decision of the city. If other issues are raised in the appeal, the decision of the municipal court shall be binding on the City Council. Following resolution of these other issues, the decision of the City Council shall be final.

**4-7-29: ADJUSTMENTS:**

A. Adjustments to the numeric standards of this section shall be allowed only in compliance with this subsection. Adjustments may be requested to allow relocation of a sign, on the subject property, reducing the height of a sign, or enlarging the area of a sign. Adjustments allowing the use of prohibited signs, or allowing signage other than that specifically allowed by this code, are not permitted.

B. Requests for adjustments shall be filed with the city, on a form provided by the Community Development Department, and accompanied by a fee as approved by the City Council. The request shall include the information required for a sign permit, as specified in Section 4-7-26-B of this chapter, the specific standard from which the adjustment is requested, and the numeric amount of the adjustment, and written responses to the following approval criteria:

1. Compliance with the applicable standard would create an unnecessary hardship due to physical conditions of the property (topography, lot size or shape, or other circumstances over which the applicant has no control), which are not present on other properties in the same vicinity or sign district, and the adjustment is necessary to permit signage comparable with other properties in the same sign district in the vicinity;

2. The hardship does not result from actions of the applicant, owner(s) or previous owner(s), or from personal circumstances of the applicant, owner(s) or previous owner(s), such as physical condition, age or financial situation; and

3. Approval of the adjustment will not adversely affect the function or appearance of the development and use of` the subject property and surrounding properties; and will not impose limitations on other properties and signage in the area including signage that would be allowed on adjacent properties.

C. The City Council shall conduct a public hearing on the request for adjustment. The City Council shall approve, approve with conditions, or deny the adjustment, based upon the evidence at the hearing. The City Council may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from approving the adjustment. The hearing shall be conducted under the procedures used by the City Council for a quasi-judicial hearing.

D. The city recorder shall give written notice of the hearing by mail to owners of property located within one hundred feet of the lot containing the sign, using for this purpose names and addresses of owners as shown upon the latest assessment role of the county assessor. Failure of a person to receive the notice specified in this section shall not invalidate any proceeding in connection with the application for an adjustment.

E. The City Council shall issue its decision in writing explaining the reasons why the adjustment was approved or denied. The decision shall be mailed to the address of the applicant on the application by regular mail. The decision of the City Council shall be final.

**4-7-30: INSPECTIONS:**

A. If a building permit is required, the building official shall perform an inspection as required by the Building Code and this Chapter upon notification by the permittee that the construction is ready for inspection. Failure of the permittee to notify the building official of the progress of construction for inspection purposes may result in the revocation of the sign permit. A final inspection of a sign shall be made upon completion of all construction work.

**4-7-31: ENFORCEMENT OF SIGN CODE – GENERAL PROVISIONS:**

A. Signs in violation of this chapter are determined to be a nuisance to the public safety, health and welfare. The following referenced code sections may be utilized for enforcement of this Sign Code, in regards to the types of sign violations referenced:

1. Sign in public right-of-way or on City-owned real property: Section 4-7-30-1.
2. Sign on private property or on non-City-owned public property, other than on public right-of-way: Section 4-7-30-2.
3. Unsafe Sign: Section 4-7-31.
4. Abandoned Sign: Section 4-7-32.

B. In addition to any other provisions contained herein, the City Manager is authorized to undertake such action as the City Manager deems necessary and convenient to carry out the provisions of this Sign Code, as is permitted by law.

C. Nothing contained herein shall preclude the issuance of citations for civil violations of this ordinance, either prior to, concurrently with, or after action is commenced to declare a sign to be unlawful or to removal an unlawful sign.

D. The Community Development Director may promulgate reasonable rules and regulations necessary to carry out the provisions of this chapter.

E. When a sign is removed, altered, and/or stored under these enforcement provisions, removal and storage costs may be collected against the sign owner and the person responsible for the placement of the sign. The City Council shall establish the fees for removal and storage of signs, and for other associated fees, by resolution, from time to time.

F. This chapter shall not be construed to create mandatory enforcement obligations for the City. The enforcement of this chapter shall be a function of the availability of sufficient financial resources consistent with adopted budgetary priorities and prosecutorial priorities within the range of delegated discretion to the Community Development Director.

**4-7-31-1: ENFORCEMENT – SIGN IN PUBLIC RIGHT-OF-WAY OR ON CITY-OWNED REAL PROPERTY:**

Any sign installed or placed in the public right-of-way or on City-owned real property, except in conformance with the requirements of this chapter, may be removed by the Community Development Director as follows:

A. Immediate confiscation without prior notice to the owner of the sign.

B. The city shall store any sign removed by the Community Development Director for a period of thirty (30) days from the time the sign was removed. After thirty (30) days seized signs are subject to being disposed by the City.

C. If the owner of a sign that was seized from the public right-of-way or on City-owned real property wishes to appeal the City's seizure of their sign, they must file a request to appeal with the City Recorder within thirty (30) days of the date the sign was seized. Upon receipt of a request to appeal, the City Recorder shall determine that that applicable fee is paid, and shall then schedule a hearing before the City Council within fifteen (15) business days. The City Recorder shall notify the reputed sign owner and the appropriate city staff of the date, time, and place of the hearing upon the removal of the sign.

D. The hearing shall be conducted by the City Council. The hearing shall be conducted under the procedures used by the City Council for a quasi-judicial hearing.

E. A prima facie violation of this Code shall be met if it is shown that:

1. The sign was located in a public right-of-way or City-owned real property; and

2. The sign owner is not a public entity or other public entity authorized to install and maintain public signs within the public right-of-way under this Sign Code.

The sign owner may rebut the prima facie showing of violation upon a showing that the sign was lawfully permitted within the public right-of-way or City-owned real property, or that the law does not require the sign owner to obtain a permit under this Sign Code to place a sign within the public right-of-way or on City-owned real property.

F. The City Council shall issue a written decision within seven (7) days following close of the hearing. The decision shall be based upon substantial evidence in the record. A copy of the decision shall be mailed to the reputed sign owner at such address as provided on the Request for Hearing. The decision of the City Council shall be the final decision of the city.

G. If the City Council determines that the sign was not lawfully placed upon the public right-of-way or City-owned real property, then, following any applicable review period, the sign shall be returned to the owner, or, if left unclaimed, destroyed in such manner as the Community Development Director determines appropriate. Destruction of the sign is in addition to any penalties that may be imposed under separate proceedings for civil violation of this Sign Code.

At the expiration of the time specified in this section, if the person responsible for the sign or other interested person has not reclaimed the sign as provided herein, the Community Development Director may destroy the sign or dispose of it in any manner deemed appropriate. To reclaim any sign removed by the Community Development Director the person reclaiming the sign shall pay the city an amount equal to the entire costs incurred by the Community Development Director as provided in subsection (H).

If the City Council determines that the sign was lawfully placed upon the public right-of-way or City-owned real property, then the City shall re-install the sign upon the same place that it was removed from within 7 business days of the issuance of the decision and the fee for Request for Hearing shall be refunded to the payor of the fee.

H. Costs, as determined by Section 4-7-30-E, shall be the responsibility of the sign owner and the person responsible for the placement of the sign, collectively and individually.

**4-7-31-2: ENFORCEMENT – SIGN ON PRIVATE PROPERTY OR ON NON-CITY-OWNED PUBLIC PROPERTY, OTHER THAN ON PUBLIC RIGHT-OR-WAY:**

A. The Community Development Director may order the removal of any sign erected or maintained on private property or on non-City-owned public property, other than on public right-of-way, in violation of the provisions of this chapter or other applicable provisions of this code.

B. An order to bring a sign into compliance or to remove a sign shall be in writing and mailed or delivered to the owner of the sign, if known, and the owner of the building, structure or premises on which the sign is located, if the owner of the sign is not known.

C. The order shall inform the owner of the sign, if known, and the owner of the building, structure or premises on which the sign is located, if the owner of the sign is not known that the sign violates the regulations in this chapter and must be brought into compliance or be removed within sixty (60) days of the date of the order, or such earlier date as shall be stated in the order. The order shall also state the reasons why the Community Development Director concludes the sign violates the regulations in this chapter and shall inform the owner of the sign, if known, and the owner of the building, structure or premises on which the sign is located, if the owner of the sign is not known of the right to submit a Request for Hearing, to determine whether or not the sign is in violation of this Sign Code.

D. A Request for Hearing shall be filed by the reputed owner of the sign, or owner of the building, structure or premises on which the sign is located within fifteen (15) days following mailing or delivery of the order. The Request for Hearing shall be filed with the City Recorder.

E. Upon receipt of the Request for Hearing, the City Recorder shall proceed in the manner specified in 4-7-30-1-C, and a hearing shall be held, and decision issued, in the manner specified in Section 4-7-30-1-D and (F).

F. A prima facie violation of this Code shall be met if it is shown that the sign:

1. Does not conform to the requirements of this Code; or

2. Is posted by a person that is not authorized to post the sign in the specific location.

The prima facie showing of a violation may be rebutted upon a showing that the sign was lawfully permitted or authorized under this Code, or is otherwise required to be installed and maintained by state or federal law.

G. If the City Council determines that the sign is not permitted or authorized by this Sign Code, or by other applicable state or federal law, then within ten (10) days following any applicable appeal or review period or no later than the date of the original sixty (60) day notice, whichever is later, the owner of the sign, or owner of the building, structure or premises on which the sign is located shall cause the sign to be removed, or altered in such a manner as to be made to conform to the requirements of this Sign Code. A sign which is not removed or altered in such a manner as to be made to conform to the requirements of this Sign Code is defined as a public nuisance.

H. The Community Development Director may:

1. Exercise all rights and remedies to cause the removal of the sign, including but not limited to removal of public nuisance, injunctive order, or as otherwise existing under Oregon law; and/or

2. Seek judgment against the owner of the land and the sign owner, individually, or collectively, for the removal and other costs pursuant to Section 4-7-30-E, and may collect upon the judgment in the manner provided by Oregon law; and/or

3. Seek such additional orders from a court of competent jurisdiction to permit entry upon the premises and removal of the sign.

I. Costs, as determined by Section 4-7-30-E, shall be the responsibility of the sign owner and the person responsible for the placement of the sign, collectively and individually. If not paid, the costs may be made a lien against the land or premises on which such sign is located, and may be collected or foreclosed in the same manner as liens otherwise entered in the liens docket of the City.

**4-7-32: REMOVAL OF UNSAFE SIGNS:**

A. If the Community Development Director finds that any sign by reason of its condition it presents an immediate and serious danger to the public, the Community Development Director may, without prior written notice, order the immediate removal or repair of the sign within a specified period. The City Manager shall follow the procedures provided in Section 4-7-30-2, subsections (B), (C), (D), (E), (H), except that the Community Development Director may shorten the time deadlines as reasonable, considering the risk to the public from the sign if the sign were to fail.

B. If the Community Development Director determines that the sign presents an immediate and serious danger to the public, then within such time as set by the Community Development Director the owner of the sign, or owner of the building, structure or premises on which the sign is located shall cause the sign to be removed, or altered in such a manner as to be made to eliminate the threat of death, injury, or damage to the public and its property. A sign which is not removed or altered in such a manner as to be made safe is defined as a public nuisance.

C. Costs, as determined by Section 4-7-30-E, shall be the responsibility of the sign owner and the person responsible for the placement of the sign, collectively and individually. The costs shall be made a lien against the land or premises on which such sign is located, and may be collected or foreclosed in the same manner as liens otherwise entered in the liens docket of the City.

**4-7-33: REMOVAL OF ABANDONED SIGNS:**

A. An owner of a sign shall remove the sign when it is abandoned.

B. The Community Development Director may order the removal of abandoned signs in the same manner as provided in Section 4-7-30-2, and the procedures for requesting a hearing, and the decision issued, shall be as set forth therein.

C. A sign is considered abandoned when the sign structure has been damaged, and repairs and restoration are not started within one hundred and eighty (180) days of the date the sign was damaged, or are not diligently pursued, once started.

D. Costs, as determined by Section 4-7-30-E, shall be the responsibility of the sign owner and the person responsible for the placement of the sign, collectively and individually. The costs shall be made a lien against the land or premises on which such sign is located, and may be collected or foreclosed in the same manner as liens otherwise entered in the liens docket of the City.

**4-7-34: VIOLATIONS:**

A. It shall be a violation of this Code for any person to perform, undertake, allow, or suffer the following:

1. Installation, creation, erection, suffering, or maintenance of any sign in a way that would create a non-conforming sign;

2. Failing to remove any non-conforming signs within sixty calendar days after the expiration of the amortization period;

3. Failing to remove any non-conforming sign after being order to do so;

B. Continuing Violation. Each day of a continued violation shall be considered a separate violation when applying the penalty provisions of this Code.

**4-7-35: PENALTIES AND OTHER REMEDIES:**

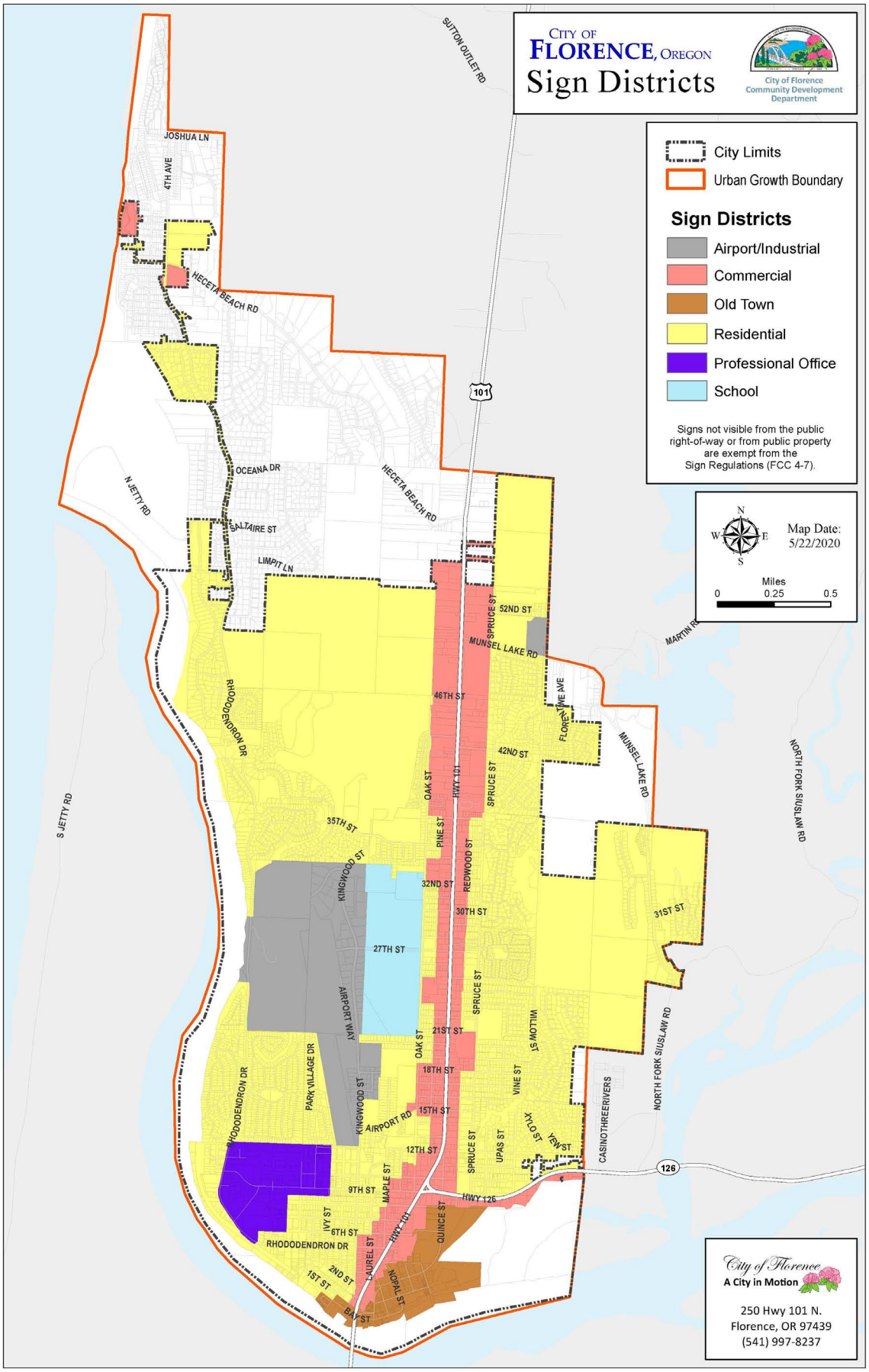
A. The Municipal Court is empowered to hear and determine violations of this chapter.

B. In addition to any other penalty of law, the municipal court or any other court of competent jurisdiction may issue a judgment necessary to ensure cessation of the violation, including but not limited to injunctive order and/or monetary penalty.

C. Any person who places a sign on property in violation of this chapter shall be punishable by a fine in accordance with the General Penalty provision of the Florence City Code Title 1 Chapter 4.

**4-7-36: AMENDMENTS:**

Amendments to the sign code shall be made by the City Council after consideration of a recommendation by an advisory body such as the Planning Commission.


City of Florence, Oregon
Sign Districts
City of Florence Community Development Department
City Limits
Urban Growth Boundary
Sign Districts
Airport/Industrial
Commercial
Old Town
Residential
Professional Office
School
Signs not visible from the public right-of-way or from public property are exempt from the Sign Regulations (FCC 4-7).
Map Date: 5/22/2020
Miles
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0.25
0.5
City of Florence
A City in Motion
250 Hwy 101 N.
Florence, OR 97439
(541) 997-8237
SUTTON OUTLET RD
JOSHUA LN
4TH AVE
HECETA BEACH RD
101
OCEANA DR
N JETTY RD
SALTAIRE ST
LIMPIT LN
S JETTY RD
RHODODENDRON DR
52ND ST
SPRUCE ST
MUNSEL LAKE RD
46TH ST
42ND ST
FLORENCE AVE
MUNSEL LAKE RD
MARTIN RD
NORTH FORK SIUSLAW RD
OAK ST
HWY 101
PINE ST
35TH ST
KINGWOOD ST
32ND ST
REDWOOD ST
30TH ST
31ST ST
27TH ST
AIRPORT WAY
21ST ST
WILLOW ST
18TH ST
PARK VILLAGE DR
VINE ST
15TH ST
AIRPORT RD
YEW ST
YLO ST
12TH ST
UPAS ST
CASINOTHREERIVERS
NORTH FORK SIUSLAW RD
126
9TH ST
MAPLE ST
HWY 126
IVY ST
6TH ST
QUINCE ST
LAUREL ST
2ND ST
1ST ST
NOPAL ST
BAY ST

## SIGN DISTRICTS TABLE

TABLE 1: RESIDENTIAL SIGN DISTRICT STANDARDS

| TYPE | MAX NO. | MAX AREA | MAX HEIGHT | SET-BACK | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Wall Signs | 1 per site or 2 per site for corner lots | 24 s.f. | | | Wall signs allowed for multi-family housing, lodging houses, commercial and office uses, parks and recreation facilities, schools and charitable or religious organizations. No internal illumination allowed except for multi-family housing and lodging houses. |
| Freestanding Signs, other than monument signs | see wall signs | 18 s.f. per sign face | 5’ | 5’ | One freestanding sign allowed in place of a wall sign for commercial and office uses only. Only external illumination is allowed for freestanding signs. |
| Monument Signs | 1 per site | 32 s.f. per sign face | 10’ | 1’-4’ | Monument sign allowed only for the following uses: residential subdivisions, parks and recreation facilities, schools and charitable or religious organizations. Two (2) additional monument signs are allowed for residential subdivisions of five (5) acres or more in size and with more than one entrance. Signs greater than 5’ in height must be set back 1 foot from a public street ROW, with 1 additional foot of setback for each additional foot of height up to 8’. Only external illumination is allowed for monument signs. |
| Readerboard in Monument or Wall Sign | 1 per site | 24 s.f. | | | Readerboard allowed for the following uses: parks and recreation facilities, schools and charitable or religious organizations. Applies only to incorporation within an approved monument or wall sign. Must be permanently affixed and architecturally integrated into the host sign; hanging readerboard box on the same sign structure does not qualify. Where a readerboard sign is established, only one wall sign shall be permitted. There shall be a minimum of 100 lineal feet separation between readerboard signs on the same side of the street or highway. |
| All Signs | | | | | Changing Image and roof signs are not allowed. Except for temporary signs and signs allowed without permits as allowed under Sections 4-7-7 and 4-7-8 of this chapter, permanent wall, freestanding and monument signs are not permitted for home occupations or single-family residential uses. |

## SIGN DISTRICTS TABLE

TABLE 2: AIRPORT/INDUSTRIAL SIGN DISTRICT STANDARDS

| TYPE | MAX NO. | MAX AREA | MAX HEIGHT | MAX PROJ-ECTION | MIN CLEAR-ANCE | SET-BACK | SPECIAL PROVISIONS |
|---|---|---|---|---|---|---|---|
| Wall Signs | 2 per business | 6% of wall area | | | | | May substitute other attached signs. Third wall sign allowed if no monument sign installed. Where a readerboard sign is established, only one wall sign shall be permitted. |
| Roof Signs | see wall sign | 60 s.f. | | | | | May substitute 1 roof sign for 1 wall sign. Roof signs may not extend beyond the roof line. |
| Other Signs Attached to Buildings | see wall signs | 24 s.f. | | 4’6” | 8’ and 15’ for vehicles | | May substitute projecting, awning and marquee signs in place of wall sign. Businesses with a projecting sign above a marquee sign or a roof sign may not also have a monument sign. |
| Monument Signs | 1 per site and 1 per entrance at the Florence Airport | 60 s.f. to 80 s.f. per sign face | 8’-10’ | | | 1’ to 4’ | Monument signs are restricted to external illumination only. If more than 1 business shares a sign, max. area = 80 s.f.. 1 monument sign shall be permitted at each shared access driveway and the sign shall contain all the names of the business served by that driveway. Monument sign 5’ in height requires a 1’ setback from the right-of-way, and 1 additional foot of setback for each additional foot of height up to 8’ in height. Monument signs shall have at least 100 lineal feet separation between other freestanding signs on the same side of the street or highway. |
| Readerboard within Monument or Wall Sign | 1 per site | 24 s.f. | | | | | Electronic readerboards are not permitted. Must be permanently affixed and architecturally integrated into the host sign; hanging readerboard box on the same sign structure does not qualify. Where a readerboard sign is established, only one wall sign shall be permitted. There shall be a minimum of 100 lineal feet separation between readerboard signs on the same side of the street or highway. |
| All Signs | | | | | | | All signs shall adhere to regulations of the airport overlay district. Electronic readerboard and changing image signs are not permitted in the airport/industrial sign district. |

## SIGN DISTRICTS TABLE

TABLE 3: COMMERCIAL SIGN DISTRICT STANDARDS

| TYPE | MAX NO. | MAX AREA | MAX HEIGHT | MAX PROJ-ECTION | MIN CLEAR-ANCE | SET-BACK | SPECIAL PROVISIONS |
|---|---|---|---|---|---|---|---|
| Wall Signs | 2 per business | 6% of wall area | | | | | May substitute other attached signs. Third wall sign allowed if no freestanding sign installed. Where a readerboard sign is established, only one wall sign shall be permitted. |
| Roof Signs | see wall sign | 60 s.f. | | | | | May substitute 1 roof sign for 1 wall sign. Roof signs may not extend beyond the roof line. |
| Other Signs Attached to Buildings | see wall sign | 24 s.f. | | 4'6" | 8' and 15' for vehicles | | May substitute projecting, awning and marquee signs in place of wall sign. Businesses with a projecting sign above a marquee sign may not also have a freestanding sign, or a roof sign. |
| Storefront Signage | | | | | | | For buildings that abut the sidewalk the following storefront signage standards apply;<br>1. Signage must be attached to the building: awning, projecting, window and wall signs are permitted; and<br>2. Internal illumination is not allowed. |
| Freestanding Signs, other than monument signs | 1 per site | 100 s.f. to 140 s.f. per sign face | 20' | | 8' and 15' for vehicles | 5' | Freestanding signs shall have at least 100 lineal feet separation between other freestanding signs on the same side of the street or highway. If more than 1 business shares a sign, max. area = 120 s.f., if shopping center max. area = 140 s.f. |
| Monument Signs | see free-standing sign | 60 s.f. to 80 s.f. per sign face | 8'-10' | | | 1' to 4' | 1 monument sign allowed in place of other type of freestanding sign. If more than 1 business shares a sign, max. area = 80 s.f.. Monument sign 5' in height requires a 1' setback from the right-of-way, and 1 additional foot of setback for each additional foot of height up to 8' in height. Monument signs shall have at least 100 lineal feet separation between other freestanding signs on the same side of the street or highway. |
| Readerboard within Freestanding or Wall Sign | 1 per site | 24 s.f. | | | | | Must be permanently affixed and architecturally integrated into the host sign; hanging readerboard box on the same sign structure does not qualify. Where a readerboard sign is established, only one wall sign shall be permitted. There shall be a minimum of 100 lineal feet separation between readerboard signs on the same side of the street or highway. |

## SIGN DISTRICTS TABLE

TABLE 4: OLD TOWN SIGN DISTRICT STANDARDS

| TYPE | MAX NO. | MAX AREA | MAX HEIGHT | MAX PROJ-ECTION | MIN CLEAR-ANCE | SET-BACK | SPECIAL PROVISIONS |
|---|---|---|---|---|---|---|---|
| Wall Signs | 2 per business | 6% of wall area | | | | | May substitute other attached signs for each wall sign. |
| Other Signs Attached to Buildings | see wall signs | 15 s.f. | | 4’6” | 8’ and 15’ for vehicles | | May substitute projecting, awning and under or over marquee signs in place of wall sign. Projecting sign above marquee is not allowed. |
| Monument Signs | 1 per site for bldgs. that do not abut sidewalk | 60 s.f. per sign face | 8’ | | | 1’ to 4’ | For buildings that abut the sidewalk, monument signs are not allowed. Monument signs must have at least 100 lineal feet separation between monument signs on the same side of the street. Monument sign 5’ in height requires a 1’ setback from the right-of-way, and 1 additional foot of setback for each additional foot of height up to 8’ |
| Storefront Signage | | | | | | | For buildings that abut the sidewalk, signage must be attached to the building: awning, projecting, window and wall signs are allowed. |
| All Signs | | | | | | | Internal illumination is not allowed. Changing image signs, readerboards, roof signs and the use of plastic as part of the exterior visual effects are not allowed. |

## SIGN DISTRICTS TABLE

TABLE 5: PROFESSIONAL OFFICE SIGN DISTRICT STANDARDS

| TYPE | MAX NO. | MAX AREA | MAX HEIGHT | SET-BACK | SPECIAL PROVISIONS |
|---|---|---|---|---|---|
| Wall Signs | 2 per building | 3% of wall area | | | |
| Monument Signs | 1 per site | 40 s.f. per sign face | 8’ | 1’ to 4’ | Sites with multiple public street entrances are permitted to have a monument sign at each entrance, provided there is a minimum of one hundred lineal feet (100’) of separation is between other monument signs on the same side of the street.<br>Signs greater than 5’ in height must be set back 1 foot from a public street ROW, with 1 additional foot of setback for each additional foot of height up to 8’. |
| Signs on Campus Facilities | 1 monument sign per public street entrance. | 40 s.f. per sign face | 8’ | 1’ to 4’ | Campus facilities are sites a minimum of 2 acres in size and with 3 or more buildings. Except for signs located at public street entrances, signs located within a campus facility are exempt from requirements to obtain permits under Section 4-7-27 of this chapter. Signs greater than 5’ in height must be set back 1 foot from a public street right-of-way, with 1 additional foot of setback for each additional foot of height up to 8’. |
| All Signs | | | | | Internal illumination is not allowed for wall or freestanding signs, except for hospital/medical or emergency facilities. Changing Image and roof signs are not allowed. |

_____

Adopted by Ord. No. 4, Series 2011 effective April 22, 2011
Section 4-7-7-N Added by Ord. No. 9, Series 2011 and all subsequent letters renumbered, effective April 22, 2011
Sections 4-7-8, 4-7-14, Table 5, & sign code map amended, and Section 4-7-15 added by Ord. No. 11, Series 2011 and all subsequent letters renumbered, effective June 4, 2011
Section 4-7-7 (C) amended by Ord. No. 4, Series 2015, effective April 17, 2015
Sign Districts Map amended by Ord. No. 8, Series 2020, effective August 19, 2020

# TITLE 5

# FIRE PREVENTION AND PROTECTION

**Entire Title Repealed by Ordinance No. 15, 2011**

TITLE 5
CHAPTER 1

# FIRE DEPARTMENT

REPEALED BY ORDINANCE NO. 15, SERIES 2011

TITLE 5
CHAPTER 2

# FIRE PREVENTION CODE

REPEALED BY ORDINANCE NO. 6, SERIES 1995

TITLE 5
CHAPTER 4

# OPEN BURNING

REPEALED BY ORDINANCE NO. 15, SERIES 2011

# TITLE 6

## POLICE REGULATIONS


| SUBJECT | CHAPTER |
|---|---|
| GENERAL OFFENSES | 1 |
| CITY JAIL, PRISONER REGULATIONS | 2 |
| | 3 |
| ABANDONED PROPERTY DISPOSITION | 4 |
| JUNKED, ABANDONED VEHICLES | 5 |
| ANIMAL CONTROL | 6 |
| CIVIL FORFEITURE OF PROPERTY | 7 |
| NUCLEAR WEAPONS FREE ZONE | 8 |
| CRIMINAL HISTORY RECORD CHECKS | 9 |

TITLE 6
CHAPTER 1

# GENERAL OFFENSES

SECTION:


6-1-1: Adoption of State Law
6-1-2: Disorderly Conduct and Related Offenses
6-1-2-1: Disorderly Conduct at Fires
6-1-2-2: Public Intoxication and Drinking
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6-1-10-1: Extraterritorial Effect
6-1-10-2: Violations Continuous
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**6-1-1: ADOPTION OF STATE LAW:**

A. Definition/Application of the Oregon Criminal Code, procedures and Preliminary Provisions.

The provisions of Oregon Revised Statutes, Chapters 131, 133, 135, 136, 137, 142, 153 and 161 as they apply to misdemeanors, violations, and infractions are adopted by this reference as though fully set forth herein as part of the City of Florence Criminal Code.

B. Statutory Offenses Adopted.

1. Violation of provisions of the Oregon Criminal Code setting forth misdemeanors, violations, and infractions contained in Oregon Revised Statutes, Chapters 162, 163, 164, 165, 166, and 167 are hereby adopted and incorporated by this reference as offenses against the City.

2. Violation of provisions of the Oregon Criminal Code relating to misdemeanors, violations, and infractions concerning alcohol and controlled substances as set froth in Oregon Revised Statutes, Chapters 471, 472, 473, 474, and 475 are hereby adopted and incorporated by this reference as offenses against the City.

3. Violation of provisions of the Oregon Motor Vehicle Code for misdemeanors, violations, and infractions set forth in Chapters 801, 802, 803, 805, 806, 807, 809, 810, 811, 813, 814, 815, 816, 818, 819, 820, 821, 822, and 823, are hereby adopted in and incorporated by this reference as offenses against the City.

4. Violations of provisions of the Oregon Small Watercraft Code for misdemeanors, violations, and infractions as set forth in Oregon Revised Statutes Chapter 830 are hereby adopted and incorporated by this reference as offenses against the City.

5. Violation of provisions of the Oregon Game Code in Oregon Revised Statutes Chapters 496 through and including Chapter 513 are hereby adopted, and incorporated by this reference as offenses against the City.

C. Penalties Adopted:

The respective penalty provisions for violation of the Oregon Revised Statues set forth in paragraphs 6-1-1:B.1. through B.5. are hereby adopted and incorporated by this reference.

**6-1-2: DISORDERLY CONDUCT AND RELATED OFFENSES:**

**6-1-2-1: DISORDERLY CONDUCT AT FIRES:**

A. It shall be unlawful for any persons at or near a fire to obstruct or impede the fighting of the fire, interfere with Fire Department personnel or Fire Department apparatus, to behave in a disorderly manner, or refuse to observe promptly an order of a member of the Fire or Police Departments.

B. For purposes of this Section, members of the Fire Department are endowed with the same powers of arrest as are conferred upon peace officers for violations of City ordinances.

**6-1-2-2: PUBLIC INTOXICATION AND DRINKING:** No person shall create, while in a state of intoxication, any disturbance of the public in any public or private business or place.

**6-1-2-3: UNNECESSARY NOISE:**

A. Definitions: As used in this subsection:

| | |
|---|---|
| NOISE SENSITIVE UNIT | Means any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons. |
| PERSON | Means an individual, corporation, association, partnership or any other legally recognized public or private entity. |
| PLAINLY AUDIBLE SOUND | Any amplification or reproduction of the human voice sufficiently loud to be understood by a person with normal hearing, or; Any musical sound sufficiently loud to permit the melody or rhythm to be recognized by a person with normal hearing, or; Any other sound sufficiently loud to materially affect the ability of a person with normal hearing to understand a verbal communication made in a normal conversational voice from a distance of ten feet or less. |
| SOUND PRODUCING DEVICE | Loudspeaker, public address system, radio, tape recorder or tape player, phonograph, television set or stereo system, musical instrument, amplified or unamplified, siren or bell, vehicle engine or exhaust, when the vehicle is not on a public right-of-way open to vehicle use, vehicle tire, domestic tool, including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, heat pump, air conditioning unit or refrigeration unit, animals, tools and equipment commonly used in construction including hammers, saws, pile drivers, earth moving equipment, compressors and similar equipment, but only between the hours of 10:00 p.m. and 7:00 a.m. |

B. Sound Measurement.

1. If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this subsection, a sound level meter shall contain at least an A weighted scale, and both fast and slow meter response capability.

2. If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

C. Prohibitions. It shall be unlawful for any person to produce or permit to be produced, with a sound producing device, sound which:

1. When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:

   a. 50 dBA between the hours of 10 P.M. and 7 A.M.,

   b. 60 dBA between the hours of 7 A.M. and 10P.M., or

2. Is plainly audible between the hours of 10 P.M. and 7 A.M. within a noise sensitive unit which is not the source of the sound.

D. Exceptions. Notwithstanding paragraph 6-1-2-9 E, the following exceptions from this subsection are permitted when conditions therefore are met:

1. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways, provided, however that said exception shall not impair the Council's power to declare such event or activities otherwise to violate other laws, ordinances or regulations.

2. Sound caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.

3. Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.

4. Sound caused by bona fide use of emergency warning devices and alarm systems.

5. Sounds caused by reasonable activity and conforming use of industrially and agriculturally zoned land.

6. Sounds caused by a vehicle engine allowed to idle for less than 30 consecutive minutes between the hours of 10:00 p.m. and 7:00 a.m. in preparation for its operation.

E. Variances. Any person who is planning the use of a sound producing device which may violate any provision of this subsection may apply to the City Manager for a variance from such provision.

Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply the reason for which the variance is sought and any other supporting information which the Manager may reasonably require.

1. Review Considerations. The City Manager shall consider:

   a. The nature and duration of the sound emitted.

   b. Whether the public health, safety or welfare is endangered.

   c. Whether compliance with the provision would produce no benefit to the public.

   d. Whether previous permits have been issued and the applicant's record of compliance.

2. Time Duration of Variance. A variance may be granted for a specific time interval only.

3. The City Manager shall within ten days, deny the application, approve it, or approve it subject to conditions.

4. The City Manager's decision may be appealed to the City Council. Notice of appeal should be delivered to the City Recorder. The Council shall review the application **de novo,** and within 15 days, deny the application, approve it, or approve it subject to conditions.

5. The City Manager may at any time before or during the operation of a variance granted by the City Manager revoke the variance for good cause. The Council may at any time before or during the operation of any variance, revoke the variance for good cause.

F. Ordinance Additional to Other Law. The provisions of this subsection shall be cumulative and non-exclusive and shall not affect any other claim, or remedy; nor, shall it be deemed to repeal, amend or modify and law, ordinance or regulation relating to noise or sound, but shall be deemed additional thereto.

G. Administration and Enforcement.

1. Upon citation or arrest of a person for a violation of this subsection by a police officer, the officer issuing the citation may seize the sound producing device which was the source of the sound as evidence. The sound producing device, if seized, shall be impounded subject to disposition of the charge and determination by the Court whether the sound producing device shall be returned or deemed contraband, subject to paragraph 6-1-2-9 G.2. of this subsection.

2. In addition to any other penalty, the Court may order any sound producing device found to have been used to violate this subsection seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the City's general fund.

**6-1-2-4: PROHIBITED LODGING:** No person shall lodge on private property in a vehicle, trailer, building, structure, tent or by any other means not approved for that purpose through the land use application and permitting processes prescribed in Florence City Code Title 10 Chapter 1.

**6-1-2-5: DRINKING IN PUBLIC**

A. It shall be unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right of way.

B. It shall be unlawful for any person to have in his or her possession while upon any street, sidewalk, or other public right of way, any bottle, can, or other receptacle containing any alcoholic liquor which has been opened, or the seal broken, or the contents of which have been partially removed.

C. The prohibitions of this section do not apply to the possession or consumption of alcoholic liquor in sidewalk cafes, which have been issued permits under Section 8-2-4-1-D of this code. (Amended by Ord. 12, 2009)

**6-1-2-6: PROHIBITED NUDITY: It** shall be unlawful for any person eight years of age or older to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex. (Ordinance 11, Series 1998)

**6-1-2-7: URINATING OR DEFECATING: No** person shall urinate or defecate in, or in view of, a public place, except in a lavatory. (Ordinance 11, Series 1998)

**6-1-3: WEAPONS AND FIREWORKS:**

**6-1-3-1: DISCHARGE OF WEAPONS:** Except at firing ranges approved by the City Council, no person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring or air actuated pellet guns, B-B guns, bow and arrow, or any weapon which propels a projectile by use of gunpowder or other explosive, jet or rocket propulsion.

**6-1-3-2: FIREWORKS:** The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this Chapter: ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170, provided, however, that it shall be unlawful for any person to ignite fireworks, or similar incendiary devices, of any kind anywhere on public and publicly owned property in the following three areas: (1) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area “A;” (2) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area “B;” (3) All of the Port property in the City which is adjacent to the Siuslaw River including, but not limited to, the Port dredge spoils area, the Port’s docks and boat slips, the Port boat ramp, the Port RV park and facilities, the Port Boardwalk area, and all of the Port parking lots adjacent to the RV park and the Boardwalk area. The three areas in Old Town where all fireworks are banned, on public and publicly owned property are shown on an aerial photograph attached as Exhibit “A” which by this reference is made a part hereof as if set forth herein.

A. Any peace officer who finds a person in violation of this ordinance may seize any fireworks in the offender’s immediate possession to prevent a recurrence and the potential for future violations. Such confiscated fireworks shall be turned over to the local fire department for disposition.

B. A violation of this section shall be a Class B Violation and the penalty shall be a fine as set forth in ORS 153.018 Schedule of Penalties.

C. A second violation of this section that occurs within 72 hours of the first violation shall be a Class A Violation and the penalty shall be a fine as set forth in ORS 153.048 Schedule of Penalties.

D. Any properly licensed and permitted commercial or community-wide display of fireworks is exempt from this ordinance. (Ord. No. 5, Series 2010)

**6-1-3-3: B-B GUN SALES:**

A. No person shall sell an air gun to a person under seventeen (17) years of age.

B. The definition of air guns or B-B guns as used herein, shall be all weapons that discharge a projectile by means of compressed air or carbon dioxide, or a compressed spring, or weapons of a similar nature. (Ord 591, 9-26-77)

**6-1-4: OFFENSES RELATING TO PROPERTY:**

**6-1-4-1: VIOLATING PRIVACY OF ANOTHER:** No person other than a peace officer performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.

**6-1-4-2: SAND OR GRAVEL REMOVAL:** No person shall take, carry away or remove from the ocean beach, any sand, gravel or rock; provided however, that this Section shall not apply to agates or other semiprecious stones.

**6-1-4-3: POSTED NOTICES:** No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof, or from the proper public authority. (Ord. 591, 9-26-77)

**6-1-4-4: UNLAWFUL ENTRY; PENALTY:** If any person shall, without authority or permission from the owner or legal custodian thereof, knowingly enter into or upon any public or private land, building, store, theater, drive-in theater, or any other premises or establishment within the City without first obtaining legal consent from the owner or legal custodian thereof either by actual consent or purchase of an admission ticket if one be required to enter said premises, such person shall, upon conviction thereof, be punished by a fine of not less than ten dollars ($10.00) nor more than two hundred fifty dollars ($250.00), or by imprisonment in the Municipal jail for a term of no more than sixty (60) days, or both. (Ord. 332, 7-22-59)

**6-1-4-5: DEFINITION:**

No person shall ignite, attempt to ignite, kindle, maintain or allow to be maintained the following fires: (Ord. 15, 2011)

A. An outdoor fire.

B. Bonfire

C. Rubbish Fire

D. Garbage Fire

E. A fire for the purpose of burning grass, hay or straw, tree limbs and trimmings

F. A fire for land clearing operations or commercial burning

G. Any type of open burning with the following exceptions:

1. Outdoor recreation fire used for cooking with fire in a fireplace, barbecue set, outdoor fire pit fueled with cut and split firewood.

2. Recreation fire in an approved campsite in fire pits provided and fueled with cut and split firewood.

3. Fire set and maintained for fire fighting training or training fire protection personnel.

4. In cases of fire hazard that cannot, in the judgment of the Siuslaw Valley Fire and Rescue District, be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District.

5. In cases of ceremonial fires, they may be allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District based upon their judgment that such ceremonial fire could be safely managed, controlled and extinguished.

6. The Siuslaw School District may have one annual "bonfire" on the district's property in the City of Florence allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District.

**6-1-4-6: PENALTIES:** Proceedings for violation of Florence City Code Section 4 Subsection 5 of this Chapter shall be civil in nature and a violation thereof shall be punishable by a fine not to exceed five hundred dollars ($500) for each occurrence.

**6-1-5: GRAFFITI REGULATIONS**

**6-1-5-1: DEFINITIONS:** As used in this subsection, the following shall mean:

| | |
|---|---|
| GRAFFITI | Any inscription, word, figure, design, writing, drawing, or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property or placement of stickers or appliqués applied to property without the prior authorization of the owner of the property regardless to the graffiti content, or nature of the material used in the commission of the act, or the material of the property. |
| GRAFFITI NUISANCE PROPERTY | Property to which graffiti has been applied, if the graffiti is visible from any public right-of-way, from any other public or private property or from any premises open to the public. |
| GRAFFITI IMPLEMENT | Any paint, ink, chalk, dye, marker, aerosol spray paint container, or any other substance or instrument or article designed or adapted for spraying, marking, etching, carving a surface, or material used for applique. |
| ABATE | To remove graffiti from view |
| OWNER | Any person, agent, firm or corporation having a legal or equitable interest in a property. |
| RESPONSIBLE PARTY | Any owner, occupant, or an entity or person acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance and management. There may be more than one party responsible for a particular property. |

**6-1-5-2: PROHIBITED GRAFFITI:**

A. It shall be unlawful for any person to apply graffiti.

B. It shall be unlawful for any person to solicit or command another person to apply graffiti.

C. It shall be unlawful for any person to aid and abet another person to apply graffiti.

**6-1-5-3: PENALTY**

A. Impoundment: At the time any person is stopped and a citation is issued for a violation of Section 6-1-5-2, any graffiti implements in possession of such person may be immediately seized and impounded by the officer issuing the citation. The court, upon disposition of the issued citation, shall determine whether the graffiti implements shall be returned or deemed contraband and subject to forfeiture.

B. Violation of Section 6-1-5-2 is subject to a fine not to exceed $500.00; a mandatory minimum fine of $100.00 shall be imposed upon conviction. In addition to any other penalty, a person found guilty of violating Section 6-1-5-2 shall be subject to an order to pay restitution to the injured property owner.

**6-1-5-4: GRAFFITI NUISANCE PROPERTY:**

A. It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and is not promptly removed, it invites additional graffiti and criminal activity and constitutes a nuisance.

B. Any property within the City which becomes a graffiti property is hereby declared a nuisance and is subject to abatement in accordance with this chapter.

C. Any responsible person who permits property to be a graffiti nuisance property shall be in violation of this Chapter and subject to the remedies provided herein.

**6-1-5-5: NOTICE PROCEDURE:**

A. When the Chief of Police or designee believes in good faith that a property within the City is a graffiti nuisance property, the Chief of Police or designee shall notify the responsible party of the property in writing that the property is a graffiti nuisance property. The notice shall contain the following information:

1. The street address of description sufficient for the identification of the property.

2. That the Chief of Police has found the property to be graffiti nuisance property with concise descriptions of the conditions leading to his/her findings.

3. A direction to abate graffiti, or show good cause why the responsible person cannot abate the graffiti, within five (5) business days from the date of the written notice.

4. That if the graffiti is not abated and good cause for failure to abate is not shown, the City may order abatement, with appropriate conditions. The City may abate the graffiti at its own direction and charge the responsible person for the costs of the abatement. The City may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.

5. That permitting graffiti nuisance property is a violation of this Chapter.

6. That the above remedies are in addition to those otherwise provided by law.

B. Service of the notice is completed upon mailing the notice first class addressed to, or served in person to a responsible party at the address of the graffiti nuisance property, and to such other address as shown on the Lane County Tax Assessor's property tax rolls for the owner of the graffiti nuisance property, or such other address which is reasonably believed to give the responsible party actual notice of the determination of the Chief of Police or designee.

C. If the responsible party is not personally served, the notice shall also be affixed to the graffiti nuisance property in a conspicuous location.

D. A copy of the notice shall be served on occupants of the property, if different from the responsible party. Service shall be completed upon mailing the notice first class addressed to “occupant” of each unit believed to be a graffiti nuisance property, or by serving in person.

E. The failure of any person to receive actual notice of the determination of the Chief of Police or designee shall not invalidate or otherwise affect the proceedings under this Chapter.

**6-1-5-6: ABATEMENT PROCEDURES:**

A. Within five (5) business days of the mailing of the notice or upon being served in person, the responsible party shall abate the graffiti or show good cause why they cannot abate the graffiti within that time.

B. Upon good cause shown, the Chief of Police or designee may grant an extension of up to ten additional business days.

C. If the responsible party does not comply with subsection (A) or (B) of this section the responsible person is in violation of this Chapter for permitting a graffiti nuisance property. Permitting a graffiti nuisance property is subject to a fine up to $100.00. Each day the graffiti remains after expiration of the abatement notice constitutes a separate offense.

**6-1-5-7: ABATEMENT BY CITY:** If the responsible party fails to abate the nuisance as ordered, the City may cause the nuisance to be abated and seek financial restitution for the actual cost of abatement from the responsible party.

**6-1-5-8: NON-EXCLUSIVE REMEDIES:** The provisions of this Chapter are not the exclusive means by which the City may remedy graffiti nuisance properties. In addition to the remedies allowed under this Chapter and other remedies allowed by Oregon law, graffiti nuisance properties are hereby declared a public nuisance under the provisions of 6-1-8-2 and may be remedied as public nuisances as provided in Section 6-1-8.

**6-1-6: OFFENSES RELATING TO CHILDREN:**

**6-1-6-1: ABANDONED REFRIGERATORS:** It shall be unlawful for any person, firm or corporation to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said ice box, refrigerator or container. (Ord 14, Series 1986).

**6-1-6-2: CUSTODIAL INTERFERENCE OF MINORS IN THE SECOND DEGREE:** The City of Florence finds it necessary to prosecute adults who have enticed minors away from their parental custody for purposes of exploitation. This offense would carry a misdemeanor charge in the second degree as follows:

A. A person commits the crime of custodial interference in the second degree if, knowing or having reason to know that the person has no legal right to do so, the person takes, entices or keeps another person from the other person's lawful custodian or in violation of a valid joint custody order with intent to hold the other person permanently of for a protracted period.

B. Violation of this ordinance is a Class A misdemeanor, punishable by fine not to exceed $2,500 and/or a jail sentence not to exceed one year.

**6-1-7: STREET AND SIDEWALK OFFENSES:**

**6-1-7-1: OBSTRUCTION OF STREETS:** No person shall obstruct any street, alley, sidewalk or public grounds with any animal, vehicle engine, car, boxes, lumber, wood or other material or thing, or place thereon any earth, dirt, filth, rubbish or substance of any kind, except in such manner and at such time as may be permitted by other ordinances of the City.

**6-1-7-2: OBSTRUCTION OF SIDEWALKS:** No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used, and when being used, there are adequate safeguards for pedestrians using the sidewalk.

**6-1-7-3: VENDING GOODS ON STREETS OR SIDEWALKS:** No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise, unless a license has first been obtained.

**6-1-7-4: OBSTRUCTION OF FIRE HYDRANTS:** It shall be unlawful for the owner of property adjacent to a street upon which is located a fire hydrant to place or maintain within eight feet (8') of such fire hydrant, any bush, shrub or tree or other obstruction.

**6-1-7-5: PROJECTIONS:** No portion of any building or structure shall be allowed to project over or into any street, sidewalk or thoroughfare; provided, that this Section shall not apply to the bases or ante of columns projecting not to exceed six inches (6") beyond the property line or to cornices or projections placed at least ten feet (10') above the top to the sidewalk, where such projections or cornices do not extend more than three feet (3') over the sidewalk of the property.

**6-1-7-6: PREMISES BELOW GRADE:** Any person owning or having control of any premises fronting a public street and below the grade thereof shall, within five (5) days after notice from the City Manager requiring him to do so, erect a suitable barricade upon the inner line of the sidewalk in front of such premises at his own expense.

**6-1-7-7: HAZARDOUS CONDITIONS:** It shall be the duty of any person who shall suffer, permit or cause any street or portion thereof to be or become unduly hazardous or dangerous to persons or property, to erect and maintain, during the existence of such dangerous and hazardous conditions, a good and sufficient barrier, adequately protected with yellow lights at night for the protection of life and property.

**6-1-7-8: CAVE-INS:** In any case where a bank has caved or fallen down upon any sidewalk, and the abutting property was above the bank in question, the owner or occupant of the abutting ground or premises shall forthwith remove the dirt. If the property was below the bank, the property owner shall immediately notify the City of the cave-in and place an appropriate warning sign or device to warn passers-by until the City police or City Maintenance Department arrives.

**6-1-7-9: HAULING SUBSTANCES:** No person shall haul sand, gravel, rock, wood or other substance in any vehicle or conveyance that is so constructed as to allow the sand, gravel, rock, wood or other substance to fall and litter the public streets of the City.

**6-1-7-10: DANGEROUS EXCAVATIONS:**

A. No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

B. In addition to the barriers required by subsection A above, excavations shall be marked by yellow warning lights during the hours of darkness.

C. An obstruction on a street, sidewalk, public way or pathway commonly used by the public shall be marked by yellow warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining or in charge of such obstruction to insure the installation and operation of the warning lights.

**6-1-7-11: SNOW AND ICE REMOVAL:**

A. No owner or person in charge of abutting property shall allow snow or ice to remain on the sidewalk abutting his property for a period longer than the first two (2) hours of daylight after the snow has fallen.

B. No owner or person in charge of abutting property shall allow ice to remain on the sidewalk for more than two (2) hours of daylight after the ice has formed unless covered with ash, sand or other suitable materials.

C. No person shall place or deposit snow, except snow removed from public sidewalks or on any parking strip or street.

**6-1-7-12: TREES:**

A. No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubs, flowers or other growth, whether grown for food, fuel shade or ornamentation, to project over a sidewalk at an elevation of less than eight feet (8') above the level of the sidewalk or over a street at an elevation of less than thirteen feet seven inches (13'7") above the level of the street.

B. No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

**6-1-7-13: NOXIOUS VEGETATION:**

A. No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes or weeds or other noxious vegetation as often as needed to prevent the grass, shrubbery, brush, bushes, weeds or other noxious vegetation from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other vegetation, from maturing or from going to seed.

B. The existence of grass, bushes, weeds or other noxious vegetation to a height over twelve inches (12") from the ground shall be prima facie evidence of a fire hazard.

**6-1-7-14: FENCES:**

A. Electric or razor wire fences are not permitted on any property within city boundaries. No owner or person in charge of residential property shall construct or maintain an electric or barbed wire fence, or permit any such fence on property under his or her control. Barbed wire fencing may be permitted on commercial, industrial, or public property at the discretion of the Planning Commission/Design Review Board only if the following criteria are met: (Ord. 591, 9-26-77) (Amend. Ord. 12, 2002)

1. Additional security is warranted for health and safety reasons that cannot be addressed by standard fencing or other security measures.

2. The fencing is constructed in a way to cause the least hazard to employees and citizens in its non-deterrent mode.

3. The potential risk of injury from the fencing is less than the risk contained within the business site.

4. There is no other feasible alternative.

**6-1-7-15: OPERATION OF A VEHICLE IN PROHIBITED OR RESTRICTED AREA:**

A. No person shall operate a motor vehicle on a street, alley or other area which has been posted as a prohibited area, as follows: "No Motor Vehicles Allowed".

B. All emergency vehicles are exempt from subsection A above. (Ord. 591-A, 5-14-79)

**6-1-7-16: HELICOPTER TAKEOFFS AND LANDINGS WITHIN THE CITY LIMITS:**

A. Except at the Florence Municipal Airport, as authorized under Chapter 8-6 of this Code, or except in an emergency, no person shall cause a helicopter to take off or land within the City limits, without written permission of the City Council. Permission shall not be granted for commercial activities. Permissions shall not be granted for non-commercial activities unless all applicable safety requirements are met and such landings are not deemed a nuisance to the neighborhood. (Ord. No. 7, Series 1999)

**6-1-8: NUISANCES:**

**6-1-8-1: DEFINITION:**

A. A public nuisance shall be deemed to mean and include the unlawful doing of any act, or omitting to perform a duty which causes annoyance or injury to, or endangers the comfort, health, repose and safety of citizens of the City generally, or which unlawfully interferes with or tends to obstruct, or in any way renders unsafe and insecure, other persons in the enjoyment of life or in the use of property.

B. As used in Section 6-1-8 of this Code, "Chief of Police" means the Chief of Police or designee.

C. As used in Section 6-1-8 of this Code, "trash, rubbish, debris or refuse" includes but is not limited to: decomposed animal or vegetable matter; garbage; manure; offal; ashes; discarded containers; waste; paper; hay; grass; straw; weeds; litter; or rags.

D. As used in Section 6-1-8 of this Code, "person responsible" includes any or all of the following:

1. The owner of the property on which the public nuisance exists or the owner of property which abuts a public way where a public nuisance exists.
2. The person in charge of the property on which a public nuisance exists or of property which abuts a public way where a public nuisance exists.
3. The person who causes the public nuisance to come into or continue in existence.

E. As used in Section 6-1-8 of this Code, "public way" includes public streets, sidewalks, alleys, bicycle lanes, bicycle paths, and other public rights-of-way.

F. As used in Section 6-1-8 of this Code, "owner" and "person" include individuals, Indian tribes, tribal corporations, governmental entities, corporations, partnerships, other business entities and any other person or entity capable of owning, leasing or renting property.

**6-1-8-2: PUBLIC NUISANCES:** No person responsible shall cause or permit, any public nuisance. The following are public nuisances and may be abated as provided in this Chapter.

A. Stagnant Water: An accumulation of stagnant or impure water, which affords or might afford a breeding place for mosquitoes or other insects.

B. Water Pollution: The deposition of an animal carcass or part thereof, or any excrement or sewage or industrial waste, or putrid, nauseous, decaying, deleterious, offensive or dangerous substance in a stream, well, spring, brook, ditch, pond, river or other inland waters within the City, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

C. Privies: An open vault or privy, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

D. Surface Drainage: Drainage of liquid wastes from private premises.

E. Cesspools: Cesspools or septic tanks which are in an unsanitary condition which cause an offensive odor or which were installed without the consent of the City after January 1, 2009. (Ord 25, 2008)

F. Food: Decayed or unwholesome food, which is offered for human consumption.

G. Odors: Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

H. Slaughterhouses: A pigsty, slaughterhouse or tannery.

I. A barn, stable, corral, pen, chicken coop, rabbit hutch or other place where animals are caged or housed, which is in an unsanitary condition, or creates noise or an offensive odor.

J. Water: The sufferance or allowance by the owner or person in charge of property that water from a ditch, canal, flume, reservoir, pipe line or conduit above or below ground, should lead, seep, flow, overflow, run back or through, or escape, or run upon, over or under any premises, public way or other public property, which would endanger the public health, safety, welfare or convenience.

K. Obstruction of Drains: The obstruction or interference with the flow of water in any ditch, drain or catch basin constructed in a public way in connection with the improvement of the public way.

L. Debris: Any trash, rubbish, debris or refuse deposited upon private property, public ways, or other public property, including property owned or occupied by the person depositing the trash, rubbish, debris or refuse, when the trash, rubbish, debris or refuse by itself or in conjunction with other substances is deleterious to public health or comfort, or is unsightly, or creates an offensive odor. No person shall deposit into public trash receptacles in City parks, any trash, rubbish, debris, or refuse which was generated from a residence or business.

M. Animal Attractants: Food or other attractants scattered or deposited on private property, public ways, or other public property, including property owned or occupied by the person, with the intent of attracting and/or feeding wild animals, including but not limited to bears, raccoons, feral cats, wild rabbits, rodents, coyotes and deer. This section shall not apply to birdseed held in receptacles which are reasonably designed to avoid access by wild animals such as bears, raccoons, deer, rabbits and rodents. This section shall not apply to the feeding of caged animals such as domestic rabbits, guinea pigs, or various rodents that are commonly kept as pets, so long as the cage is reasonably designed to avoid access by wild animals such as bears, raccoons, deer, rabbits and rodents. This section shall not apply to food provided during daytime hours in live traps being used to capture feral cats for spaying and/or neutering.

N. The accumulation of one or more junked vehicles as defined in FCC 6-7-1, on private property, public ways, or other public property, shall also be considered debris as defined in 6-1-8-2-L of this section.

O. Allowing noxious vegetation as defined in 6-1-7-13 to grow on private property, public ways, or other public property.

**6-1-8-3: UNENUMERATED NUISANCES:**

A. In addition to the acts and conditions specifically enumerated in this Chapter, the City Council may declare any other condition, thing, substance or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety or welfare or any activity prohibited by state law, common law, this Code or other City ordinances to be a public nuisance, and such public nuisance is subject to the abatement procedures set forth in this Chapter.

B. Notwithstanding paragraph A of this subsection, a condition, thing, substance or activity declared to be a public nuisance by another ordinance of the City is subject to the abatement procedures of this Chapter only if no abatement procedures are provided by such ordinance.

**6-1-8-4: PENALTY FOR NUISANCE VIOLATIONS:** In addition to the imposition of penalties, violations of subsections 6-1-7-3, 6-1-8-1 to 6-1-8-5 and 6-1-9-1 of this Chapter, and subsections 6-6-3-1 and 6-6-3-4 of this Code, and other public nuisances, are subject to abatement as provided in subsection 6-1-8-5.

**6-1-8-5: NUISANCE ABATEMENT:**

A. It shall be the duty of the Chief of Police, upon receipt of information that a public nuisance exists, to make an investigation based on such information, or to conduct an investigation on his own initiative, and in case he finds that a public nuisance does exist, except as provided in paragraph E of this subsection, he shall at once serve a written notice on the person responsible or, if personal service cannot be made, post a copy of the notice upon the affected premises. Except as provided in paragraph D of this subsection, the notice shall direct the person responsible to abate the public nuisance within seven (7) calendar days; provided, that the Chief of Police may grant such additional time as he may deem necessary for the abatement of the public nuisance. If, at the expiration of the time provided in the notice, the person responsible has not appealed the notice and fails, refuses or neglects to abate the public nuisance, the City has the right to abate and remove the public nuisance and may incur such expense as is reasonably necessary in order to accomplish the abatement or

removal. The Chief of Police shall keep an accurate account of the expense incurred in such action and shall present an itemized statement thereof to the City Council. Such expense shall in the first instance be paid by the City, and the City Council may immediately proceed by ordinance to assess such cost against each lot, part of lot, block or premises on which, or in front of which the public nuisance was maintained. The actual cost of such abatement shall become a lien on the effective date of the council ordinance assessing the cost to the particular property, and shall be entered in the docket of City liens and collected in the same manner as is provided by ordinance for the collection of assessments for local improvements. The Council may also institute an action in a court of competent jurisdiction for the recovery of the cost of abatement from the person responsible, or it may pursue both remedies to recover the cost of abatement.

B. Any person aggrieved by the notice served by the Chief of Police pursuant to paragraph A of this subsection may appeal to the City Council by filing notice of appeal in the City Recorders office within seven (7) calendar days from the receipt of the notice. Within twenty one (21) calendar days from the date of the appeal, the council shall hold a hearing and render a decision on the appeal.

C. At the expiration of the time allowed by the notice from the Chief of Police, or at the expiration of the time allowed after appeal to the City Council, if the person responsible has not abated the public nuisance, the person responsible shall be held to be committing a separate violation for each day that the public nuisance continues unabated.

D. If the Chief of Police determines that a public nuisance constitutes an imminent danger to public health, safety or welfare, he shall at once serve a written notice upon the person responsible, or, if personal service cannot be made, post a copy of the notice upon the affected premises. The notice shall direct the person responsible to abate the public nuisance within a period of twenty-four (24) hours; provided, that the Chief of Police may grant such additional time as he may deem necessary for the abatement of the public nuisance. Any person aggrieved by the notice served or posted by the Chief of Police pursuant to this paragraph may appeal to the City Council within twenty-four (24) hours from the receipt of the notice by filing notice of appeal in the City Recorders office, and within forty-eight (48) hours from the date of the appeal, the Council shall hold a hearing and render a decision on the appeal.

E. If the Chief of Police determines that a public nuisance constitutes an immediate and substantial danger to public health, safety or welfare, he may summarily abate the public nuisance with such notice as may be reasonably provided under the circumstances. The person responsible is entitled to appeal the summary abatement of a public nuisance pursuant to paragraph B of this subsection.

F. If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for abating the public nuisance or for the costs incurred by the City in abating the public nuisance.

G. The remedy provided in this subsection is not exclusive of any other remedies available to the City under statute, common law, this Code or other City ordinances.

**6-1-9: OBSTRUCTING GOVERNMENT ADMINISTRATION:**

**6-1-9-1: POLICE AND FIRE:**

A. Interfering With Duties of a Police Officer: No person shall, when requested to do so, refuse to assist any officer in the discharge of his duties, or by any means whatsoever, hinder, delay or obstruct any such officer acting in the performance of his duties.

B. Police and Fire Communications: No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any Police or Fire Department radio communication system.

**6-1-10: APPLICATION, VIOLATIONS:**

**6-1-10-1: EXTRATERRITORIAL EFFECT:** All ordinances of the City enacted to protect property and preserve peace and order, including penalties of fine or imprisonment, now or hereafter enacted and applicable within the City limits, shall apply with equal force and effect to all lands owned or controlled by the City, located outside the boundaries of the City, and the right to make arrests and serve processes shall likewise apply.

**6-1-10-2: VIOLATIONS CONTINUOUS:** Whenever, in this Chapter or any ordinance of the City, an act is prohibited or is made or declared to be unlawful or an offense or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, a separate offense shall be deemed committed for each day a violation shall continue.

**6-1-10-3: PENALTIES:**

A. Civil Proceeding: Violation of Sections 6-1-2-9, 6-1-3-3, 6-1-3-5, 6-1-6-5, 6-1-6-7, 6-1-7-3, 6-1-8-1, and 6-1-8-2, shall be civil in nature, and a violation thereof is punishable by a fine not exceed $500.00. (Amended by Ord 6 Series 1991, 4-1-91).

B. Fine and Imprisonment: Violation of any other provision of this Chapter not set forth in Section 4 of this Code or enumerated in 6-1-11-6-A is punishable by a fine not to exceed two thousand five hundred dollars ($2,500.00) or imprisonment not to exceed three hundred sixty-five (365) days, or both such fine and imprisonment; provided however, if there is a violation of any provision identical to a State Statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the State law. (amended by Ord 6, Series 1991, 4-1-91).

C. Working of Prisoners: In all cases of conviction for any of the offenses mentioned in this Chapter, other than those enumerated in 6-1-11-6-A, the court additionally may order such convicted person to labor upon the streets or public works of the City under the direction of the proper authorities. (Ord. 6, Series 1991, 4-1-91).

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Amended by Ordinance 6, Series 1991 B effective April 1, 1991
Amended by Ordinance 11, Series 1998 B effective December 8, 1998.
Amended by Ordinance 7, Series 1999 B effective May 19, 1999
Amended by Ordinance 1, Series 2001 - effective May 3, 2001
Amended by Ordinance 12, Series 2002 – effective May 16, 2002
Amended by Ordinance 21, Series 2003 – effective Dec. 4, 2003
Section 6-1-7-Amended by Ordinance 25, Series 2008 – effective Jan. 14, 2009
Section 6-1-2-5-C Amended by Ordinance 12, Series 2009 – effective Aug. 19, 2009
Section 6-1-3-2 Amended by Ordinance 5, Series 2010 – effective June 7, 2010
Section 6-1-7-1-E added and subsequent section renumbered, Section 6-1-7-2, and 6-1-7-5-A amended by Ordinance No. 13, Series 2011 – effective July 9, 2011
Sections 6-1-4-5 & 6-1-4-6 added by Ordinance No. 15, Series 2011 – effective August 19, 2011
Sections 6-1-5 added and all subsequent sections renumbered by Ordinance No. 4, Series 2012 – effective December 8, 2012
Section 6-1-2-4 amended by Ordinance 12, Series 2018 – effective October 17, 2018

TITLE 6
CHAPTER 2

# CITY JAIL, PRISONER REGULATIONS

SECTION:


6-2-1: Jail Restrictions
6-2-1-1: Passing Articles Prohibited
6-2-1-2: Loitering, Conversing with Prisoners
6-2-1-3: Remaining about the Jail
6-2-2: Jail Regulations
6-2-2-1: Jail Inmate Fees
6-2-3: Penalties


**6-2-1: JAIL RESTRICTIONS:**

**6-2-1-1: PASSING ARTICLES PROHIBITED:** It shall be unlawful for any person to pass any smoking or chewing tobacco or smoking or chewing material, any controlled substance as defined by ORS 475.005, any liquor, food, drink, clothing or other substance or any weapon or similar instrument or substance by the use of which injury could be inflicted upon the person or property of another person or that might aid in effecting an escape from confinement, to any person confined in the City jail or otherwise in the custody of the City police, without first having and obtaining the consent of the Chief of Police or the officer in charge. [1]

**6-2-1-2: CONVERSING WITH PRISONERS:** It shall be unlawful to hold any conversation with a person confined in the City jail or otherwise in the custody of the City police or to pass any written document, note or memoranda, or in any other manner correspond or communicate with any person in the City jail or otherwise in the custody of City police without first securing the consent of the Chief of Police or officer in charge; except that when a person in the custody of the City police is before the City court that person shall be able to exercise all rights of communication with the witnesses and an attorney.

**6-2-1-3: REMAINING ABOUT THE JAIL:** It shall be unlawful for any person to remain in or about the premises of the City jail after being ordered to leave by any law enforcement officer in the performance of the officer's duties.

**6-2-2: JAIL REGULATIONS:** The Chief of Police shall make such rules as are necessary or will assist in the operation of the City jail, including but not limited to:

A. Health and Sanitary conditions at the City jail;
B. Correspondence with persons confined in jail;
C. Visitation;
D. Responses to emergencies; or
E. Other matters relating to the safe operation of the facility.

**6-2-2-1: JAIL INMATE FEES**

A. Any person who is ordered by the Florence Municipal Court to be committed for any length of term of incarceration in the Florence City Jail shall be assessed a jail inmate fee at the time of sentencing as part of the judgment of the court, unless good cause for waiver of such fee is established to the Court.

B. If there are multiple bookings into the Florence City Jail required as part of the sentence, only one jail inmate fee shall be assessed.

[1] See also Section 6-1-9-2-G of this Code

C. For persons who are booked once for multiple offenses that meet the criteria in 6-2-2-1 of this Chapter, those persons shall be assessed only one jail inmate fee as part of the sentence.

D. Any new offenses that meet the criteria in 6-2-2-1 of this Chapter shall be subject to the jail inmate fee assessment.

E. The jail inmate fee amount shall be determined by resolution of the City Council. (Ord. 11, Series 2009)

**6-2-2-2: JAIL WORK RELEASE APPLICATION AND PARTICIPATION PROGRAM FEES:**

A. The chief of Police may provide the opportunity for sentenced inmates who qualify to spend time at their regular

B. Any sentenced person may apply for the Work Release Program upon payment of an application fee at the time of submission of the completed application. The fee is non-refundable.

C. The application fee is required for every sentence of time to be served in jail by the court.

D. Any sentenced person who is approved for the Work Release Program must pay the fee assessed for participation in advance of any work week. The fee is non-refundable.

E. The Work Release Program application fee and the Work Release Program Participation fee shall be determined by resolution of the City Council. (Ord. 10, Series 2010)

**6-2-3: PENALTIES:** Any person violating any of the provisions of this chapter, or any of the rules adopted in accordance with this Chapter shall, upon conviction thereof, be punished by a fine not to exceed three hundred dollars ($300.00) or by imprisonment in jail for a period not to exceed ninety (90) days, or both.

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Ord No. 1 Series 1990 repealed 6-2 and added new 6-2.
Section 6-2-2-1 amended by Ord. No. 11 Series 2009 (6-29-09)
Section 6-2-2-2 added per Ord. No. 10, Series 2010 effective 7-7-10

TITLE 6
CHAPTER 4

# ABANDONED PROPERTY, DISPOSITION

SECTION:

6-4-1: Definitions
6-4-2: Application of Provisions
6-4-3: Owner Determined
6-4-4: Storage
6-4-5: Notice of Sale
6-4-6: Sale Procedure
6-4-7: Certificate of Sale
6-4-8: Sale and Conveyance
6-4-9: Other Disposition of Property
6-4-10: Disposal of Firearms

**6-4-1: DEFINITIONS:** As used in this Chapter, unless the context requires otherwise:

| | |
|---|---|
| ABANDONED | Left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the City for a period of forty eight (48) hours or longer. |
| CHIEF OF POLICE | Includes any authorized law enforcement officer of the City. |
| CITY | The City of Florence, Oregon. |
| COSTS | The expense of removing, storing or selling in impounded vehicle. |
| MOTOR VEHICLE | Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. |
| OWNER | Any individual, firm, corporation or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle. |

**6-4-2: APPLICATION OF PROVISIONS:** This Chapter shall apply to all abandoned vehicles and other property now in the possession of the City as well as to all such vehicles and property as may hereafter be impounded.

**6-4-3: OWNER DETERMINED:** The Police Department, on finding personal property, or coming into possession of the same, shall make diligent inquiry of all persons as to the name and address of the owner, conditional vendor or mortgagee or any person interested therein and shall examine the motor vehicle or other personal property for a license number, motor number, serial number, make and style, and any other information on the motor vehicle, animal or personal property which will aid in the identification of the owner, conditional vendor, mortgagee or other interested person.

**6-4-4: STORAGE** It shall be the duty of the Police Department, whenever a motor vehicle, animal, other than a dog, or other personal property shall be found abandoned on the streets or found without an owner claiming the same, or shall, by reason of arrest, confiscation or in any other manner, come into the hands of the Police Department without a claimant, to either place the same on the City Hall grounds for further disposition or store the same with some reputable motor vehicle storage yard, garage, pound or other storage place pending investigation of ownership.

**6-4-5: NOTICE OF SALE:**

A. If the owner or conditional vendor of property referred to in this Chapter or mortgagee or other person interested therein is found and identified, he shall be immediately notified by registered letter that the personal property is held by the Police Department and will be sold at public auction at the City Hall grounds, the place of storage, or any other designated location within the City on a certain day at ten

o'clock (10:00)A.M. to the highest bidder for cash, which sale shall not be held until 10 days have elapsed from the receipt by the owner of the registered notice.

B. If, after thirty (30) days from the day the personal property shall come into the possession of the Police Department, the owner, conditional vendor, mortgagee or other interested person cannot be found after due diligence as herein set out, then the Chief of Police shall cause to be published in a newspaper printed and published in the County, a notice embodying the information set out in subsection C herein, which shall be published twice, the first publication of which shall be made more than ten (10) days before the proposed sale.

C. If the owner, conditional vendor, mortgagee or other person interested shall apply to the Chief of Police for the return of the property before a sale has taken place, and shall submit to the Chief of Police satisfactory evidence of his
interest and shall pay the costs in the seizing and holding of the motor vehicle or personal property, the Chief of Police, being satisfied with the claim, shall surrender the same to the claimant.

**6-4-6: SALE PROCEDURE:**

A. Except for the disposition of all firearms seized or confiscated by the Police Department, if no claim has been made before the time set for the sale of the personal property, the Chief of Police may, at the time appointed, within view of the property to be sold, offer the property for sale to the highest bidder for cash. In default of bids from others, the Chief of Police may dispose of the property in his discretion without the necessity of taking further bids. The Chief of Police may, at his discretion, use and Internet based “on line” auction site approved by the Chief of Police to dispose of unclaimed property. The property will be received and displayed by the auction site for public view. Receipts for the property released to the auction site will be maintained and adjusted as property is sold, or returned to the city. (amended by Ord. No. 8, Series 2007)

B. On the consummation of a sale, the Chief of Police shall make, execute and deliver on behalf of the City a bill of sale signed by himself as Chief of Police, conveying the property in question to the purchaser, and delivering possession of the property to the purchaser.

C. The sale and conveyance shall be without redemption. The proceeds of the sale shall be first applied upon storage, towing bills, publication fees and other costs of the keeping and sale, and the balance shall go to the General Fund of the City. No claims for storage and towing shall exceed the proceeds from the sale of personal property.

D. The owner or operator of a place in which personal property has been stored by the Police Department shall not release a vehicle, animal or property without first having obtained a written release from the Police Department.

**6-4-7: CERTIFICATE OF SALE:**

A. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy thereof filed with the City Recorder.

B. The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 532 entitled "An Ordinance for the Impounding and Disposition of Abandoned Vehicles, Establishing Definitions of Ordinance, Terms Empowering the Police Department to Investigate Abandoned Vehicles and Give Notice of Intended Removal, Establishing Procedures for Determination of Ownership, Notification of Owner of Impending Disposal and Method of Redemption by Owner, Establishing the Procedure for Subsequent Sale of the Vehicle, the Method of Passing Title thereto and the Application of Proceeds from the Sale" and pursuant to due notice of the time and place of sale, I did on the ___ day of _____,19____, sell at public auction to_____ for the sum of $_____cash, he being the highest and best bidder, and that being the highest and best sum bid therefore, the following described personal property, to wit: (brief description of the property)

And in consideration of the payment of the said sum of $____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 19_____.

Note: The City of Florence assumes no responsibility as to the condition of title of the above-described property. In case this sale shall for any reason be invalid, the liability of the City is limited to the return of the purchase price.

**6-4-8: SALE AND CONVEYANCE:** Upon such sale being consummated, the Chief of Police shall deliver the vehicle or other property and the certificate of sale to the purchaser. Such sale and conveyance shall be without redemption.

**6-4-9: OTHER DISPOSITION OF PROPERTY:** In the case of perishable goods and animals, other than dogs, if the owner cannot be ascertained and public sale is impracticable because of potential spoilage, insufficient and nonexistent sale value, or similar reasons, the Chief of Police may turn over the goods or animal to a governmental or charitable institution for humane and appropriate distribution. (Ord. 532,2-12-73)

**6-4-10: DISPOSAL OF FIREARMS:**

A. For purposes of this section, firearm shall mean a weapon, by whatever name known, which is designed to expel a projectile by the action of black powder or smokeless powder and which is readily capable of use as a weapon.

B. If the Chief of Police has made such effort as required by this Chapter to locate the owner of any firearm which has come into the possession of the Police Department by force of law, or has determined that the owner of such a firearm is not entitled to claim possession of the firearm, the Chief of Police shall make inquiry with the Lane County District Attorney and any court of record wherein the firearm may have been or might be used as evidence to determine if preservation of the firearm is necessary or proper to the ends of justice. Upon receiving notice that preservation of the firearm is no longer necessary, the Chief of Police may proceed to dispose of the firearm by the method established in this Section.

C. If the Chief of Police determines that the firearm cannot be legally sold or possessed in the State of Oregon, or if the firearm has remained unsold for more than one year from the time the first notice of its sale was made, the Chief of Police shall order the firearm destroyed.

D. At least once in any year in which the Police Department has in its possession firearms stored for sale, the Chief of Police shall provide notice of an offering of any firearm which the Chief of Police shall have determined will be available for sale. At any time after the date specified in the notice, the Chief of Police may sell the firearm or firearms described in the notice to any person who has provided the Chief of Police with evidence of possession of a valid license to deal in firearms by making retail sales.

E. The Chief of Police may sell a firearm on any of the following terms:

1. For a fixed amount which the Chief of Police has determined represents the approximate wholesale value of the firearm; or

2. On a sale or return basis for an amount to be determined as a percentage of a subsequent sale of the firearm. In the event that a purchaser is unable to resell the firearm within a term specified in the agreement and not to exceed a year from the time of the original notice of the availability of the firearm for sale, the purchaser shall be required to return the firearm to the Chief of Police or to pay the amount described in subsection 1 of this section.

F. No person shall be issued a certificate of sale or allowed to take possession of a firearm sold by the City of Florence without signing a waiver of warranty and hold harmless agreement provided by the City. (Ord No. 11, Series 1989).

Ord No. 11, Series 1989
Ord. No. 8, Series 2007 – Section 6-4-6 effective March 2, 2007

TITLE 6
CHAPTER 5

# JUNKED, ABANDONED VEHICLES

SECTION:

6-5-1: Junked Vehicles Prohibited
6-5-2: Accumulation a Nuisance
6-5-3: Servicing on Streets
6-5-4: Notice of Violation
6-5-5: Impoundment, Fees
6-5-6: Release of Impounded Vehicles
6-5-7: Penalty

6-5-1: **JUNKED VEHICLES PROHIBITED**:[1] It shall be unlawful to park, store or leave, or permit the parking or storing of any licensed or unlicensed motor vehicle of any kind for a period of time in excess of seventy two (72) hours, which is in a rusted, wrecked, junked or partially dismantled or inoperative or abandoned condition, whether attended or no, upon any public or private property within the City, unless the same is completely enclosed within a building or unless it is in connection with a business enterprise, lawfully licensed by the City and properly operated in the appropriate business zone, pursuant to the zoning laws of the City.[2] For the purposes of this section, vehicles shall include: any motor vehicle, boat, aircraft, recreational vehicle, or trailer. Proceedings for a violation of this Chapter, except Section 6-5-3, shall be civil in nature. (Ord. 27, 2008)

**6-5-2: ACCUMULATION A NUISANCE:** The accumulation and storage of one or more of such vehicles as described in Section 6-5-1 herein on public or private property shall constitute rubbish and unsightly debris and a nuisance, detrimental to the health, safety and welfare of the inhabitants of the City. It shall be the duty of the owner of the private property, or the lessee or other person in possession of the private property upon which such vehicle is located to remove the same from the City or to have the same housed in a building where it will not be viewed from the street.

**6-5-3: SERVICING ON STREETS:** It shall be unlawful to disassemble, construct, reconstruct, repair and/or service motor vehicles of any kind in or upon any street, road, alley or public thoroughfare in the City or in the yard of any resident, except for emergency service; provided, that said emergency service shall not extend over a period of seventy two (72) hours except when required to be made n a street, road, alley or public thoroughfare, in which case said emergency service shall not extend over a period of two (2) hours, and does not interfere with or impede the flow of traffic. The violation of this Section shall also constitute a public nuisance, and a misdemeanor, which shall be punishable upon conviction by a fine not exceeding two hundred dollars ($200.00), or by imprisonment in the City jail for a term not exceeding thirty (30) days, or by both such fine and imprisonment.

**6-5-4: NOTICE OF VIOLATION:** It shall be the duty of the Chief of Police to give written notice to the registered owner of any motor vehicle which is in violation of this Chapter, as described in Section 6-5-1 of this Chapter, or to give notice to the owner or lessee of the private land upon which such motor vehicle is situated, giving notice that said vehicle be removed from the City within seventy two (72) hours, or that within seventy two (72) hours the same be housed within a building where it will not be visible from the street. Said notice may be given by personal service or by registered mail, with return receipt requested.

**6-5-5: IMPOUNDMENT, FEES:** As an alternate procedure, the Chief of Police may, after giving the notice required by 6-5-4 hereof, and after waiting seventy two (72) hours, cause the vehicle to be removed by a City truck or by a commercial tow truck to a commercial garage or an automobile wrecking yard, or any other suitable place for storage of the vehicle as may be designated by the Chief of Police, and within forty eight (48) hours after the removal and storage of such vehicle by the Chief of Police, he shall give notice in the manner

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[1] Title 10 of this Code
See Chapter 4 of this Title

prescribed in Section 6-5-4 hereof to the registered owner of such vehicle, and also to the owner, lessee or person in possession of the land from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this Chapter, and said notice shall include the location of the place where the vehicle is stored, the costs incurred by the City for the removal or towing, and the storage charges accruing, which shall not exceed five dollars ($5.00) per day, and that if said charges are not paid in full to the City Recorder within ten (10) days immediately following the giving of such notice, that said vehicle shall be deemed to have been abandoned, and will thereafter be discarded as junk or may, in the discretion of the Chief of Police, be sold as an abandoned vehicle in the manner prescribed by Chapter 4 of this Title, which relates to the impounding and disposing of abandoned vehicles.

**6-5-6: RELEASE OF IMPOUNDED VEHICLES:** If any vehicle is impounded and stored by the Chief of Police, under the provisions of this Chapter or any other ordinance of the City or pursuant to any other lawful authority of the Police Department, said vehicle shall not be released by the appointed keeper thereof until all charges connected with the removal, towing and storage of such vehicle have been fully paid, as evidenced by the City Recorder's paid receipt.

**6-5-7: PENALTY:** If the notice is given, as provided in Section 6-5-3 hereof, and the person upon whom said notice and demand is made shall fail to remove said vehicle or shall fail to cause the same to be housed in a building where it will not be visible from the street, then said person shall be in violation of this Chapter, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars ($500.00).

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Amended by Ord. 27, 2008 effective January 14, 2009

TITLE 6
CHAPTER 6

# ANIMAL CONTROL

SECTION:


6-6-000: Definitions
6-6-005: Exemption for Law Enforcement Animals
6-6-010: Owner/Keeper Responsibility for Animal
6-6-015: Animal Waste
6-6-025: Animal at Large
6-6-030: Off Leash Areas
6-6-035: Dangerous Animals
6-6-040: Animal Nuisances
6-6-045: Impound
6-6-050: Unclaimed Animals
6-6-055: Warrant for Seizure of Animals
6-6-060: Rabid & Diseased Animals
6-6-065: Cruelty & Mistreatment
6-6-070: Feeding of Wild Animals Prohibited
6-6-075: Trapping Animals
6-6-080: Exemption for Government Agents
6-6-085: Injury by Vehicle
6-6-090: Removal of Carcass
6-6-095: Destruction of Animals
6-6-096: Prohibited Animals
6-6-100: Penalties
6-6-105: Undertaking on Appeal


**6-6-000: DEFINITIONS:** As used in this chapter, the following definitions apply:

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|---|---|
| ANIMAL | Any nonhuman mammal, bird, reptile, amphibian or fish |
| ANIMAL DAYCARE OR OVERNIGHT BOARDING FACILITY | An animal shelter or a place of business where animals are boarded, but does not include a breeding kennel |
| DANGEROUS ANIMAL | Any animal that the Municipal Court Judge has determined to have:<br>Without provocation, placed a person in reasonable fear or imminent physical injury; or<br>Attacked a person or domestic animal without provocation; or<br>Been trained for or used in animal fighting |
| DOMESTIC DOG OR "DOG" | Animals of the species Canis familiaris |
| DOMESTIC CAT OR "CAT" | Animals of the species Felis catus |
| EXOTIC PET | An animal, other than livestock, kept and maintained as a pet, including but not limited to guinea pigs, gerbils, turtles, ferrets, small reptiles, and various small rodents or mammals specifically bred as household pets and customarily routinely kept in residential areas as a domestic pet, but excluding the domestic dogs and domestic cats. |
| KEEPER | In addition to its ordinary meaning, an individual, firm, partnership, association, or corporation which is in possession of, in temporary control of, or who is responsible for the care of an animal. The term "keeper" also means the parent or guardian of the Owner of an animal, if the Owner is under the age of 18 years and the Owner resides with the parent or guardian on the date of the alleged violation. |

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| LIVESTOCK | Includes but is not limited to, the following animals that are normally kept for agricultural purposes: pigs, horses, mules, asses, swine, emus, ostrich, turkeys, ducks, geese, male chickens (roosters), camels, llamas, alpacas, sheep, goats, deer, moose, elk, bison, fur bearing animals including fox and mink and animals of the bovine species, but does not include domestic cats, domestic dogs, or exotic pets. |
| OFF LEASH AREA | An area designated by the Florence City Council pursuant to this chapter of the Florence City Code as an area where dogs are not required to be leashed. |
| OWNER | An individual, firm, partnership, association, or corporation that owns an animal. |
| PHYSICAL INJURY | Impairment of physical condition or substantial pain |
| PROHIBITED ANIMALS | Livestock, rodents which do not meet the definition of exotic pets, poisonous snakes, large carnivorous snakes, bears, deer, felines other than domestic cats, crocodiles, alligators, or other similar predators not customarily and routinely kept in residential areas as domestic pets. |
| RUN AT LARGE | An animal is off or outside the private premises from which the Owner or Keeper is allowed to exclude others and is not under the complete, tethered control of the Owner or Keeper by adequate leash or bridle. Any animals fully enclosed inside a vehicle shall not be considered to be “at large”. As used in this Chapter, “adequate leash or bridle” means a leash or bridle that is strong enough to physically restrain and control the animal and one that does not extend beyond 6 feet in length. |
| SMALL ANIMAL CLINIC | A business establishment in which veterinary services are rendered to small domestic pets on an outpatient basis with overnight boarding allowed. |

**6-6-005: EXEMPTION FOR LAW ENFORCEMENT ANIMALS:** An animal owned by a law enforcement agency is exempt from the provisions of this Chapter, so long as the animal is under the care and control of a law enforcement officer.

**6-6-010: OWNER/KEEPER RESPONSIBILITY FOR ANIMAL:** The Owner or Keeper of an animal which violates the provisions of this chapter is responsible for the animal’s acts and condition and the Owner or Keeper is subject to the penalties provided in Section 6-6-100 for the animal’s violations of any provision of this chapter.

**6-6-015: ANIMAL WASTE:** It shall be unlawful for an Owner or Keeper of an animal, other than a domestic cat, to allow it to deposit solid waste matter on any property other than the property of the Owner or Keeper of the animal without prior permission from the owner or occupant of the property, unless the Owner or Keeper of the animal promptly and completely removes the solid waste deposited by the animal.

**6-6-025: ANIMAL AT LARGE:**

A. No animal, except domestic cats, shall run at large. The Owner or Keeper of an animal is responsible for an animal at large.

B. Notwithstanding the subsection (A) of this section, domestic cats with infectious diseases are prohibited from running at large as provided in Section 6-6-060.

**6-6-030: OFF LEASH AREAS:**

A. The Florence City Council may, in its discretion, designate certain areas of public parks or other areas under the ownership or control of the City, which are owned or leased by the City, as areas where dogs are not required to be leashed, subject to the other provisions of this section.

B. A designation of an area as an Off Leash Area by the Florence City Council shall be effective as soon as notice of the designation has been provided to the Florence Chief of Police. Owners and Keepers of dogs utilizing Off Leash Areas must comply with any City regulations applicable to all Off Leash Areas as established by Resolution of the City Council or as established by the City Manager.

C. The Owner or Keeper of a dog that is in an Off Leash Area must control the dog at all times. The Owner or Keeper of a dog shall not allow a dog to fight with other dogs, or to harass, bark at, bite, threaten, or injure any person or animal.

D. If a dog or an Owner or Keeper is found to be in violation of this section, the dog may be excluded from Off Leash Areas for up to twenty-four hours. If a citation is issued for animal nuisance under this chapter, the dog shall be excluded from all Off Leash Areas, pending a review of and determination on the citation by the Florence Municipal Court Judge. An Owner or Keeper who returns a dog to an off Leash Area during the time the dog is excluded from Off Leash Areas is subject to the penalties described in 6-6-100.

E. Dogs which have been designated as Dangerous Animals under this Chapter shall not be permitted in an Off Leash Area under any circumstances.

F. Any Owner or Keeper of a dog shall be subject to the penalties described in 6-6-100 for violation of the terms and conditions of an Off Leash Area.

**6-6-035: DANGEROUS ANIMALS:** Any animal may be designated as a Dangerous Animal by the order of the Florence Municipal Court Judge. If an animal is designated as a Dangerous Animal, the following restrictions apply to the animal:

A. The Owner or Keeper of the Dangerous Animal shall cause the animal to be confined to premises from which the Owner or Keeper may lawfully exclude others, either securely indoors or confined in a securely enclosed and locked pen or similar structure; such pen or structure must be securely constructed and must be adequate to ensure the confinement of the animal.

B. No Owner or Keeper of a Dangerous Animal shall permit the animal to leave the premises from which the Owner or Keeper may lawfully exclude others unless the animal is humanely muzzled and either securely leashed or otherwise securely restrained and led by a person physically capable of handling the animal.

C. The Florence Municipal Court Judge may require that the animal's Owner or Keeper post signs on the premises where the animal is kept indicating that the animal is a Dangerous Animal.

D. If the animal designated as a Dangerous Animal is a dog, the dog shall at all times be required to wear a special dog tag indicating that the dog is a Dangerous Animal. In addition, the dog must be micro-chipped for identification purposes. The Owner shall be responsible for payment for the special tag and microchip.

E. Dangerous Animals are prohibited in all public parks and on any other property owned by the City.

**6-6-040: ANIMAL NUISANCES:** An animal is a nuisance if it:

A. Bites, injures or attacks a person without provocation;

B. Places a person in fear of imminent physical injury, without provocation, said fear being reasonable under the circumstances.

C. Injures or kills an animal belonging to a person other than the Owner or Keeper of the nuisance animal;

D. Is trained for or used in animal fighting;

E. Disturbs any person by frequent or prolonged noises;

F. Chases vehicles, including bicycles, or obstructs traffic;

G. Chases people;

H. Damages property belonging to a person other than the Owner or Keeper of the animal;

I. Scatters garbage;

J. Is under the control of an Owner or Keeper who fails to comply with Section 6-6-030(C) and/or any off leash regulations at an Off Leash Area;

K. Is found running at large in the City more than three (3) times within any twelve month period or five (5) or more times over the entire time the animal has lived in the City.

L. Is under the control of an Owner or Keeper who fails to prevent it from traveling upon school grounds, public parks, or public watershed areas unless the areas are specifically signed or otherwise noticed to permit such.

**6-6-045: IMPOUND:**

A. An animal that has violated this Chapter or that lacks a required license may be seized and impounded by an officer of the Florence Police Department.

B. If an animal poses an immediate threat to human or animal life, and the officer has determined that other means of controlling the animal are or would likely be ineffective, the officer may kill the animal.

C. An impounded animal shall be placed in an animal shelter under contract with the City of Florence Police Department and shall be held by that animal shelter until:

1. The Florence Police Department has authorized the release of the animal to the Owner or Keeper of the animal;

2. The Florence Police Department has authorized the release of the animal to the animal shelter; or

3. The animal shelter has received a court order releasing the animal to the shelter, directing the shelter to release the animal to the animals Owner or Keeper, or directing the shelter to humanely destroy the animal.

D. An animal released to an animal shelter by the Florence Police Department or by court order as provided in paragraph (C) of this section, shall be handled according to Oregon law and the animal shelter's policies, rules and regulations, including those governing humane destruction of the animal.

E. If an animal has been impounded and one or more citations have been issued to the animal's Owner or Keeper, but the animal's Owner or Keeper does not make a personal or written appearance on the citation(s) in the Florence Municipal Court within the time required by the citation(s), then the Court may issue an order terminating the rights of the Owner to the animal and declaring that the animal may be handled according to Oregon law and the animal shelter's polices, rules and regulations, including humane destruction of the animal. Prior to issuing an order terminating the rights of the Owner, the Court shall cause a written notice to be delivered or mailed to the Owner or Keeper of the animal. The notice shall advise the Owner or Keeper that the Owner or Keeper's rights to the impounded animal will be forfeited unless the Owner or Keeper makes a personal appearance in the Florence Municipal Court within five business days of the date of the notice. The notice shall be mailed or delivered to the Owner or Keeper of the animal at the address shown on the citation or at any address provided to the Court by the animal's Owner or Keeper.

F. If an animal has been impounded and the Owner or Keeper of the animal makes a first appearance in the Florence Municipal Court, but the Owner or Keeper later fails to appear as required by the Municipal Court, then the Court may proceed as provided in subsection (E) of this Section.

**6-6-055: WARRANT FOR SEIZURE OF ANIMALS:**

A. Any police officer, reserve officer, or code enforcement officer may apply to the Florence Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated this chapter. The Florence Municipal Court Judge may issue the warrant based on a prima facie showing that the violation has occurred.

B. Nothing in this section is intended to limit the search and seizure authority of City police officers as otherwise provided by law.

**6-6-060: RABID & DISEASED ANIMALS:** Management and disposition of rabid animals shall be as prescribed by Oregon Law. Owning or keeping an animal infected with a contagious disease and allowing that animal to run at large or to enter any public place where the health of another animal or any person may be affected is prohibited.

**6-6-065: CRUELTY & MISTREATMENT:** Except as otherwise authorized by law, no person shall intentionally or recklessly:

A. Subject any animal under human custody or control to mistreatment.

B. Subject any animal under his custody or control to neglect.

C. Kill or injure, without legal privilege, any animal under the custody or control of another, or any wild bird. This includes killing animals for human consumption.

**6-6-070: FEEDING WILD ANIMALS PROHIBITED:**

A. No person shall scatter or deposit any food or other attractants on public or private property with or without the intent of attracting and/or feeding wild animals, including, but not limited to, bears, seagulls, crows, pigeons, raccoons, feral cats, wild rabbits, rodents, coyotes, and deer. Leaving food outside for any purpose, including for the purpose of feeding domestic animals and pets, in a place where wild animals can access it, shall be a violation of this section if the food in fact becomes an attractant for wild animals.

B. <u>Exceptions:</u>

1. This section shall not apply to birdseed held in receptacles which are reasonably designed to prevent, and do prevent, access to the food by wild animals such as bears, seagulls, crows, pigeons, raccoons, deer, rabbits, and rodents.

2. This section shall not apply to the feeding of caged animals such as domestic chickens, rabbits, guinea pigs, or various rodents that are commonly kept as pets and allowed by the City Code, provided that they are fed in a way that is reasonably designed to prevent, and does prevent, access to the food by wild animals such as bears, seagulls, crows, pigeons, raccoons, deer, rabbits, and rodents.

3. This section shall not apply to providing food, during daytime hours, in live traps being used to capture feral cats for spaying and/or neutering.

**6-6-075: TRAPPING ANIMALS:** Trapping animals within the City limits is prohibited except as follows:

A. Upon written authorization of the Chief of Police or his designee, it shall be legal to trap abandoned domestic and feral cats for the purpose of delivering them to the Florence Area Humane Society or another location approved by the Chief of Police.

B. Upon the written authorization of the Chief of Police, or his designee, it shall be legal for a licensed pest control business to use live traps within the City for the purpose of controlling pest animals. For purposes of this section “pest animals” means any animals which can cause disease or damage to humans, animals or property.

**6-6-080: EXEMPTION FOR GOVERNMENT AGENTS:** Police officers, including the City’s code enforcement officer, and government wildlife agents are exempt from the provisions of this Chapter when they trap, drug or kill any animal reasonably deemed by them to be a danger to any person, any domestic animal, or a hazard to aviation, navigation, or the use of City Streets.

**6-6-085: INJURY BY VEHICLE:** Any person operating a vehicle within the City who runs over, strikes, injures, maims, or kills any domestic animal shall immediately stop and render aid to such animal, if injured, or provide for the disposition of the carcass if such animal is killed. In either case, such person shall make due and diligent inquiry to determine the Owner of such animal, and, if the Owner can be found, shall notify the Owner of the occurrence. If the Owner cannot be found, such person shall report the same to the Chief of Police, or his designee.

**6-6-090: REMOVAL OF CARCASS:** No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

**6-6-095: DESTRUCTIONOF ANIMALS:**

A. Subject to subsection (D) of this section, if an animal has been found to have violated Florence City Code 6-6-040(A), the Florence Municipal Court Judge may enter an order terminating the animals Owner’s rights to the animal and/or requiring that the animal be humanely destroyed.

B. Subject to subsection (D) of this section, if an animal has been found to have committed two or more violations of Florence City Code 6-6-040 (B), (C) or (D) within a five-year period, the Florence Municipal Court Judge may enter an order terminating the animal Owner’s rights to the animal and/or requiring that the animal be humanely destroyed.

C. If the Judge determines that an animal’s violation of Florence City Code 6-6-040 (A), (B), (C), or (D) was caused by the neglect, abuse or tormenting of the animal by its Owner, the Judge may enter an order terminating the animal Owner’s rights to the animal and prohibiting the Owner from owning or possessing animals within the City of Florence. Further, if the Judge determines that the neglect, abuse or torment was the primary cause of the animal’s violation of Florence Code 6-6-040 (A), (B), (C), or (D) then the Judge may allow the abused animal to be placed with an animal shelter for possible adoption.

D. If the Florence Municipal Court Judge determines that an animal is unlikely to be a repeat offender of the provisions of this Chapter, then the Judge may suspend any orders in subsection (A) or (B) of this section for a period of up to five years, subject to certain conditions, which may include:

1. A requirement that neither the animal nor the animal’s Owner or Keeper commit any further violations of this Chapter;

2. A requirement that the animal be sterilized;

3. A requirement that the animal’s Owner or Keeper pay Court ordered fines resulting from the animal’s violation of this code.

4. A designation of the animal as a Dangerous Animal that is subject to the Dangerous Animal Restrictions described in Florence Code 6-6-035.

5. A provision that allows law enforcement officers, including city code enforcement officers, upon a future violation of Sections 6-6-025, 6-6-035 or 6-6-040 by the animal, to take the animal into custody pending further review and order by the Florence Municipal Court Judge.

6. Any other condition that the judge deems appropriate.

**6-6-096: PROHIBITED ANIMALS:** It shall be a violation of this Chapter to own or keep any prohibited animals inside the City. However, the City Manager, subject to the terms or conditions the City Manager may impose, may permit prohibited animals to be temporarily kept in the City for special projects or special events when the presence of the animal service a public purpose or is reasonably necessary for a special event.

**6-6-100: PENALTIES:**

A. Violations of this Chapter shall be punishable as provided in this section 6-6-100. However, no greater penalty shall be imposed than the penalty prescribed by Oregon statute for the same act or omission.

B. Violations of section 6-6-060 (Rabid & Diseased Animals) and 6-6-065 (Cruelty & Mistreatment) of this Chapter shall be punishable by a fine not to exceed one thousand dollars ($1,000.00) and/or imprisonment not to exceed three hundred sixty-five (365) days, or both fine and imprisonment.

C. As used in this Chapter, the following violations are punishable by a fine not to exceed $750:

1. Owning or Keeping an animal that is a nuisance under Section 6-6-040.

2. Violation of an order terminating an owner's rights issued pursuant to Section 6-6-095.

3. Violation of Section 6-6-035 as it pertains to the confinement and/or control of dangerous animals.

4. Violation of the terms and conditions of an off leash area as provided in Section 6-6-030.

D. Violation of the dog licensing provisions of Section 6-6-020 is punishable by a fine not to exceed $175.

E. Violations of Section 6-6-025 (Animal at Large) shall be punishable as follows:

1. The first violation: $50

2. The second violation: $100

3. The third violation: $200

4. The fourth violation: $400

5. The fifth and all subsequent violations: $750

F. All other violations of this Chapter, except as set out in subsections (A) through (E) above, are punishable by a fine not to exceed $500.

G. Reimbursement of impound costs. The Florence Municipal Court Judge may order the Owner or Keeper of an animal that violates any provision of this Chapter to reimburse the City of Florence for any and all impound costs incurred by the City.

H. Exclusion from Off Leash Areas. If an animal is found in violation of the provisions of this Chapter and the violation occurred in an Off Leash Area, the Florence Municipal Court Judge may order that the animal be excluded from all Off Leash Areas.

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Amended by Ord. 13, Series 1993 - Effective May 17, 1993
Amended by Ord. 12, Series 1996 – Effective August 5, 1996
Amended by Ord. 16, Series 1996 – Effective November 6, 1996
Amended by Ord. 8, Series 2010 – Effective May 19, 2010
All sections deleted and replaced by Ord. 17, Series 2011 – Effective September 15, 2011
Section 6-6-040-L added by Ord. 5, Series 2013 – Effective January 8, 2014
Section 6-6-020 deleted by Ord. 18, 2016 – Effective January 18, 2017

TITLE 6
CHAPTER 7

# CIVIL FORFEITURE OF PROPERTY

SECTION:

6-7-1: Title
6-7-2: Policy and Purpose
6-7-3: Definitions
6-7-4: Forfeiture
6-7-5: Seizure
6-7-6: Institution of Legal Proceedings
6-7-7: Disposition of Property
6-7-9: Severability

**6-7-1: TITLE** This chapter shall be known as the forfeiture ordinance of the City of Florence and may be so pleaded and referred to.

**6-7-2: POLICY AND PURPOSE:**

A. The City Council finds that:

1. Property that is the instrumentality=s of or the proceeds from illegal narcotics activity generally either cannot be seized or must be returned to the owner upon disposition of the criminal charge.

2. These instrumentality=s and proceeds are often used to further narcotics trafficking. The return of the property thus serves to encourage and perpetuate the commission of crime in the City of Florence.

B. The City Council therefore declares that to protect the safety and welfare of the City of Florence residents it is in the best interest of the City of Florence to:

1. Cripple drug trafficking and narcotics activities within this City by depriving narcotics dealers, and those persons dealing with them, of the instrumentality=s and proceeds of their trade; and

2. Otherwise deter such activity and remove the operating instrumentality=s, profits and proceeds of narcotics transactions from dealers; and

3. Deposit the property or proceeds distributed to the City of Florence into the general fund to be available for all lawful purposes as defined in the Oregon Constitution. The city will use these funds for a local drug treatment program.

**6-7-3: DEFINITIONS:** As used in this Chapter, unless the context requires otherwise:

| | |
|---|---|
| CONSPIRACY | As defined in ORS 161.450. |
| CONTROLLED SUBSTANCES | As defined in ORS 475.005(6) except that this shall not include less than one avoirdupois ounce of marijuana. |
| DELIVER | As defined in ORS 475.005(8) |
| FACILITATE | The property had some substantial connection to, was instrumental in, or was made available for use in the underlying prohibited activity. |
| PROHIBITED ACTIVITY | Means the completed or attempted manufacture, delivery or possession with the intent to deliver of any controlled substance. |

| | |
|---|---|
| MANUFACTURE | As defined in ORS 475.005(14) |
| MARIJUANA | As defined in ORS 475.005(15) |
| POSSESSION OF CONTROLLED SUBSTANCES WITH INTENT TO DISTRIBUTE | The phrase defined in 21 USC S 841(A)(1). |
| PRODUCTION | As defined at ORS 475.005(19) |
| RESIDENTIAL PROPERTY | The primary place of residence of the property=s owner. |

**6-7-4 FORFEITURE:**

A. Any person who engages in or enters into a conspiracy to engage in prohibited activity within the City of Florence shall forfeit to the City of Florence the following property:

1. All controlled substances which are intended for or have been manufactured or delivered as defined in Section III above.

2. All raw materials, products, containers, equipment, books, records, research materials (including formulas, microfilms, tapes and data) of any kind used, or intended for use, to manufacture, compound, store, process or deliver any controlled substances.

3. All conveyances, including aircraft, vehicles or vessels used to manufacture or deliver or in any manner to facilitate the manufacture or delivery of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance.

4. All moneys, negotiable instruments, securities or other things of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any prohibited activity, and all proceeds and profits traceable to such furnishment, exchange or prohibited activity.

5. All proceeds, profits and things of value (excepting residential property) traceable to any prohibited activity.

6. All real property other than residential property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, used to commit or facilitate any prohibited activity.

B. Property shall not be forfeited under this ordinance to the extent of the interest of any owner therein who did not consent to the use of the property in the prohibited activity.

C. It is not a condition precedent to forfeiture under this ordinance that criminal charges are filed with respect to the underlying prohibited activity, nor is it a defense in any forfeiture enforcement proceeding that criminal charges were not pursued or that the charges were dismissed or resulted in an acquittal.

**6-7-5 SEIZURE:**

A. Any property subject to forfeiture to the City of Florence under this Chapter may be seized by any police officer on behalf of the City of Florence when:

1. The property is, or the police officer has probable cause the property is contraband;

2. The seizure is incident to a lawful search for evidence and the police officer has probable cause to believe that the property is subject to forfeiture under this ordinance;

3. The property was originally seized and held as evidence but is released or no longer detained for such purposes; or

4. The property is the subject of a prior judgment in favor of the City of Florence in a forfeiture proceeding under this ordinance.

B. Where property subject to forfeiture under this ordinance is in the possession or control of a person who is not a party to criminal proceedings for the prohibited activity, the City may apply for a temporary restraining order that prevents the transfer of the property during the pendency of the forfeiture proceeding to any persons who engaged in the prohibited activity.

**6-7-6 INSTITUTION OF LEGAL PROCEEDINGS:**

A. Upon seizure of any property pursuant to this ordinance, the City Manager, acting in the name of the City of Florence, shall promptly institute a forfeiture proceeding to obtain a judgment of forfeiture against the seized property upon his or her determination that the cost of obtaining a forfeiture judgment is less than the value of the property to be forfeited or that it is otherwise in the public interest to so proceed.

B. The proceeding shall be conducted pursuant to ORS 30.315 and in accordance with the procedure relating to civil actions.

**6-7-7 DISPOSITION OF PROPERTY:**

A. Prior to obtaining any forfeiture judgment, any money, securities and negotiable instruments that are not retained for evidentiary purposes shall be deposited with the Comptroller of the City of Florence pending the outcome of the forfeiture proceedings.

B. In the event a judgment of forfeiture is obtained pursuant to this ordinance, the property shall be disposed of as follows:

1. At the discretion of the City Manager, the forfeited property may be retained for official use in law enforcement activities. If the Chief of Police determines that property so retained is no longer to be used for law enforcement purposes, the property shall be disposed of in accordance with subsections 2 and 3 below.

2. Property other than money, securities or negotiable instruments that is not retained by the City Manager, required by law to be destroyed, or harmful to the public shall be sold by the Chief of Police. The sale shall be conducted in a commercially reasonable manner that is likely to result in the greatest net return. City employees and their families shall not be entitled to purchase any forfeited property.

3. The expenses incurred in seizing, storing and selling any forfeited property shall be deducted from the proceeds of any sale and from any money forfeited. The City of Florence shall deposit the property or proceeds distributed to the city to the general fund to be available for all lawful purposes as defined by the Oregon Constitution. The city will use these funds for a local drug treatment program.

**6-7-8: SEVERABILITY:** If any section, clause or phrase of this ordinance, or its application with respect to any property, activity or statute is determined by any court of competent jurisdiction to be invalid or unenforceable for any reason, such determination does not affect the validity of the remainder of the ordinance or its application to any other property, activity or statute, but shall continue to be in effect.

Ordinance No. 18 repealed by Ordinance 1, Series 1986
enacting this portion of City Code.
Ordinance 14, Series 2002, effective August 1, 2002

TITLE 6
CHAPTER 8

# NUCLEAR WEAPONS FREE ZONE

SECTION:

6-8-1: Title
6-8-2: Definitions
6-8-3 Purpose and Findings
6-8-4: Prohibition of Nuclear Weapons Work
6-8-5: Signs
6-8-6: Enforcement
6-8-7: Severability Clause

**6-8-1: TITLE:** This Chapter shall be known as the Nuclear Weapons Free Florence Act.

**6-8-2: DEFINITIONS:** As used herein:

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|---|---|
| COMPONENT OF A NUCLEAR WEAPON | Is any device, radioactive or non-radioactive, designed to be installed in and contribute to the operation of a nuclear weapon. |
| DIRECT ACTIVITIES OF FEDERAL GOVERNMENT | Shall mean actions of the federal government or any agency thereof, but shall exclude actions of independent contractors. |
| NUCLEAR WEAPON | Is any device, the purpose of which is use as a weapon, a weapon prototype or a weapon test device, the intended detonation of which results from the energy released by fission or fusion reactions involving atomic nuclei. For purposes of this Act, "nuclear weapon" includes the weapons' triggering mechanism, i.e., the means of triggering or detonating the weapon, provided that such means is destroyed or rendered useless in the normal transporting, triggering or detonation of the weapon, but does not include propulsion devices such as rocketry and any computer related software or hardware. |
| PERSON | Means a natural person, a corporation, or institution or other entity, but shall not include the federal government or any agency thereof, and the State of Oregon, or any agency or political subdivision thereof. |

**6-8-3 PURPOSE AND FINDINGS:** The purpose of this Act is to establish Florence as a Nuclear Weapons Free Zone in which work on nuclear weapons is prohibited. The people of Florence find that the presence of nuclear weapons facilities within Florence is in direct conflict with the maintenance of the community's public health, safety, morals, economic well-being, and general welfare.

**6-8-4: PROHIBITION OF NUCLEAR WEAPONS WORK:**

A. Prohibition of Commencement of Nuclear Weapons Work. No person who is not, as of the date this Act is adopted, engaged in work the purpose of which is the development, production, deployment, launching, maintenance or storage of nuclear weapons or components of nuclear weapons, shall, within Florence, knowingly commence any such activities after the date this Act is adopted.

B. Exclusions. Nothing in this section shall be construed to prohibit:

1. Any activity not specifically described in this section;

2. Basic research;

3. The research and application of nuclear medicine;

4. Uses of fissionable materials for smoke detectors, light-emitting watches and clocks, and other consumer products; or

5. Direct activities of the federal government.

**6-8-5: SIGNS:** Subject to the approval of the appropriate regulatory agency involved, signs stating "Welcome to Florence, a Nuclear Weapons Free Zone", may be posted at the city's limits on major highways.

**6-8-6: ENFORCEMENT:** Violation of this Act shall be punishable by a fine of up to $500. Each day a violation continues to exist shall be deemed a separate violation.

**6-8-7: SEVERABILITY CLAUSE:** If any section, sub-section, paragraph, sentence or word of this Act shall be held to be invalid, either on its face or as applied, the invalidity of such provision shall not affect the other sections, sub-sections, paragraphs, sentences or words of this Act, and the applications thereof; and to that end the sections, sub-sections, paragraphs, sentences and words of this Act shall be deemed to be severable.

Ordinance No. 9, Series 1986, dated May 27, 1986.

TITLE 6
CHAPTER 9

# CRIMINAL HISTORY RECORD CHECKS

SECTION:

6-9-1: Establishment
6-9-2: Criminal History Checks Required
6-9-3: Authorization
6-9-4: Retention of Criminal History Records
6-9-5: Non-profit Organizations
6-9-6: Tow Truck Drivers and Liquor License Applicants

**6-9-1: ESTABLISHMENT:** Title 6 Chapter 9 Criminal History Record Checks; is hereby established by Ordinance No. 7, Series 2007 – an ordinance which authorizes criminal history record checks and establishes policies.

**6-9-2: CRIMINAL HISTORY CHECKS REQUIRED:**

A. In order for the City government to operate effectively, persons selected for employment or as a public service volunteer with the City of Florence must have the highest degree of public trust and confidence.

B. All City employees and public service volunteers represent the City to its citizens. Many City employees and volunteers have responsibilities to regulate and maintain public health and safety. Some City employees have the ability and authority to bind the City contractually, have access to public funds and property, and possess access to privileged and proprietary information submitted to the City in confidence.

C. There is a need to protect youths from harmful or dangerous encounters and to that end a review of the criminal records of those who volunteer with youth in the City is necessary and appropriate.

D. Tow truck drivers interact with the public in stressful situations (accidents, disabled vehicles, etc.) in which they can be taken advantage of by the tow truck driver. Therefore, it is necessary and appropriate that the tow truck driver's criminal record history is reviewed.

E. Liquor license applicants are required to apply to the City for recommendation to the Oregon Liquor Control Commission (OLCC) in their licensing process. It is necessary and appropriate that such applicants' criminal record history is reviewed in the City's recommendation process.

F. All applicants for employment and appointed volunteers with the City will be required to authorize the City to conduct a criminal offender information check through the OSP LEDS system.

G. All applicants for business licenses and listed responsible parties will be required to authorize the City to conduct a criminal record history check. The Florence Chief of Police is required to approve applications for a business license indicating that the applicant’s past or present violation of law or ordinance, including a violation that does not lead to a conviction, does not present a reasonable doubt about the applicants ability to perform the licensed activity without endangering property or the public health or safety, or the applicant has not provided false or misleading material information, or has not omitted disclosure of a material fact on the application, related materials, or license, or is not doing business in violation of Federal, State, or County law or requirements of the Florence City Code.

**6-9-3: AUTHORIZATION:** A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the prospective employee or volunteer and orally report to the Human Resources Department that the applicant's records indicates "no criminal record" or "criminal record". If the applicant's record is reported as "criminal record", the City will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section. Human Resources will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.

**6-9-4: RETENTION OF CRIMINAL HISTORY RECORDS:** The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel files of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.

**6-9-5: NON-PROFIT ORGANIZATIONS:** Non-profit organizations serving youth in the community, including, but not limited to youth baseball, youth basketball, youth soccer and youth football organizations may request that the Police Department perform criminal history checks. Subject to workload priorities and staff availability, the Police Department may perform such criminal record checks on the prospective youth volunteers. The Police Department shall confirm only if a criminal record exists, without any detail of such record. The youth volunteer organization may request criminal record history directly with the Oregon State Police pursuant to state statute and administrative rule.

**6-9-6: TOW TRUCK DRIVERS AND LIQUOR LICENSE APPLICANTS:** Criminal history checks of contracted tow truck drivers and liquor license applicants shall be performed by the Police Department.

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Ord. No. 7, Series 2007 – declaring emergency, effective date April 2, 2007

# TITLE 7

## MOTOR VEHICLES AND TRAFFIC


| SUBJECT | CHAPTER |
|---|---|
| TRAFFIC REGULATIONS | 1 |
| TRAFFIC REGULATIONS ON PRIVATE HWYS. | 2 |
| | 3 |
| PARADES, PROCESSIONS | 4 |
| SPECIAL EVENTS | 5 |
| MOTORIZED VEHICLE RACING | 6 |

TITLE 7
CHAPTER 1

# TRAFFIC REGULATIONS

SECTION:


7-1-1: Short Title
7-1-2: Definitions
7-1-3: Administration
7-1-3-1: Standards
7-1-3-2: Council Powers
7-1-3-3: City Manager Powers
7-1-3-4: Police and Fire Officers' Authority
7-1-3-5: Traffic Signals
7-1-4: General Driving Regulations
7-1-4-1: Crossing Private Property
7-1-4-2: Unlawful Riding
7-1-4-3: Sleds on Streets
7-1-4-4: Damaging Sidewalks and Curbs
7-1-4-5: Removing Accident Debris
7-1-4-6: Vehicles Prohibited in Public Parks
7-1-4-7: Use of All Terrain Vehicles
7-1-4-8: Self-Powered, Electric or Fuel Powered Conveyance on Public Access, City Owned Property, Streets or Thoroughfares
7-1-4-9: Low-Speed Vehicles
7-1-5: Vehicle Restrictions
7-1-5-1: Storage on Streets
7-1-5-2: Unattended Vehicle
7-1-5-3: Impoundment
7-1-6: Obstructing Streets
7-1-7: Parking Restrictions
7-1-7-1: Method
7-1-7-2: Lights Required
7-1-7-3: Extension, Parking Limit
7-1-7-4: Prohibited Parking
7-1-7-5: Bus and Taxicab Parking, Stands
7-1-7-6: Use of Loading Zone
7-1-7-7: Exemptions
7-1-7-8: Unlawful Marking
7-1-7-9: Parking Citations
7-1-8: Pedestrians
7-1-9: Funeral Processions
7-1-10: Offenses
7-1-11: Civil Penalty


**7-1-1: SHORT TITLE:** This Title shall be cited as the "City of Florence Uniform Traffic Ordinance".

**7-1-2: DEFINITIONS:** In addition to those definitions contained in the Oregon Vehicle Code, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

BUS STOP — A space on the edge of a roadway designated by a sign for use by buses loading or unloading passengers

HOLIDAY — New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other day proclaimed by the Council to be a holiday.

| | |
|---|---|
| LOADING ZONE | A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours or specified days. |
| LOW SPEED VEHICLE | Defined as it is in ORS 801.331, means any 4-wheeled vehicle with top speed of more than 20 miles per hour, but not more than 25 miles per hour. Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road building equipment, street cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon. |
| MOTORIZED CONVEYANCE | Scooters, mopeds, pocket bikes, mini motorcycles, skateboard with a motor of some type, or any similar type wheeled powered device that is operated by the rider and is propelled by electricity or fuel and is not a licensed or registered vehicle as defined by Oregon Statute. |
| MOTORIZED WHEELCHAIR | A motorized vehicle that is electrically powered with three to six wheels and one seat for the operator. This type of conveyance is originally manufactured as a device to provide mobility for a disabled person as defined in ORS 801.235 |
| PERSON | A natural person, firm partnership, association or corporation |
| SELF-POWERED CONVEYANCE | Bicycles, scooters, skate boards, roller or blade skate, coasters or any similar wheeled device that is operated and propelled by the rider, except for a wheelchair. |
| STREET | Highway, road or street as defined in ORS 801.305 |
| TAXICAB STAND | A space on the edge of a roadway designated by sign for use by taxicabs. |
| TRAFFIC LANE | That area of the roadway used for the movement of a single line of traffic. |
| VEHICLE | As used in subsequent sections of this Title, this word includes bicycles. |

As used in this Title, the singular includes the plural, and the masculine includes the feminine.

**7-1-3: ADMINISTRATION:**

**7-1-3-1: STANDARDS:** The regulations of the City Manager or his designate shall be based upon:

A. Traffic engineering principles and traffic investigations.

B. Standards, limitations and rules promulgated by the Oregon Transportation Commission.

C. Other recognized traffic-control standards.

**7-1-3-2: COUNCIL POWERS:**

A. Subject to State laws, the City Council shall exercise all Municipal traffic authority for the City except those powers specifically and expressly delegated herein or by another ordinances.

B. The powers of the Council shall include, but not be limited to:

1. Designation of through streets.

2. Designation of one-way streets.

3. Designation of truck routes.

4. Designation of parking meter zones.

5. Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.

6. Authorization of greater maximum weights or lengths for vehicles using City streets than specified by State law.

7. Initiation of proceedings to change speed zones.

8. Revision of speed limits in parks.

**7-1-3-3: CITY MANAGER POWERS:** The City Manager or his designate shall exercise the following duties:

A. Implement the ordinances, resolutions and motions of the Council and his own orders by installing, maintaining, removing and altering traffic-control devices. Such installation shall be based on the standards contained in the Oregon Manual on Uniform Traffic-Control Devices for Streets and Highways.

B. Establish, remove or alter the following classes of traffic controls:

1. Crosswalks, safety zones, and traffic lanes.

2. Intersection channelization and areas where drivers of vehicles shall not make right, left or U-turns, and the time when the prohibition applies.

3. Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal).

4. Traffic-control signals.

5. Loading zones and stops for vehicles.

C. Issue oversize or overweight vehicle permits.

D. Designate certain streets as bridge paths and prohibit horses and animals on other streets.

E. Temporarily block or close streets.

F. Establish bicycle lanes and paths and traffic controls for such facilities.

G. Install temporary traffic-control devices deemed by him to be necessary under conditions constituting a danger to the public.

**7-1-3-4: POLICE AND FIRE OFFICERS AUTHORITY:**

A. It shall be the duty of a police officer and code enforcement officer to enforce the provisions of this Title.

B. In the event of a fire or other public emergency, City employees and volunteer fire fighters may direct traffic as conditions require, notwithstanding the provisions of this Title.

**7-1-3-5: TRAFFIC SIGNALS:**

A. The existence of a traffic sign, signal, device or marking shall be prima facie evidence that such sign, signal, device or marking was lawfully authorized and installed under the terms of this Chapter and the laws of the State . (Ord 684, 2-8-83)

**7-1-4: GENERAL DRIVING REGULATIONS:**

**7-1-4-1; CROSSING PRIVATE PROPERTY:** No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.

**7-1-4-2: UNLAWFUL RIDING:**

A. No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

B. No person shall board or alight from a vehicle while the vehicle is in motion upon a street.

**7-1-4-3: SLEDS ON STREETS:** No person shall use the streets for traveling on skis, toboggans, sleds or similar devices, except where authorized.

**7-1-4-4: DAMAGING SIDEWALKS AND CURBS:**

A. The operator of a motor vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

B. No unauthorized person shall place dirt, wood or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

C. No person shall remove a portion of a curb or move a motor vehicle or device moved by a motor vehicle upon a curb or sidewalk without first obtaining authorization and posting bond, if required. A person who causes damage shall be held responsible for the cost of repair.

**7-1-4-5: REMOVING ACCIDENT DEBRIS:** A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street. (Ord. 568, 8-2-76)

**7-1-4-6: VEHICLES PROHIBITED IN PUBLIC PARKS:**

A. No person shall drive a vehicle of any kind, in any area of a public park other than areas which have been designated as roadways, parking areas, or bicycles on paved pathways which do not exclude bicycles.

B. No person shall operate a motorized vehicle of any kind in areas marked as bicycle or "bike" paths.

C. The owner of a vehicle found to be operated in violation of subsections A, B or C of this Section shall be liable for any damage to property caused by this violation.

D. This Section does not apply to a City employee engaged in the necessary discharge of his or her duty. (Ord. 696, 8-2- 83)

**7-1-4-7: USE OF ALL TERRAIN VEHICLES:**

A. As used in this subsection "All Terrain Vehicle" means an all terrain vehicle of any class as defined in the Oregon Vehicle Code. (ORS 801.190, ORS 801.193 and ORS 801.194).

B. No person shall drive an all terrain vehicle within the City limits of the City of Florence or upon any property owned by the City of Florence, except as permitted under paragraphs C or D of this subsection. This subsection does not apply to all-terrain vehicles that are street legal and licensed for highway use which are being lawfully operated on any public street or highway in the City.

C. No person shall drive an all-terrain vehicle on any private property except with the consent of the owner of the property. This subsection does not apply to a person driving an all terrain vehicle on his or her own property or on other property in the presence of the property owner or with the written permission of the property owner. Any written permission required by this subsection shall be in the possession of the driver when operating the all terrain vehicle and shown upon request of any public employee charged with enforcing this subsection.

D. This subsection does not apply to a public employee, including police officers, fire department personnel, paramedics, and others providing emergency services engaged in the necessary discharge of his or her official duty.

**7-1-4-8: SELF-POWERED, ELECTRIC OR FUEL POWERED CONVEYANCE ON PUBLIC ACCESS, CITY OWNED PROPERTY, STREETS OR THOROUGHFARES:**

A. Areas permitted: Riding or operating a self-propelled, electric or fuel powered motorized conveyance is permitted in the following areas:

1. City owned public access areas to include but not limited to: City parks, areas within City parks, or any City owned property that has been designated by the Community Development Department for the specific use of a self-propelled, electric or fuel propelled motorized conveyance and is duly posted with rules and regulations governing the use of such conveyances.

2. Private property where the owner or person in legal charge of the property has consented.

3. Within the bike lane of any street that is posted 25 mph or less, with the exception of bicycles which may travel on any city street or thoroughfare regardless of posted speed.

4. Motorized scooters can be driven on the side of city roadways with a speed limit of 25 mph or less and may be operated on a city roadway with a speed limit over 25 mph as long as the roadway has a marked bike lane in which the motorized scooter may ride. In addition motorized scooters must comply with state statues governing such conveyances and may only be operated by a driver 16 years of age and older who is eligible to possess a valid drivers license. Mopeds can be driven on any city roadway with a posted speed of 25 mph or less. Mopeds must comply with state statutes governing such conveyances and drivers must be licensed and insured according to state law. Motorized mini motorcycles/pocket bikes can be operated on city owned public access property, except city roadways and bike paths, when such property is specifically designated for such use by the Community Development Department.

B. Areas prohibited: Except for persons operating a motorized wheelchair or wheelchair, no person shall ride or operate a self-powered, electric, or fuel propelled motorized conveyance in the following areas:

1. On any City sidewalks in commercial and non-residential areas.

2. On private property open to the public, without the owner's permission.

3. On any City Street where the posted or designated speed is over 25 mph, with the exception of bicycles which may travel on any city street or thoroughfare regardless of posted speed.

4. On City owned public access property including parks, areas within parks or any City owned property when such use is specifically prohibited and duly posted.

5. Mopeds and motorized scooters are prohibited from operating on any city roadway when the posted speed is over 25 mph. Motorized scooters may travel on a roadway where the posted speed is over 25 mph when there is a marked bike lane in which the motorized scooter may travel in.

C. Regulations: The following regulations apply to the general operation of self-powered, electric or fuel powered conveyance within the City.

1. Protective Headgear. Any person under the age of 16 is required to wear protective headgear of a type approved under ORS 815.052, when riding a self-powered, electric or fuel propelled conveyance on City owned property, streets or thoroughfares.

2. Equipment. No self-powered, electric or fuel propelled motorized conveyance shall be operated on any public street or sidewalk between 30 minutes after sunset and 30 minutes before sunrise unless the rider or conveyance is equipped with lighting equipment that meets the following requirements:

   a. The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the rider or conveyance.

   b. The lighting equipment must have a reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

3. Traffic Control Devices. Any person operating a self-powered, electric or fuel propelled conveyance shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles.

4. Traffic Regulations. The operation of a self-powered, electric or fuel propelled motorized conveyance on any City street or thoroughfare, shall be subject to all of the provisions or laws of the State and laws of the City, including those applicable to the drivers of vehicles, except as to the latter, those provisions that by their very nature have no application.

5. Operation on sidewalks. No person shall operate a self propelled conveyance (excluding bicycles which are prohibited) on a sidewalk:

   a. So as to suddenly leave a curb or other place of safety and move into the path of a vehicle that is so close as to constitute an immediate hazard.

   b. Without giving an audible warning before overtaking and passing a pedestrian.

   c. At a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.

6. Bicycles are prohibited from operating on any pedestrian sidewalk or pathway in the City except paths or trails that are clearly marked for the joint use by both bicycles and pedestrians except as follows: (Ord. 14, 2011)

   a. Bicycles are allowed on sidewalks in residential areas.

   b. Bicycles are allowed on paved pathways in city parks unless posted as prohibited.

   c. Bicycles are permitted on all public bike and pedestrian paths and trails unless posted as prohibited.

7. Racing. No person operating a self-powered, electric or fuel propelled motorized conveyance shall engage in, or cause others to engage in, a race upon streets, sidewalks or any other public property. Provided, however, that it shall not be a violation of this subsection, if racing occurs in conformance with rules and regulations within a designated area for such use, as defined by the Community Development Department.

8. Hitching on Vehicles. No person while operating a self propelled, electric or fuel propelled conveyance shall in any way attach themselves or the conveyance to any moving motor vehicle.

9. Careless Riding. No person shall operate a self-powered, electric or fuel propelled conveyance in a careless manner. Riding in a careless manner means the person operates the conveyance in a manner that endangers or would be likely to endanger any person or property.

10. Every person operating a bicycle upon a street or bike path shall ride as near to the right-hand side of the street or path as is practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. (Ord. 14, 2011)

11. The operator of a bicycle entered from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alley or driveway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway. (Ord. 14, 2011)

12. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars and in full control of such bicycle. (Ord. 14, 2011)

13. No person shall leave a bicycle on public property or the public right-of-way except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. A person shall not leave a bicycle in violation of the provisions relating to the parking of motor vehicles. (Ord. 14, 2011)

D. Penalties:

1. First Offense. When any person violates a provision of this chapter, the offender may be issued a written warning citation for the violation and advised that subsequent violations within a 5 year period may result in the offender, (if over the age of 12), being issued a written citation to appear in court for the offense(s). Repeat offenders may have the involved conveyance impounded and be required to pay a $25 impound fee per occurrence and if convicted of the offense(s), and at the direction of the court, the conveyance may be seized and forfeited to the City for disposal.

2. Second and Subsequent Offenses. A person who commits a second or subsequent violation of a provision of this chapter, who is under the age of 12 and has previously been issued a written warning citation, shall have the involved conveyance impounded. The offender's parent or guardian must contact the impounding officer for "offender counseling" within 20 days from the date of impoundment or the conveyance shall be forfeited to the City.

Every person over the age of 12, who is convicted of a violation under this chapter within a 5-year period, shall be punished by a fine not less than $50 or more than $250. Fifty dollars of the fine shall not be suspended or deferred, but the court may authorize community service in lieu of all or part of this fine. In addition, the City police shall be authorized to impound the conveyance and assess the owner/operator a $25 impound fee. The court may also order forfeiture of the conveyance which was ridden in violation of this chapter, unless it is proven to the court by a preponderance of the evidence that the defendant is not the owner of the conveyance and the owner did not and could not have reasonably known that the conveyance would be ridden in violation of this chapter. (Amended by Ord. No, 18, Series 2004)

**7-1-4-9: LOW SPEED VEHICLES:** In accordance with Oregon Revised Statues and Federal Low Speed Vehicles standards Low-speed Vehicles may be operated on certain streets/highways within the Florence City limits. Low speed vehicles may be operated on street/highways where there is a designated speed of 45 miles per hour or less and within the Florence city limits. (Ord. 12, Series 2008)

**7-1-5: VEHICLE RESTRICTIONS:**

**7-1-5-1: STORAGE ON STREETS:** No person shall store or permit to be stored on a street or other public property, without permission of the City Council, a motor vehicle or personal property for a period in excess of two (2) hours. Failure to move a motor vehicle or other personal property for a period of seventy two (72) hours shall constitute prima facie evidence of storage of a motor vehicle.

**7-1-5-2: UNATTENDED VEHICLE:** Whenever a police officer shall find a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.

**7-1-5-3: IMPOUNDMENT:**

A. Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became an obstruction or hazard.

B. The disposition of a vehicle towed and stored under authority of this Section shall be in accordance with the provisions of the ordinances of the City relating to impoundment and disposition of vehicles abandoned on the City streets.

C. The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this Title.

D. Whenever a police officer observes a vehicle parked in violation of a provision of this Title or State law, if the vehicle has four (4) or more unpaid parking violations outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as is provided in subsection B of this Section. (Ord. 568, 8-2-76)

E. When any motor vehicle is found parked or standing, whether attended or unattended, in any prohibited or restricted area or an area posted "No Vehicular Traffic", an officer may, in addition to issuing a citation, cause that vehicle to be impounded. A vehicle so impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as provided in subsection B of this Section. (Ord. 568-A, 5-14-79)

F. A police officer may order a vehicle to be towed and impounded at the expense of the owner or person entitled to possession thereof when:

1. The vehicle has been reported stolen; or

2. The vehicle or its contents is to be used as evidence in a traffic or criminal prosecution; or

3. The vehicle is in the possession of a person taken into custody by a law enforcement agency; or

4. The vehicle was used in committing a violation of ORS 811.175 and 811.182 (DWS); ORS 813.000 (DUII); ORS 807.010 (No operator's license); ORS 806.010 (Driving Uninsured).

G. When ordering a vehicle to be towed under paragraph F hereof, the police officer shall provide the notices set forth in Chapter 514, Oregon Laws 1997, Senate Bill 780.

H. The registered owner or driver of a vehicle impounded under paragraph F-2-3-4 hereof shall pay an administrative fee of not less than $100.00 as established by the Chief of Police to recover the costs incurred by the police department for the impoundment. (ORD 9, Series 1998)

**7-1-6: OBSTRUCTING STREETS:**

A. Except as provided by this Title or any other ordinance of the City, no person shall place, park, deposit or leave upon any street or other public way, sidewalk, parkway or curb any article or thing, or material which in any way prevents, interrupts or obstructs the free passage of pedestrian or vehicle traffic, or obstructs the driver's view of traffic- control signs and signals.

B. Nothing in this Section shall be so construed as to preclude the right of builders having a permit therefore to make use of so much of the roadway, not to exceed one-fourth (1/4) the width, as may be necessary for use, erection or construction, and abutting on any such roadway.

C. Any person who shall make or cause to be made any portion of the street to be dangerous shall erect a good and sufficient barrier which shall protect and warn the public for such time as the danger may continue.

D. No authorized person shall deposit any earth, gravel or debris upon any street, alley or other public way, parking strip, sidewalk or curb.

**7-1-7: PARKING RESTRICTIONS**

**7-1-7-1: METHOD:**

A. Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space.

B. The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to interfere.

C. Whenever the operator of a vehicle discovers the vehicle is parked close to a building to which the Fire Department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

**7-1-7-2: LIGHTS REQUIRED** No lights need be displayed upon a vehicle that is parked in accordance with this Title upon a street where there is sufficient light to reveal a person or object at a distance of at least five hundred feet (500') from the vehicle.

**7-1-7-3: EXTENSION, PARKING LIMIT:** Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.

**7-1-7-4: PROHIBITED PARKING:**

A. Prohibited Parking or Standing: In addition to the State motor vehicle laws prohibiting parking, no person shall park or stand:

1. A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of thirty (30) consecutive minutes.

2. A motor truck, as defined by ORS 801.355 on a street between the hours of nine o'clock (9:00) P.M. and seven o'clock (7:00) A.M. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation. (Ord. 568, 8-2-76)

3. A motor vehicle as defined in this Title, on any street or bike path which has a posted restriction to the parking, standing or operation of motor vehicles. (Ord. 568-A, 5-14- 79)

4. A motor vehicle upon any premises which is open to the public as defined in ORS 801.400, which is posted as "No Parking", with the exception of employers or their employees of the posted premises. (Ord. 568-B, 6-11-79)

5. Parking for Extended Periods of Time: A motor vehicle or trailer of any kind on a street or other public property for a period in excess of seventy two (72) hours, without permission of the City Council.

6. Intersections and Driveways: A motor vehicle or trailer of any kind in such a manner that vision at intersections is obstructed, nor more than two (2) hours adjacent to a private driveway in a manner that would obstruct vision to persons using the driveway. (Ord. 696, 8-2-83)

B. Prohibited Parking: No operator shall park and no owner shall allow a vehicle to be parked upon a street for the principal purpose of:

1. Displaying the vehicle for sale.

2. Repairing or servicing the vehicle, except repairs necessitated by an emergency.

3. Displaying advertising from the vehicle.

4. Selling merchandise from the vehicle, except when authorized.

**7-1-7-5: BUS AND TAXICAB PARKING, STANDS:**

A. Parking of Buses and Taxicabs: The operator of a bus or taxicab shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers.

B. Restricted Use of Bus and Taxicab Stands: No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.

**7-1-7-6: USE OF LOADING ZONE:** No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed thirty (30) minutes.

**7-1-7-7: EXEMPTIONS:** The provisions of this Title regulating the parking or standing of vehicles shall not apply to a vehicle of the City, County or State or public utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation or delivery of mail.

**7-1-7-8: UNLAWFUL MARKING:** Except as provided by this Title, it shall be unlawful for any person to letter, mark or paint in any manner any letters, marks or signs on any sidewalk, curb or other portion of any street, or to post anything designed or intended to prohibit or restrict parking on any street.

**7-1-7-9: PARKING CITATIONS:**

A. Citation on Illegally Parked Vehicle: Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this Title or State law, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation instructing the operator to answer to the charge during the hours and at a place specified in the citation.

B. Failure to Comply with Citation: If the operator does not respond to a traffic citation affixed to a vehicle, the Court clerk may send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning him that in the event that the letter is disregarded for a period of fourteen (14) days, the case may be sent to collections.

C. Owner Responsibility: The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.

D. Registered Owner Presumption: In a prosecution of a vehicle owner charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact.

**7-1-8: PEDESTRIANS:**

A. Required Use of Crosswalks: No pedestrian shall cross a street other than within a crosswalk in blocks with marked crosswalks or if within one hundred fifty feet (150') of a marked crosswalk.

B. Right Angles: A pedestrian shall cross a street at a right angle, unless crossing within a crosswalk.

**7-1-9: FUNERAL PROCESSIONS:**

A. A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

B. The procession shall be accompanied by adequate escort vehicles for traffic-control purposes.

C. All motor vehicles in the procession shall be operated with their lights turned on.

D. No person shall unreasonably interfere with a funeral procession.

E. No person shall operate a vehicle that is not a part of the procession between the vehicles of the funeral procession. (Ord. 568, 8-2-76)

**7-1-10: OFFENSES:** It shall be unlawful for any person to:

A. Damage, tamper with, deface, destroy, change, remove, install, paint or mark any traffic sign, signal or marking, except as provided and authorized in this Chapter.

B. Violate or fail to comply with any traffic or parking sign, signal, marking, device or designation provided for by this Chapter or by the laws of the State.

C. Violate or fail to comply with the directions of a City employee or volunteer fire fighter.

D. To give or supply false information concerning the identity of the operator of a motor vehicle. (Ord. 684, 2-8-83)

E. Violate or fail to comply with any provision of this Chapter. (Ord. 696, 8-2-83)

**7-1-11: CIVIL PENALTY:** Proceedings for violation of subsections or paragraphs 7-1-4-2, 7-1-4-3, 7-1-4-4:A, 7-1-4-4:B, 7-1-4-5, 7-1-4-7-B, 7-1-4-8, 7-1-5-1, 7-1-5-2, 7-1-7-3, 7-1-7-4, 7-1-7-5, 7-1-7-6, and 7-1-7-7 shall be civil in nature, and violations thereof are punishable by a fine not to exceed $500.00 with 7-1-7-4 as set by resolution of the City Council.

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Sections 7-1-3-2 through 7-1-7-4 amended by Ord 10, Series 1989 - Effective October 2, 1989
Section 7-1-4-7 added by Ord 10, Series 1991 - Effective June 20, 1991
Section 7-1-4-8 added by Ord. 1 Series 1996 - Effective February 15, 1996
Section 7-1-5-3 amended by Ord 9, Series 1998 - Effective June 5, 1998
Section 7-1-4-9 added by Ord. 10, Series 2004 - Effective September 2, 2004
Section 7-1-4-8 amended by Ord. 18, Series 2004 - Effective January 6, 2005
Section 7-1-4-9 amended by Ord. No. 9, Series 2005 - Effective January 6, 2006
Section 7-1-4-9 amended by Ord. No. 12, Series 2008 - Effective June 19, 2008
Section 7-1-4-7 A, B, C, & D amended by Ord. No 7, Series 2011 – Effective May 6, 2011
Sections 7-1-2, 7-1-3, & 7-1-4 amended by Ord. No. 14, Series 2011 – Effective August 6, 2011
Section 7-1-11 amended by Ord. No. 16, Series 2011 – Effective August 6, 2011
Section 7-1-7-9 amended by Ord. No. 1, Series 2020 – Effective February 5, 2020

TITLE 7
CHAPTER 2

# TRAFFIC REGULATIONS ON PRIVATE HIGHWAYS

SECTION:


7-2-1: Application
7-2-2: Definitions
7-2-3: Careless Driving
7-2-4: Use of Chemical Analysis as Evidence
7-2-5: Fleeing or Attempting to Elude a Police Officer
7-2-6: Duties of Drivers and Witnesses at Accidents
7-2-7: Driver's Duties Whose Vehicle Collides with Unattended Vehicle or Other Property
7-2-8: Basic Speed Rule
7-2-9: Pedestrian's Use of Shoulder and Roadway Edge
7-2-10: Pedestrian Must Yield Right of Way
7-2-11: Offenses


**7-2-1: APPLICATION:** The regulations of this Chapter apply on all private highways within the Florence City limits.

**7-2-2: DEFINITIONS:** In addition to those definitions contained in the Oregon Vehicle Code 1 and Chapter 1 of this Title of the Florence City Code, the following words and phrases, as used in this Chapter, except where the context clearly indicates a different meaning, shall mean:

PRIVATE HIGHWAY — When used in this Chapter means every private road or street within the City limits of Florence, not open to the general public, and used or intended for use by vehicles.

ROADWAY — Means that portion of a private highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder. In the event a private highway includes two or more separate roadways the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

SHOULDER — Means that portion of the private highway, whether paved or improved, contiguous to the roadway primarily for use by pedestrians, for the accommodation of stopped vehicles, for emergency use and for lateral support of base and surface courses.

**7-2-3: CARELESS DRIVING:** A person commits the offense of careless driving if:

A. The person drives a vehicle on a private highway, in a manner that endangers or would be likely to endanger any person or property; or

B. The person drives a vehicle on a private highway while the person is:

1. Under the influence of intoxicating liquor or a controlled substance; or

2. Under the influence of intoxicating liquor and a controlled substance.

**7-2-4: USE OF CHEMICAL ANALYSIS AS EVIDENCE:** The percent by weight of alcohol as shown by chemical analysis of a person's breath or blood, is indirect evidence that may be used with other evidence to determine whether or not the person was then under the influence of intoxicating liquor.

**7-2-5: FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER:**

A. A driver of a motor vehicle commits the crime of fleeing or attempting to elude a police officer if, when given visual or audible signal to bring the vehicle to a stop, he/she knowingly flees or attempts to elude a pursuing police officer.

B. The signal given by the police officer may be by hand, voice, emergency light or siren.

C. As used in this section, "police officer" means a City of Florence Police Officer in uniform, prominently displaying his/her badge of office or who is operating a vehicle appropriately marked showing it to be an official police vehicle.

**7-2-6: DUTIES OF DRIVERS AND WITNESSES AT ACCIDENTS:**

A. The driver of any vehicle involved in an accident which results in injury or death to any person or causes damage to a vehicle which is driven or attended by a person, immediately shall stop such vehicle at the scene of the accident, or as close thereto as possible, and shall remain at the scene of the accident until the driver has fulfilled the requirements of subsection B of this section. Every such stop shall be made without obstructing traffic more than is necessary.

B. The driver of any vehicle involved in any accident resulting in injury or death to any person or damage to any such vehicle shall:

1. Give to the other driver or surviving passenger, or any person not a passenger injured as a result of such accident, the name, address and the registration number of the vehicle which the driver is driving, and the name and address of any other occupants of such vehicle.

2. Upon request and if available, exhibit and give the number of the operator's or chauffeur's license of the driver to the persons injured, or to the occupant of or person attending any vehicle damaged.

3. Render to any person injured in such accident reasonable assistance, including the conveying or the making of arrangements for the conveying of such person to a physician, surgeon or hospital for medical or surgical treatment, if it is apparent that such treatment is necessary or if such conveying is requested by any injured person.

C. Any witness to the accident shall furnish to the driver or occupant of such vehicles, or injured person, the true name and address of the witness.

**7-2-7: DRIVER'S DUTIES WHOSE VEHICLE COLLIDES WITH UNATTENDED VEHICLE OR OTHER PROPERTY:**

A. The driver of any vehicle which collides with any vehicle which is unattended immediately shall stop and:

1. Locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle; or

2. Leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

B. The driver of any vehicle involved in an accident resulting only in damage to fixtures or property legally upon or adjacent to a private highway shall:

1. Take reasonable steps to notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle the driver is driving.

2. Upon request and if available, exhibit the operator's or chauffeur's license of the driver.

**7-2-8: BASIC SPEED RULE:** A person commits the offense of violating the basic speed rule if he/she drives a vehicle upon a private highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway, the hazard at intersections, weather, visibility and any other conditions then existing.

**7-2-9: PEDESTRIAN'S USE OF SHOULDER AND ROADWAY EDGE:**

A. A pedestrian commits the offense of failure to use a shoulder if he/she positions himself/herself upon, or proceeds along and upon the roadway where there is an adjacent usable shoulder.

B. A pedestrian commits the offense of improper use of a private highway shoulder if in using the shoulder he/she does not position himself/herself upon, or proceed along and upon, the shoulder as far as practicable from the roadway edge on a private highway which has an adjacent shoulder area on one or both sides.

C. Except in the case of the divided private highway, a pedestrian commits the offense of failure to use left private highway shoulder if he/she does not position himself/herself upon, or proceed along and upon, the left shoulder and as far as practicable from the roadway edge on a two-way private highway which does have an adjacent shoulder area.

D. A pedestrian shall position himself/herself upon, or proceed along and upon, the right private highway shoulder, as far as practicable from the roadway edge, on a divided private highway which has a shoulder area.

E. A pedestrian commits the offense of unlawful use of roadway if he/she fails to position himself/herself upon, or proceed along and upon, a private highway which does not have a shoulder available, as near as practicable to an outside edge of the roadway, and, if the roadway is a two-way roadway, only on the left side of it.

**7-2-10: PEDESTRIAN MUST YIELD RIGHT OF WAY:** A pedestrian upon the roadway of a private highway shall yield the right of way to all vehicles upon the roadway.

**7-2-11: OFFENSES:** It shall be unlawful for any person to violate or fail to comply with any provision of this Chapter.

TITLE 7
CHAPTER 3

# BICYCLES

REPEALED BY ORDINANCE NO. 14, SERIES 2011

TITLE 7
CHAPTER 4

# PARADES, PROCESSIONS

SECTION:

7-4-1: Permit Required, Fee
7-4-2: Permit Application
7-4-3: Appeal
7-4-4: Offenses
7-4-5: Revocable Permit

**7-4-1: PERMIT REQUIRED, FEE:** No person shall organize or participate in a parade which may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people utilizing the public right of way and consisting of fifty (50) or more persons or fifteen (15) or more vehicles. The fee for a parade permit shall be set by resolution. (Ord. 568, 8-2-76; amd. 1981 Code)

**7-4-2: PERMIT APPLICATION:**

A. Application for parade permits shall be made to the Chief of Police at least seven (7) days prior to the intended date of the parade, unless the time is waived by him.

B. Applications shall include the following information:

1. The name and address of the person responsible for the proposed parade.

2. The date of the proposed parade.

3. The desired route including assembling points.

4. The number of persons, vehicles and animals which will be participating in the parade.

5. The proposed starting and ending time.

6. The application shall be signed by the person designated as chairman.

C. If the Chief of Police, upon receipt of the application, determines that the parade can be conducted without endangering public safety and without seriously inconveniencing the general public safety and without seriously inconveniencing the general public, he shall approve the route and issue the permit.

D. If the Chief of Police determines that the parade cannot be conducted without endangering public safety or seriously inconveniencing the general public, he may:

1. Propose an alternate route.

2. Propose an alternate date.

3. Refuse to issue a parade permit.

E. The Chief of Police shall notify the applicant of his decision within five (5) days of receipt of the application.

F. If the Chief of Police proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal his decision to the City Council.

**7-4-3: APPEAL:**

A. An applicant may appeal the decision of the Chief of Police by filing a written request of appeal with the City Recorder within five (5) days after the Chief of Police has proposed alternatives or refused to issue a permit.

B. The Council shall schedule a hearing date which shall not be later than the second regular session following the filing of the written appeal with the City Recorder and shall notify the applicant of the date and time that he may appear either in person or by a representative.

**7-4-4: OFFENSES:**

A. No person shall unreasonably interfere with a parade participant.

B. No person shall operate a vehicle that is not part of a parade between the vehicles or persons comprising a parade.

**7-4-5: REVOCABLE PERMIT:** The Chief of Police may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety. (Ord 568, 8-2-76)

TITLE 7
CHAPTER 5

# SPECIAL EVENTS

SECTION:


7-5-1: Purpose
7-5-2: Special Event on City Property
7-5-3: Special Event Impacting Right of Way
7-5-4: Street and Right of Way Closures
7-5-4-1: Criteria for Approval
7-5-4-2: Application, Staff Review, Appeal, and Council Action
7-5-5: Revocation of Permit
7-5-6: Fees


**7-5-1: PURPOSE:** This Chapter regulates the use of city property for Special Events and regulates Special Events that impact city property and the rights of way within the city. A Special Event is any event that occurs upon private or public property that will affect the ordinary use of city property, public streets, rights-of-way or sidewalks, or may require increase presence of City personnel. A Special Event includes, but is not limited to, fairs, festivals, concerts, parades and block parties. Demonstrations and other lawful assemblies, including but not limited to private social gatherings that will make no use of city streets other than for lawful parking, are not included, unless the effect on city property or rights-of-way is extraordinary. School events on school property are not included. If a Special Event involves the sale of goods or services, a business license will be required under Title 3, Chapter 1. Regulations governing parades and processions are found in Title 7, Chapter 4. Regulations of certain commercial activity on city streets are found in Code Section 8-2-4. (Ord. 18, 12-15-10)

**7-5-2: SPECIAL EVENT ON CITY PROPERTY:** Special Events on city property require a special event permit. Requests to conduct a Special Event on city property shall be made by application to the City Manager. The City Manager shall adopt policies for the application process, application review criteria, and conditions of approval. Applicants may appeal an application decision made by the City Manager to the City Council using the procedures set out in the Code Section 3-1-9. References to the City Manager shall mean the City Manager or the City Manager's designee. (Ord. 18, 12-15-10)

**7-5-3: SPECIAL EVENT IMPACTING RIGHT OF WAY:** Any person or group who wishes to hold a Special Event on private property adjacent to a roadway designated in this Section as being in an "area of high motor vehicle traffic" or "high pedestrian traffic" must first obtain a special event permit from the City Manager. If the Special Event is or includes a parade, a parade permit must also be obtained from the appropriate governing agency. Special Events held adjacent to an area of high motor vehicle traffic or high pedestrian traffic may be subject to conditions of approval, as set out in policies adopted by the City Manager, that take into account the safety of vehicle and pedestrian traffic as well as the safety of those attending the Special Event. The following roadways are hereby designated as high motor vehicle traffic and high pedestrian traffic areas:

1. All locations on Bay Street
2. 1st Street from Laurel Street to Harbor Street
3. Laurel Street from 1st Street to Bay Street
4. Maple Street from 1st Street to Bay Street
5. Nopal Street from 1st Street to Bay Street
6. All locations on Highway 101
7. All locations on Highway 126

(Ord. 18, 12-15-10)

**7-5-4: STREET AND RIGHT OF WAY CLOSURES:** Any person or entity seeking the closure of a street or public right of way as part of any Special Event shall in addition to a Special Event permit, also obtain a street closure permit from the City of Florence. This Section does not apply to persons or entities with the necessary and proper permits for construction or repair work on either public or private property which require temporary closure or partial closure of any right of way or street. This Chapter also does not apply to street or right of way closures authorized by: the City Manager under FCC 7-1-3-3-E; the Police Department, the Public Works Department, or other city department for city projects or business; and FCC 7-4 for parades.

Street closure permits may only be approved by the City Council after allowing the public an opportunity to

comment on the proposed street or right of way closure at a public meeting. The application, review criteria, and review procedures for a street closure permit shall be governed by this Section.

**7-5-4-1: CRITERIA FOR APPROVAL:** The Council may not grant a temporary permit pursuant to this Chapter unless the application for the permit demonstrates compliance with the following criteria:

(1) The street closure and/or Special Event will not disrupt traffic within the city beyond practical solution.

(2) The street closure and/or Special Event will not create unreasonable or significant safety issues for the participants, the public, attendees, pedestrians, motorists, or others.

(3) The Special Event will not result in a violation of the city's noise ordinance, FCC 6-1-2-3. If the applicant is planning to use any sound producing devices which may violate the noise ordinance, a separate application for a variance under FCC 6-1-2-3 must accompany the application for a street closure. A final decision on the street closure application will not be made until after a final decision is made on the application for a variance to the noise ordinance.

(4) The Special Event and/or the street closure will not unreasonably interfere with access to fire stations and fire hydrants.

(5) The Special Event and/or the street closure will not unreasonably interfere with access to the affected area by police, fire, ambulance, or other emergency services providers.

(6) If alcohol will be served or sold at the Special Event, applicant will obtain or has obtained any and all necessary OLCC permits. Applicant shall include a plan in the application which demonstrates the ability to comply with all state and local laws, rules and regulations. This paragraph is not intended to repeal or modify FCC 6-1-2-5 which prohibits the consumption of alcohol in a public right-of-way.

(7) The Special Event and/or street closure will not cause undue hardship to adjacent businesses, public services including public transit, public buildings, and/or residences which cannot be reasonably mitigated by the applicant. If the Special Event will create undue hardships for adjacent businesses, public services, or residences, the applicant shall provide and fund a plan to mitigate or avoid these hardships.

(8) The application is complete as required by this Chapter and contains no false information.

(9) The applicant has fully paid or guaranteed payment for the cost of any mitigation plan and the cost of any activity the City has agreed to perform in support of the Special Event, if any.

(10) The applicant has provided proof of insurance in a form and amount as approved by the city manager sufficient to protect the City and the public from the risk of any liability created by the street closure and/or the Special Event.

**7-5-4-2: APPLICATION, STAFF REVIEW, APPEAL, AND COUNCIL ACTION:**

A. <u>APPLICATIONS</u>:

A completed application for a Special Event permit requiring the temporary closure of any street or right or way shall be submitted to the City Manager, or designee, at least 45 days prior to the event if no other governmental entity approval or permit is required. Whenever another governmental entity approval or permit is required, the application shall be submitted to the City Manager, or designee, at least 90 days prior to the event. Applications may only be submitted for a Special Event up to one year in advance. Any such application shall include the following:

(1) The full name and contact information for all event organizers and a detailed description of the event, including dates, hours, admission fees, and purpose, and a statement as to how the event will benefit the citizens of Florence.

(2) A map and description of all streets and rights of way affected by the closure with sufficient detail to allow the City to complete the review and assess the impact of the closure.

(3) A list of all businesses within 100' of the portion of the streets to be closed.

(4) A detailed plan for ingress and egress from the closed area including delivery trucks, participants, attendees, the general public, residents, and emergency vehicles. This plan must include the number of access points, who will be allowed ingress and egress at those points, and how these points will be staffed and controlled.

(5) An estimate as to how many participants and attendees are expected at the event including an explanation of how the estimate was derived.

(6) A sanitation plan providing details as to how the organizers plan to accommodate the expected attendees and participants with an appropriate number of public restrooms or sanitation facilities.

(7) A security plan which must include the number and deployment of security personnel, a temporary fencing plan, a crowd control plan, a traffic control plan, and a plan for how first aid will be provided during the event. For Special Events predicted to have a total attendance of greater than 500 people, the applicant shall supply information concerning the qualifications of the personnel that will provide crowd control and traffic control.

(8) A statement as to whether alcohol will be consumed or sold during the Special Event, a copy of all required OLCC permits, or a statement that all required permits will be obtained and copies provided prior to the Special Event, and a plan which demonstrates compliance with all state and local laws, rules, and regulations. If alcohol will be sold at the Special Event, the applicant will obtain a commercial liquor liability insurance policy and submit a certificate of insurance to the City. For Special Events predicted to have total attendance of less than 500 people, the policy shall be for coverage of at least $500,000 combined single limit per occurrence. For Special Events predicted to have total attendance of greater than 500 people, the policy shall be for coverage of at least $1,000,000 combined single limit per occurrence.

(9) A disclosure as to when and whether any sound producing devices including musical instruments will be used during the Special Event and when and where any sound will be amplified for any purpose during the event.

(10) Proof of liability insurance for the Special Event in the form and amount approved by the city manager naming the City as an additional insured.

(11) An approved City business license if required by FCC 3-1-4.

(12) Approvals to place any signage within the rights of way as required by FCC 10-26-6.

(13) A list of on-site contact persons that will be at the Special Event during all hours of the Special Event. The list shall contain the contact information for each contact person such that the city will be able to reach the contact person during the Special Event.

(14) A consent to attend a pre-Special Event conference with city staff to prepare for the Special Event should such a conference be requested by the City Manager, or designee.

(15) The fees required by FCC 7-5-6.

(16) A written agreement to indemnify the city against any and all claims related to the applicant's actions or inactions related to the Special Event. Such indemnity shall be in a form approved by the City Manager.

The applicant shall sign the application, and if the signatory is signing on behalf of an entity, the signatory shall attest that the signatory has the authority to sign the application.

B. STAFF REVIEW PROCESS & APPEAL:

When an application is deemed complete by the City Manager, or designee, City staff will commence an administrative review of the application. The City Manager may determine which city staff will review each

application, but that staff review shall always include review by the Chief of Police, the Public Works Director, and the City Manager, or their respective designees. An application may not be deemed complete until all of the items listed in FCC 7-5-1-2(A) have been provided to the city. City staff will review the application to determine if it poses any unreasonable or significant threat to the public health or safety that cannot be mitigated by the applicant. City staff will also review the application to determine whether the event is an "outdoor mass gathering" or whether it requires a permit or permits from other public agencies. An outdoor mass gathering is defined and regulated by ORS 433.735. Applications for such events will be forwarded to Lane County for review and comment. An outdoor mass gathering is one where the event lasts between 24 and 120 hours with an excess of 3,000 people. Events of this nature will require the application to be submitted at least 90 days prior to the event. If it is determined that permits are required from other public agencies, the city will refer the applicant to those agencies before completing the staff review process. For example, alcohol sales are regulated by the Oregon Liquor Control Commission and a state permit may be required. Food handling may require a Lane County food handling permit. If state roads will be impacted or affected, an Oregon Department of Transportation (ODOT) permit is required. Failure to obtain any such permit may delay processing a temporary road closure permit by the city.

Any application may be summarily denied by the City Manager if it poses a health or safety hazard that cannot be mitigated by the applicant; if it would violate any federal, state, county, or city law; or if the applicant fails or refuses to provide any information required by this Chapter. Any summary denial by staff may be appealed to the City Council pursuant to FCC 3-1-9. All applications which have been through the staff review process and have not been summarily denied by the City Manager shall be forwarded to the City Council for a final decision on the application.

Notices of staff action on an application will be provided to the applicant via first class mail to the address provided by the applicant on the application.

C. COUNCIL ACTION:

After allowing public comment at a public meeting on any application to temporarily close a street or right of way, the City Council may approve the application, approve the application with conditions, deny the application, or require the applicant to provide additional information before making a decision. The City Council decision shall be based on the following questions:

(1) Has the applicant demonstrated compliance with all of the criteria for approval set out in FCC 7-5-1-1?

(2) Is the information provided by the applicant credible and are the plans submitted by the applicant adequate to protect the city, the public and the affected property owners?

(3) Is the potential harm and inconvenience to public and affected property owners created by this road closure reasonably mitigated or avoided by the applicant's plan for the event?

If the answer to all three of these questions is "yes," the City Council shall direct the City Manager to issue the permit for the street closure regardless of the subject matter of the event or the identity of the applicant. If the answer to any of these three questions is "no," the City Council shall deny the permit and that decision is final. The Council's decision shall be in writing and include written findings upon which the decision is based.

D. Prior to the council meeting where the council is taking public comments on any applications filed under this chapter, the City shall provide notice of the proposed street closure and the Council's deliberation on the proposed street closure to the following:

(1) All property owners within 100' of the proposed street closure;

(2) All businesses within 100' of the proposed street closure; and

(3) The Siuslaw Valley Fire and Rescue District and the Western Lane Ambulance District

**7-5-5: REVOCATION OF PERMIT:** Any permit issued under this Chapter may be revoked by the City Manager, or designee, if the applicant: fails to adhere to all of the requirements for such permits set forth in this Chapter; does not fully comply with any condition imposed by the City Council when the permit was issued; and/or fails to fully implement any of the plans in the application which are intended to protect the health, safety, or welfare of the city, the public, or the affected property owners. Any such revocation may be appealed to the City Council pursuant to FCC 3-1-9.

**7-5-6: FEES:**

A. Fees for permits issued pursuant to this Chapter shall be established by resolution of the City Council.

B. The City Manager may waive or reduce any permit fee under this Chapter when, in the judgment of the City Manager, it would be in the public interest to do so.

C. Fees shall be due at the time an application is submitted. An application is not complete and will not be reviewed until fees have been paid.

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Established by Ordinance 13, 2009 – effective 9-16-09
Sections: 7-5-1, 7-5-2, 7-5-3, 7-5-4, 7-5-5, and 7-5-6 amended in Ord. 18, Series 2010, effective 12-15-10.

TITLE 7
CHAPTER 6

# MOTORIZED VEHICLE RACING

SECTION:

7-5-1: Definitions
7-5-2: Prohibition
7-5-3: Exemption

## 7-1-1: DEFINITIONS:

| | |
|---|---|
| MOTORIZED VEHICLE | Any "vehicle" as defined in ORS 801.590 that has a motor of any type powering its operation and/or any motorized all-terrain vehicle as defined in ORS 801.190, ORS 801.193 or ORS 801.194. "Motorized vehicle" also includes "motor vehicles" as defined by ORS 801.360. |
| ORGANIZED EVENT | Any gathering or meeting of two or more persons that is managed, directed, and/or run by a person or a group of people for a particular purpose. An organized event may be one-time, occasional, sporadic, recurring, or periodic and may or may not involve offering prizes and/or awards. |

## 7-5-2: PROHIBITION:

No person may operate any motorized vehicle on private or public property as part of any type of organized event for a speed race, exhibition of speed, timed contest, or timed course event measuring the skill in the use of a motorized vehicle where the purpose is to finish the contest or course in as short a time as possible.

## 7-5-3: EXEMPTION:

Nothing in this section prohibits public employees engaged in emergency medical services, fire and rescue services, or police emergency services to engage in any training activity or event that requires a timed qualification requirement in the use of any motorized vehicle on public or private property.

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Established by Ordinance 6, 2011 – effective May 6, 2011

# TITLE 8

## PUBLIC WAYS AND PROPERTY


| SUBJECT | CHAPTER |
|---|---|
| LOCAL IMPROVEMENTS | 1 |
| STREETS AND SIDEWALKS | 2 |
| PROPERTY VACATIONS | 3 |
| TREES AND VEGETATION | 4 |
| REIMBURSEMENT DISTRICTS | 5 |
| AIRPORT | 6 |
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TITLE 8
CHAPTER 1

# LOCAL IMPROVEMENTS

SECTION:

8-1-1: Initiation Procedure
8-1-1-1: Definitions
8-1-1-2: Initiation of Local Improvements; Resolution
8-1-1-3: Notice of Hearing
8-1-1-4: Hearing
8-1-1-5: Alternative Procedure for Initiating Local Improvement
8-1-1-6: Public Testimony Concerning Council Designee's Report
8-1-1-7: Manner of Doing Work
8-1-1-8: Construction of Improvement; Bids
8-1-1-9: Costs and Expenses
8-1-1-10: Method of Assessment; Alternative Methods of Financing
8-1-1-11: Assessment Procedure
8-1-1-12: Notice of Assessment
8-1-1-13: Lien Records and Foreclosure Proceedings
8-1-1-14: Errors in Assessment Calculations
8-1-1-15: Installment Payment of Assessments
8-1-1-16: Filing of Ordinances
8-1-1-17: Deficit Assessments
8-1-1-18: Rebates and Credits
8-1-1-19: Abandonment of Proceedings
8-1-1-20: Curative Provisions
8-1-1-21: Reassessments
8-1-1-22: Remedies
8-1-1-23: Segregation of Liens
8-1-1-24: Interpretation

## 8-1-1: INITIATION PROCEDURE:

**8-1-1-1: DEFINITIONS:** As used in this Chapter, except where the context clearly indicates a different meaning, the following words and phrases shall have the meanings ascribed to them by this subsection:

| | |
|---|---|
| CITY ENGINEER | The person designated by the City Manager to perform the functions described. |
| CITY RECORDER | The person designated by the City Manager to perform the functions described. |
| LOCAL IMPROVEMENT | Any project or service or part thereof undertaken by the City where all or part of the costs are borne by local assessments levied against lot(s) which provides a special benefit only to specific lot(s) or rectifies a problem caused by specific lot(s). Such local improvements may include, but are not limited to, a street, sidewalk, street light, underground utility, sanitary or storm sewerage facility, water utility facility, off-street motor vehicle parking facility, flood control facility, park, playground or neighborhood recreation facility. |
| LOCAL IMPROVEMENT DISTRICT | The property which is to be assessed for the cost of a local improvement and the property on which the local improvement is located. |
| LOT | Lot, block or parcel of land. |
| OWNER | The owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the County Assessor. |

## 8-1-1-2: INITIATION OF LOCAL IMPROVEMENTS; RESOLUTION:

A. Whenever the City Council, in its discretion, shall deem it necessary to make any local improvement to be paid for in whole or in part by special assessment according to benefits conferred, or whenever the owners of one-half (1/2) of the property to benefit specifically from the local improvement shall, by written petition, request the Council to make a local improvement, the Council shall direct the City Engineer to prepare and submit to the Council a report containing the following information and whatever additional information the Council requires:

1. A map showing the general nature, location, and extent of the proposed local improvement and the contemplated local improvement district.

2. A list of all the lot(s) in the proposed local improvement district and lot(s) owners.

3. A proposal of one or more methodologies for assessing the costs of the proposed local improvement to the specially benefited property.

4. An estimate of the total cost of the proposed improvement with a breakdown showing the estimated amount and its percentage of the total estimate to be borne by the specially benefited property, by the City and by others.

B. After considering the report furnished under A above, the Council may:

1. Direct that a public hearing be held on the proposed project consistent with the City Engineer's report and direct that notice of the hearing be given as provided in 8-1-1-3;

2. Modify the City Engineer's report and then direct that a public hearing be held on the proposed project consistent with the City Engineer's report as modified and direct that notice of the hearing be given as provided in 8-1-1-3;

3. Require additional information about the proposed improvement; or

4. Decide not to make the improvement

**8-1-1-3: NOTICE OF HEARING:**

A. When directed by the City Council the City Recorder shall cause notice of the proposed improvement and of the public hearing to be given by one publication not less than ten (10) days prior to the public hearing in a newspaper of general circulation within the City and by mailing copies of the notice by first class , postage pre-paid mail to the owner of each lot affected by the proposed improvement.

B. The notice shall contain:

1. A general description of the proposed local improvement and the property to be specifically benefited thereby. The description of property need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property.

2. An estimate of the total cost of the improvement, the portion anticipated to be paid for by special assessments, and the methodology and alternate methodologies, if any, proposed for assessing the costs to the specially benefited property.

3. The time and place of the public hearing.

4. A statement of a place where additional information concerning the improvement is available to the public.

5. Any other information the Council may direct to be included.

**8-1-1-4: HEARING:**

A. At the time of the public hearing, the City Council shall hear and consider testimony, both oral and written, on the proposed local improvement and may continue the hearing as it deems necessary. If the matter is heard by a City Council designee, the designee shall prepare a written report of the hearing and make recommendations to the City Council concerning the proposed local improvement.

After such hearing or after receiving the designee's report the Council may, in its discretion, order the local improvement to be made. If the Council elects to order such improvement, it shall, within ninety (90) days after the date of the hearing, provide by resolution for the establishment of the local improvement district, and for the methodology to be used when assessing the costs to the specially benefited property.

B. Notwithstanding the fact that the proposed improvement was petitioned for by one-half (1/2) of the benefited property owners, the Council may refuse to proceed with the improvement if it finds the proposed improvement to be untimely or not in the best interests of the City.

C. At its public hearing, or after receiving its designee's report, the Council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefited by the improvement, or making such other modifications tin the proceedings, including the methodology for assessing the costs, as it finds reasonable. If the Council modifies the scope of the proposed improvement so that assessment is likely to be increased substantially upon one or more lots, or if the Council enlarges the local improvement district, or if the Council causes a substantial change in any of the particulars contained in the improvement resolution, it shall re-notify the owners of the affected lots of the a public hearing on the revised proposed local improvement district. Such re-notification shall comply with 8-1-1-3-B. However, no new publication shall be required.

**8-1-1-5: ALTERNATIVE PROCEDURE FOR INITIATING LOCAL IMPROVEMENTS:** Whenever all of the owners of any property to be benefited and assessed for any local improvement have signed a petition directed and presented to the City Council requesting such local improvement, the Council may initiate and construct such local improvement without publishing or mailing notice to the owners of the affected property and without holding a public hearing regarding the proposed local improvement.

**8-1-1-6: PUBLIC TESTIMONY CONCERNING COUNCIL DESIGNEE'S REPORT:** Any time the Council receives a written report from its designee under the provisions of this chapter, no additional public testimony shall be received on the matter unless the Council determines to take additional testimony before acting on the report.

**8-1-1-7: MANNER OF DOING WORK:** Local improvement may be made in whole or in part by the City, by another governmental agency, by contract, or by any combination thereof.

**8-1-1-8: CONSTRUCTION OF IMPROVEMENT; BIDS:**

5. The resolution establishing the local improvement district

   1. May direct necessary property interests be acquired;

   2. Shall direct the improvement be made in accordance with the terms of said resolution, and

   3. Determine if the work is to be performed by the City or another governmental agency.

   If any part of the work of the improvement is to be done under contract bids, the City Engineer shall cause plans and specifications to be prepared and call for bids as required by Florence city Code Chapter 1-8 regarding public contracting or any successor provision of this Code. ( Ord 548, 1974 amended by Ordinance No. 4, Series 1989).

B. Contracts for all or part of the work of the local improvement may be let as required by Florence City Code Chapter 1-8; provided, the City Council may order such work performed or materials purchased without a call for bids or letting of contracts where, in the opinion of the Council, it is to the best interest of the public to do so. The City shall have the right to reject any or all bids. If bids are rejected, the Council may direct the City Engineer to call for new bids or direct the work to be performed by City forces. (Amended by Ordinance No. 4, Series 1989)

C. If the Council finds upon opening bids for the work of such improvement, that the bid in the best interest of the City is substantially in excess of the City Engineer's estimate, it may, in its discretion, provide for holding a special hearing to consider objections to proceeding with the improvement on the basis of such bid.

**8-1-1-9: COSTS AND EXPENSES:** The costs and expenses of local improvements which may be assessed against the property specially benefited by the improvement shall include the costs of construction and installation of the improvement; advertising, legal, administrative, engineering and assessment costs; financing costs, including interest charges; the costs of any necessary property, right of way or easement acquisition and condemnation proceedings; and any other necessary expenses.

**8-1-1-10: METHOD OF ASSESSMENT; ALTERNATIVE METHODS OF FINANCING:**

A. The Council, in adopting a method of assessment of the costs of any local improvement, may:

1. Use any just and reasonable method of determining the extent of the local improvement district consistent with the benefits derived.

2. Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefited.

3. Authorize payment by the City of all or any part of the costs of a local improvement when, in the opinion of the Council, the topographical or physical conditions, or unusual or excess public travel or use, or other character of the work involved warrants only a partial payment or no payment by the benefited property of the costs of the local improvement.

B. Nothing contained in this Section shall preclude the Council from using any other available means of financing local improvements, including Federal or State grants-in-aid, water or sewer fees or charges, revenue or general obligation bonds, or any other legal means of financing. If such other means of financing local improvements are used, the Council may, in its discretion, levy special assessments according to the benefits derived to cover any remaining part of the costs of the local improvement.

**8-1-1-11: ASSESSMENT PROCEDURE:**

A. When the estimated cost of an authorized local improvement has been ascertained on the basis of the City Engineer's estimate of costs, the award of a contract or any other basis acceptable to the Council, or after the work has been completed and the actual cost thereof has been determined, the City Recorder, shall prepare the proposed assessment to the respective lots within the local improvement district, and shall send by registered or certified mail notice of the proposed assessments to the owners of the specially benefited lots and of a hearing before the City Council or its designee upon the proposed assessments at which time the Council or its designee shall consider any written or oral objections to the proposed assessments. At the time this notice is sent to affected lot owners, the City Recorder shall also submit to the Council and its designee a report containing:

1. The actual or estimated total cost of the local improvement and the allocation of the cost between the specially benefited lots, the City and any others.

2. The proposed assessment to each specially benefited lot within the local improvement district, the name of the owner of each lot and a legal description of each lot to be assessed.

3. Any other information that the City Recorder deems relevant or that the City Council has requested.

B. The Council or its designee shall hold the public hearing on the proposed assessments to consider objections thereto. Following the hearing, if the matter has been heard by the Council's designee, the designee shall prepare for the Council a written report of the hearing and make recommendations concerning the proposed assessments. Following receipt of the designee's report or following the Council hearing, the Council shall determine the amount of assessment to be charged against each lot within the local improvement district according to the special and peculiar benefits accruing thereto from the improvement, and shall be ordinance spread the assessments and impose a lien against each lot if the assessment is not paid as provided in 8-1-1-13. If the Council or its designee determines that a proposed assessment should be increased, a new notice of the increased proposed assessment as required in A above and an opportunity for comment thereon shall be given the owner of each affected lot.

C. Within ten (10) days after the effective date of the ordinance levying the assessments, the City Recorder shall send, by registered or certified mail to the owner of each assessed lot, a notice containing the following information:

1. The date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed.

2. A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this Section.

3. A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within thirty (30) days of the date of the letter and, if unpaid on that date, will accrue interest and subject the property to foreclosure.

**8-1-1-13: LIEN RECORDS AND FORECLOSURE PROCEEDINGS:** After passage of the assessment ordinance by the Council, the City Recorder shall enter in the City lien docket a statement of the amounts assessed upon each particular lot or portion thereof, together with a description of the improvement, the names of the owners and the date of the assessment ordinances. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the respective lots, parcels of land proportions thereof, which have been assessed for such improvement. All assessment liens of the City shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the State of Oregon permit. Interest shall be charged at a rate to be determined by the Council. The Council, in determining such rate, may consider as one factor the net effective interest rate that the City has paid for warrants on the particular improvement project. Interest shall accrue from the date of passage of the assessment ordinance unless the entire assessment principal amount is paid within thirty (30) days from the date of the letter notifying the owner of the ordinance levying the assessment, in which case interest will be waived; and after expiration of thirty (30) days from said date the City may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the State of Oregon; provided, however, that the City may, at its option, enter a bid for the property being offered at a foreclosure sale, which bid shall be prior to all bids except those made by persons who would be entitled under the laws of the State of Oregon to redeem such property. (Ord. 648, 7-28-81)

**8-1-1-14: ERRORS IN ASSESSMENT CALCULATIONS:** Claimed errors in the calculation of assessments shall be brought to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the City Recorder finds that there has been an error in fact, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct such error. Upon enactment of any such amendment, the City Recorder shall cause the necessary correction to be made in the City lien docket and shall cause a corrected notice of assessment to be sent by registered or certified mail. (Ord. 548, 1974)

**8-1-1-15: INSTALLMENT PAYMENT OF ASSESSMENTS:**

A. The Bancroft Bonding Act shall apply to assessments levied in accordance with this Section except as provided by this Section. Unless otherwise provided in a particular assessment ordinance, the owner of any property assessed for a local improvement in accordance with this Section in the sum of one hundred dollars ($100.00) or more, at any time within thirty (30) days after notice of assessment is first mailed may file with the City Recorder a written application to pay the whole of the assessment in ten (20) semi-annual installments constituting a five (10) year payment period.

B. Interest shall be included on installments authorized in A above as follows: From the date of passage of the assessment ordinance by the Council, interest shall be charged at the rate determined by the Council for that particular improvement project as determined under Section 13 of this Chapter. Thereafter at the time of the sale of improvement bonds the Council shall set the maximum interest rate the City will pay on the bonds and after bond sale the assessment shall bear interest from the effective date of sale at the rate of not more than two percent (2%) more than the net effective interest rate to be paid by the City for the bonds for the particular sale. (amended by Ord 3, Series 1996 2-21-96)

C. The provisions of this Section shall apply to all existing districts upon which the final assessment has not yet been made (Improvement Projects No. 1995-1) and the bonds have not yet been sold (above project) and shall apply to all future local improvement.

**8-1-1-16: FILING OF ORDINANCES:** The City Recorder shall file copies of the resolution establishing a local

improvement district and the assessment ordinance with the keeper of the official records for Lane County; provided, however, that failure to file such information shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose any liability on the City, the City Recorder or any official, officer or employee of the City.

**8-1-1-17: DEFICIT ASSESSMENTS:** If the initial assessment has been made on the basis of estimated cost and upon the completion of the improvement, the actual cost is found to be greater than the estimated cost, the Council may make a deficit or supplemental assessment for the additional cost. Proposed assessments upon the respective lots within the local improvement district for the proportionate share of the deficit shall be made, notices sent, a public hearing held and opportunity for objections considered, and determination of the assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the deficit or supplemental assessment spread by ordinance. The deficit assessments shall be entered in the City lien docket, notices published and mailed and the collection of the assessment made in accordance with the provisions of this Section relating to the original assessment.

**8-1-1-18: REBATES AND CREDITS:** If assessments have been made on the basis of estimated cost, and upon completion of the improvement project the cost is found to be less than the estimated cost, the Council shall ascertain and declare the same by ordinance, and when so declared, the excess amounts shall be distributed as follows:

A. For assessment account paid in full, the proportionate amount of the excess shall be paid to the owner of the lot originally assessed.

B. For unpaid assessment accounts, the proportionate amount of the excess shall be applied as a credit against the account. The proportionate amount shall be applied first to accrued interest and then the remainder to unpaid principal. If that application results in satisfying the debt, any unused portion of the proportionate amount shall be paid to the owner of the lot originally assessed. The application of a proportionate amount shall not correct any delinquency.

**8-1-1-19: ABANDONMENT OF PROCEEDINGS:** The Council shall have full power and authority to abandon and rescind proceedings for local improvements made under this Section at any time prior to the final completion of such improvements. If liens have been assessed upon any property under such procedure, they shall be canceled, and any payments made on such assessments shall be refunded to the person paying the same, his assigns or successors.

**8-1-1-20: CURATIVE PROVISIONS:** No improvement assessment shall be rendered invalid by reason of a failure to have all of the information required to be in any City Engineer's or City Recorder's report, the improvement resolution or ordinance, the assessment ordinance, the lien docket or notices required to be published, mailed or posted; nor by the failure to list the name of, or mail notice to, the owner of any property as required by this Section; nor by reason of any other error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps herein specified, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining. The Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

**8-1-1-21: REASSESSMENTS:**

A. Whenever all or part of any assessment for any local improvement has been or shall be declared void or set aside for any reason or its enforcement refused by any court having jurisdiction thereof, or whenever the Council is in doubt as to the validity of all or any part of such assessment, the Council may make a new assessment or reassessment in the manner provided by the laws of the State of Oregon.

B. For purposes of this Section, the term "assessment" includes deficit or supplemental assessments and reassessments.

**8-1-1-22: REMEDIES:** Subject to the curative provisions of Section 8-1-1-20 hereof, all actions of the Council taken pursuant to this Section 8-1-1 are solely and exclusively by writ of review in accordance with the procedures in ORS 34.010 to 34.100. Review of an ordinance levying any assessment may be commenced

only by a property owner who has filed a written objection to the proposed assessment in accordance with Section 8-1-1-11 hereof.

**8-1-1-23: SEGREGATION OF LIENS:**

A. Whenever the ownership of any portion of a lot less than the entire tract is transferred, any lien against said lot in favor of the City shall, upon request of the owner of the lot, shall be segregated as herein provided and not otherwise.

B. Applications for the segregation of liens shall be made to the City Recorder describing the lot to be segregated and the names of the owners of the respective lots. A certificate of the County Assessor shall be furnished showing the assessed valuation of the various concerned as of January 1 of the year in which the segregation is requested, if available; if not available, as of January 1 of the preceding year.

C. The City Recorder shall thereupon determine if the original assessment account is current. Only if the assessments against the lot are current, the City Recorder shall compute a segregation of the lien against each new lot upon the same basis as the same was originally computed and apportioned and reflect this segregation in the City lien docket; provided, however, that no segregation shall be made unless all parts of the original tract of land after the segregation have a true cash value as determined from the certificate of the assessor or sixty percent (60%) or more of the amount of the lien as to the various tracts concerned.

**8-1-1-24: INTERPRETATION:** The provisions of this Section 8-1-1 shall apply to all future local improvement districts and, to the extent further actions or proceedings may be required, to all existing districts. (Ord. 548, 1974)

Amended by Ordinance No. 8 Series 1995
Amended by Ordinance No. 3 Series 1996

TITLE 8
CHAPTER 2

# STREETS AND SIDEWALKS

SECTION:


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## 8-2-1: STREET NAMING AND NUMBERING:

**8-2-1-1: SYSTEM ESTABLISHED:** There is hereby established a uniform system of numbering all houses and buildings fronting on all streets, avenues, alleys and highways in the City, and allowing for future growth within the City.

Where practicable all north-south streets through the City shall be named with the names matching the coastal theme of our region: aquatic sea life, native plants, or historic names of local events or people; and where practicable all east-west streets through the City shall be in numerical order. (Amended by Ord. No 1, Series 2007)

This Section shall not affect any name or numbering changes at the time of its passage.

Subdivisions and future expansion of the City must conform where practicable or be approved by the City Council. (Ord. 618, 11- 26-79)

**8-2-1-2: NUMBERS ASSIGNED:** The Building Official shall assign to each house and building, as permits are issued, the appropriate number. The north side of the street shall be odd numbered, south side shall be even numbered, east side shall be even numbered, and the west side shall be odd numbered. The number and street assigned shall be based on the location of the front door (irrespective of the front yard as defined for zoning purposes.) The cost of such numbers shall be borne entirely by the owner of such house or building. Such numbers shall be placed within thirty (30) days upon completion of a house or building. Such numbers shall be at least three inches (3") in height and shall be placed on the house so as to be visible from the street. (Ord. 618, 11-26-79; amd. 1981 Code)
In addition the owner shall paint and maintain address numbers on the curb face using a black background with white numbers at least four inches (4”) in height. (Amended by Ordinance No. 1, Series 2007)

## 8-2-2: STREET OR PUBLIC WAY OPENINGS:

**8-2-2-1: DEFINITION OF SURFACE:** "Surfaced area", as used herein, shall be defined as including: crushed rock or gravel, asphaltic concrete pavement, Portland cement concrete pavement, oil mat, penetration or macadam surfacing, and any other type of surfacing applied to a traveled way which has the effect of improving said traveled way for pedestrian or vehicular traffic. (Ord. 394, 7-22-63; amd. 1981 Code)

### 8-2-2-2: PERMIT REQUIREMENTS:

A. Required: No person shall make any cut, opening, trench or otherwise disturb any street or alley right of way or any surfaced street, alley, sidewalk or other public way for vehicular or pedestrian traffic within the City without first making an application for and securing a permit therefor. Boring is recommended for any street utility crossing. Street utility cuts shall be allowed only where there is no reasonable alternative, as determined by the Public Works Director. Pavement restoration by the applicant or a fee in lieu of repair shall be required.

B. Fee: A permit fee set by resolution will be charged for each permit issued. This fee is to cover administrative and inspection costs and is not refundable.

C. Deposit or Bond Required: To ensure that the surfaced area is replaced and that improvements within public rights of way, including measures to stop erosion, be restored, a deposit or bond may be required.

1. The deposit or bond shall be an amount equal to the estimated cost of replacing improvements which plans indicate may be disturbed or removed, as determined by the Public Works Director. The Public Works Director may waive this requirement if damage will be negligible.

2. The permit application shall show the location and extent of the proposed work. The Public Works Director may require that plans be prepared by a licensed engineer when it appears that the extent or location of the work warrants this requirement.

   a. For projects of over 100 lineal feet in a public right of way three copies of the plans shall accompany the permit application. The submitted plans shall be reviewed by the City Manager, affected departments and the City Engineer.

   b. Any major changes required by the Director of Public Works shall be redrawn and stamped by project engineer.

   c. Minor changes required by the Director of Public Works shall be "redlined" on plans.

   d. Plans shall be stamped "approved" by the Public Works Director. Two sets shall be retained by City, the applicant's copy of the approved plans shall be attached to the permit when issued.

3. Inspections Required:

   a. The Public Works Director may require City Inspections at certain steps during construction of a project, and all work shall be performed to the satisfaction of the Public Works Director before (s)he releases the deposit or bond.

   b. Required inspections shall be listed and attached to the permit.

   c. Any conditions of final approval shall be listed and attached to the permit.

   d. Costs of inspections not performed by permanent City employees shall be paid by the permit holder.

4. Procedure for Acceptance of Improvements:

Improvements constructed under a permit required by this subsection shall be accepted by the City in the following manner.

a. The Director of Public Works shall give written certification to the City Manager that:

1. All required tests and inspections have been completed on the improvements plans.

2. Plans showing the improvements as built are filed with the Director of Public Works.

3. Other than duly recorded land partition maps, all documents regarding rights-of-way, easements and any improvements within have been submitted and approved by the City Attorney.

4. The project has been completed according to approved plans.

D. Standards and Specifications Adopted:

1. The City Manager shall prepare standard specifications for construction, reconstruction or repair of streets, sidewalks, sewers and other public improvements to be constructed in the City. These will be kept on file at City Hall.
2. All public improvements shall be constructed according to the standard specifications of the City. (Ord. 714, 3-27-84)

**8-2-2-3: PAVEMENT RESTORATION:**

A. Required: All cuts, openings, trenches or any other disturbance of any surfaced area shall be repaired and replaced to their original condition and to the satisfaction and approval of the Public Works Department of the City, within ten (10) days from the date of commencement of said opening, cutting, trenching or otherwise disturbing of any surfaced area.

B. Work by City: The full amount of the deposit as required in Section 8-2-2-2C above will be refunded to the party depositing the same, provided the surfaced area is repaired to the satisfaction of the Public Works Department of the City, within the ten (10) day period provided for in subsection A above. In the event that said surfaced area is not repaired within the ten (10) day period by the permit holder, then said surfaced area will be repaired by the Public Works Department of the City and the full amount of the deposit will revert to the City Street Maintenance Fund to cover the costs of repair. (Ord. 394, 7-22-63)

**8-2-3: SIDEWALK CONSTRUCTION:**

**8-2-3-1 PERMIT REQUIREMENTS:**

A. Required: Every person desiring to construct sidewalks or curbs, or both, or repair existing sidewalks and curbs, as provided by this Section, shall, before entering upon said work or improvement, apply for a permit to so build or construct, to the City Building Department, and shall so state in explicit terms the character of the sidewalk or curb, or both, to be built or repaired.

B. Guarantee: Any application for a curb cut on any paved street must carry the written guarantee of the person making the application that the area between the curb cut and the property line will be hard-surfaced in a manner suitable to
the Public Works Superintendent.

**8-2-3-2: PAVEMENTS:**

A. Required Surface: All sidewalks and curbs that may hereafter be constructed within the City limits, except as hereinafter provided, shall be made of concrete and of the dimensions and constructed in the manner as set forth in this Section.

B. Asphaltic Concrete Pavement: In those instances and locations where the installation and construction of asphaltic concrete curbs is in accordance with the overall existing construction and in other locations where deemed feasible and/or not in conflict with the general existing construction, the City Council may, at its discretion, grant authorization for the construction of asphaltic concrete curbs and sidewalks. Construction of asphaltic concrete curbs or sidewalks will be in accordance with specifications set forth by the Public Works Superintendent. No permit will be issued for construction of asphaltic concrete sidewalks or curbs until approved by action of the Council.

**8-2-3-3: MINIMUM STANDARDS:** All materials and workmanship for sidewalks and curbs that may hereafter be constructed within the City limits shall conform to the following minimum standards:

A. Concrete Materials: Concrete mix for sidewalks and curbs shall consist of Portland cement, clean sand, clean concrete gravel and water in sufficient quantities to achieve a twenty eight (28) compressive strength of at least two thousand five hundred (2,500) pounds per square inch when tested in accordance with applicable standards of the American Society for Testing Materials.

B. Pre-Molded Expansion Filler Material: Shall be one-half inch (1/2") thick and shall be placed along walks, curbs and driveways at points not greater than thirty five feet (35'). All bituminous expansion fillers shall be cut to the exact cross-section of the walk or driveway and shall be flush with all surfaces.

C. Curing Materials: During the forty eight (48) hour period following the placing of concrete, it shall be protected by methods approved by the Public Works Superintendent from the detrimental action of the elements. If a plastic film or waterproofed paper is used for curing, concrete shall be wetted once before film is placed; then left on for at least forty eight (48) hours.

D. Forms, Materials: All sidewalks, curbs and driveways shall be built within forms which shall have sufficient strength, weight and support to retain their position until the concrete has set. Forms shall conform to the shape, line, grade and dimensions called for in the project plans or as approved by the Public Works Superintendent.

All forms shall be inspected by the Public Works Superintendent prior to placement of any concrete. Irregularities or errors in grade and alignment shall be corrected to the satisfaction of the Public Works Superintendent prior to the placement of concrete. Extruding machines will be allowed when approved by the Public Works Superintendent.

E. Workmanship: All sidewalks shall be three and five-eighths inches (3 5/8") minimum thickness and five and five-eighths inches (5 5/8") minimum across driveways. Sidewalks shall have a fall of twenty-five thousandths inch per foot (.025" - 1') from the property line toward the curb unless otherwise directed by the Engineer. Driveways shall slope uniformly from the property line to a point one inch (1") above the gutter grade.

Sidewalks shall be divided into square blocks of no greater dimensions than seven feet (7'), by joints running across the walk at right angles to their length. Each joint shall be plainly marked with a deep cutter two inches (2") in width. The edges of all blocks shall be smoothly rounded with a three-inch (3") edger and be free from broom marks. All walks and drives shall receive a broom finish.

Driveways shall have sidewalks marked through their length and shall be poured independent of walks and curbs and be separated by a cold joint or one-half inch (1/2") expansion joint and variations in grade profile should not deviate more than one-fourth inch (1/4") when measured with a ten foot (10') long straight edge.

All sidewalks constructed or relayed within the corporate limits of the City shall be a minimum of five feet (5') in width, excluding curb width and have wheel chair ramps at intersections.

Curbs and gutters shall be set so that their top and the alignment and distance from the established street grades and centers are as prescribed in the approved project plans or as approved by the Public Works Superintendent. Curbs and gutters shall be constructed in accordance with standard curb and gutter specifications on file in the City Hall. (Ord. 597, 3-13-78)

**8-2-3-4: GRADES, LOCATIONS AND INSPECTIONS:**

A. Grades: All sidewalks and curbs that may be hereafter constructed as provided for in this Section, shall be placed upon the street grade as the same is now established or that may from time to time be established, and shall conform strictly to the official street grades.

B. Location: All new sidewalks shall be installed according to a plan approved by the City. When repairing existing sidewalks, the section repaired or added should conform in location with the original sidewalk, unless, in the opinion of the Public Works Director, relocation is required.

C. Final Inspection: Upon completion of work, a final inspection is required. The Public Works Director, or his representative, shall inspect and approve or reject the project. If rejected, a reasonable time limit shall be set and repairs shall be done to his or her satisfaction. (Ord. 696, 8-2-83)

**8-2-3-5: REPAIRS BY OWNER:**

A. Required: It is hereby the duty of all owners of land adjoining any street in the City to maintain in good repair the sidewalks in front of said land and to reconstruct abandoned driveways with sidewalks and full-height curbs and gutters. The Council shall have the power and authority to determine the grade and width of all sidewalks, the materials to be used, and the specifications for the repair thereof, upon any street or part thereof, or within any district in the City.

B. Liability: The owner of the land adjoining any street in the City shall be liable to any person suffering injury by reason of the owner=s negligent failure to comply with section 8-2-3-5-A.

C. The City shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, or driveway approach, or the City=s failure to provide notice as provided in Section 8-2-3-5-D.

D. Notice of Defects: If the owner of any lot or part thereof or parcel of land shall suffer any sidewalk along the same to become out of repair or shall cause a driveway to become abandoned, upon learning of the condition, the City shall post upon the property in front of which a sidewalk or curbing is to be reconstructed or constructed in lieu of a driveway, which notice shall, in legible characters, direct the owner, agent or occupant of the property, within sixty (60) days from the date of such posting, to construct or reconstruct said sidewalk and curbing, as in such notice is provided, to conform to the adjoining sidewalk and curb, as the Public Works Superintendent may direct. The authorized representative of the City posting the notice shall file with the Recorder an affidavit of the posting of such notice, stating the date and place where the notice is posted. The City Recorder shall, upon receiving the affidavit, send by mail a notice to construct or reconstruct the sidewalk or curbing to

conform to the adjoining sidewalk and curbing, as the City may direct, such notice to be mailed to the owner, if known, of such property. If such post office address is unknown to the City Recorder, such notice shall be directed to the owner or agent as is shown by the assessment records of the Assessor of the County of Lane, State of Oregon. A mistake in the name of the owner or agent, other than that of the true owner or agent of such property shall not render the notice void, but, in such case, a posted notice shall be sufficient. The owner, agent or occupant, before constructing or reconstructing the sidewalk or curbing, as in the notice provided, shall obtain from the City a permit so to do in accordance with Section 8-2-3-1A hereof. (Amd. by Ord. NO. 1, Series 2000 to go into effect 3/7/2000)

**8-2-3-6: REPAIRS BY CITY:** If the owner, agent or occupant of any such lot or part thereof, or parcel of land shall fail, neglect or refuse to make the sidewalk repairs within the time designated in Section 8-2-3-5C above, the City shall make the same, and keep an accurate account of the cost of the labor and materials used in making the repairs in front of each lot or parcel of land, and shall report monthly to the Council the cost of such repairs, and a description of the lot or parts thereof or parcel of land fronting on the sidewalk upon which such repairs were made. The Council shall, by ordinance, assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired or laid the cost of making such repairs or laying the same, including legal, administrative and engineering costs attributable thereof. In each case all such assessments may be combined in one assessment roll and the same shall be entered in the docket of City liens and collected in the same manner as is provided by ordinance for the collection of assessments for local improvements. (Ord. 597, 3-13-78)

**8-2-4: COMMERCIAL ACTIVITY ON STREETS:**

**8-2-4-1: PERMIT PROVISIONS:**

A. Required: It shall be unlawful for any person to conduct or permit to be conducted or cause to be conducted any business or commercial activity on a public street, highway or right- of-way within the City without a permit being obtained as provided in this Section.

B. Application: Permits may be granted upon payment of the application fee set by the City Council and upon written application to the City Council for a specified period of time. Such permit may be canceled at any time by the City Council upon satisfactory proof that the conditions of the permit have been violated or when in the judgment of the City Council, the public interest requires cancellation.

C. Criteria: In granting a permit the City Council shall consider the following criteria:

1. The applicant's willingness and ability to assume all risk for the proposed activities.

2. Consent of the property owners and occupants of the affected adjacent property.

3. The degree of interference with pedestrian and vehicular traffic and utilities use of the right-of-way.

4. Compliance with land use designations on adjoining property.

5. Compliance with all applicable state and local laws.

6. Compatibility of proposed use with the purposes for which the right-of-way was dedicated.

D. Sidewalk Cafes: The City Manager may issue a permit for a sidewalk cafe allowing the service of food or beverages including alcoholic beverages with a public right-of-way provided the following conditions are met:

1. The applicant pays the application fee established by resolution of the City Council. This fee may be waived at the discretion of the City Manager.

2. The applicant assumes all risks associated with the use of the right-of-way.

3. The applicant obtains liability insurance in a form and amount determined by the City Manager.

4. The applicant submits an application containing all the information required by the City Manager.

5. The applicant lawfully operates a restaurant adjacent to the right-of-way for which the applicant seeks a permit.

6. The owner of the restaurant property consents to the issuance of the permit.

7. The applicant demonstrates the use of the right-of-way will not interfere with existing utilities, pedestrian use of the right-of-way nor pose a hazard to vehicular traffic. The applicant must demonstrate that, at a minimum, there will be a pedestrian passage through the right-of-way of at least five feet in width and that the use of the right-of- way will be in compliance with vision clearance provisions of this Code.

8. The applicant shall obtain and maintain compliance with all other necessary federal, state and local permits and licenses.

9. If the applicant seeks to use the right-of-way in front of properties contiguous to the restaurant, the applicant demonstrates that a restaurant is a permitted use for the contiguous property and the owner of the contiguous property consents to the issuance of the permit.

10. The applicant demonstrates that the use of the right- of-way will comply with all ordinances and codes of the City.

11. The applicant demonstrates that seating in the right- of-way will be provided for no more than 20 persons or, if seating is provided for a greater number, that off-street parking as required by Chapter 10-3 of this Code is provided in a ratio of no less than one parking space for each four seats over and above 20.

12. The applicant demonstrates the proposed use of the right-of-way is not inconsistent with the use for which the right-of-way was dedicated to the City.

13. The applicant agrees that any construction in the right-of-way in conjunction with the issuance of the permit shall be in compliance with this Code and the applicable building codes which shall be approved by the Public works Director and the City Manager, and shall be removed upon demand of the City Manager. (Amended 8-2-4-1-D: 1,8 and 13 by Ord 12, 2009)

E. Sidewalk Cafe - Termination, Transfer and Revocation of Permit:

1. A permit issued under subsection 8-2-4-1D of this Section shall automatically terminate on December 31st of the year of issuance and shall not be transferable. These permits must be renewed on January 1 of each calendar year after issuance.

2. A permit issued under Section 8-2-4-1D of this Section may be revoked by the City Manager after written notice and hearing before the City Manager in the following circumstances:

   a. If the operator of the sidewalk cafe violates this Code or state or federal law or regulations.

   b. If the conditions specified in this Section are no longer being met; or

   c. If the operator of the sidewalk cafe presents a danger to person or property.(Amended Section 8-2-4-1-E 1 and 2 by Ord. 12, 2009)

F. Temporary Suspension: A permit issued under this Section may be temporarily suspended by the City Manager if the public interest requires use of the right-of-way for a public event, construction, repair or any other purpose. (Ord. 719, 6-12-84)

**8-2-4-2: OBSTRUCTION OF RIGHT-OF-WAY**: Except as provided by this Section or any other provisions of this Code, no person shall place, park, deposit or leave upon any street, alley, curb, sidewalk or other public right-of-way (whether developed or not), any article, thing or material which in any way prevents, interrupts or obstructs the free passage of pedestrians or vehicular traffic or obstructs a driver's view of traffic-control signs and signals. (Ord. 719, 6-12-84) No person other than the city may erect a fence or structure within a public right-of-way. Violation of this section may also be considered a public nuisance and is subject to the abatement provisions found in FCC 6-1-7-5. (Ord. 8, Series 2009)

**8-2-4-3: DELIVERY VEHICLES EXEMPT:** This Section specifically exempts vehicles whose purpose is delivering or picking up merchandise, materials or passengers at regular business or commercial establishments as long as said vehicles do not violate safety, traffic or other ordinances of the City or infringe upon the rights of private property owners. (Ord. 611, 4-9-79; Ord. 719, 6-12-84)

**8-2-5: PUBLIC'S RIGHT TO USE CERTAIN OLD ROAD RIGHT-OF-WAY:**

**8-2-5-1:DEFINITIONS:** As used in this section the following words and phrases shall have the meanings ascribed to them by this subsection:

| | |
|---|---|
| 1864 STATE LAW | The Oregon statute which provided: "If any part of any road in this state shall not be opened for four years after, or from the time of its location, the same shall become vacated." (Oregon Laws 1860, page 33, Paragraph 37 as amended in 1864 by Deady, General Laws of Oregon 1845-1864, p. 868, Chapter 47, Title I, Paragraph 37, Act of October 22, 1864) which was repealed by Oregon Laws 1903, p. 262 paragraph 79. |
| IMPROVEMENT | Any work or project within the public right-of-way by a local government or by any entity holding a franchise, license or permit to use all or part of the public right-of-way. |
| OLD ROAD | Any street established and platted by local government during the year 1860 through 1899, which has not been opened by local government. (Ord 11, Series 1997 effective 10-22-97) |

**8-2-5-2:TIMELY CLAIM:** Any person claiming that the right-of-way abutting their property is an Old Road that was vacated by operation of the 1864 State Law shall assert that claim as provided in this section no later than fifteen days after receiving written, actual notice, or no later than fifteen days after such person should have reasonably become aware that an improvement is proposed to be or is to be constructed within the public right-of-way abutting their property. A failure of the property owner or the owner's predecessors in title to make a claim in a timely fashion after receiving notice shall bar further assertion of the claim as it relates to the property owned.

A. If no public right-of-way improvement has been proposed, a person claiming that the right-of-way abutting their property is an Old Road that was vacated by operation of the 1864 State Law may nevertheless assert that claim as provided in this section if such person wishes the City to consider the claim and make its determination as provided in this section in conjunction with owner's development of his or her property.

B. If no public right-of-way improvement has been proposed, Council may, on its own initiative, indicate that it wishes to make a determination about an Old Road.

**8-2-5-3: CONTENT OF CLAIM:** The claim shall be in writing, submitted on a City approved form, accompanied by all evidence the claimant wishes the Council to consider and shall be filed with the City Recorder together with the applicable fee, within the time specified. The claim fee is non-refundable and shall be set and modified from time to time by the City Council to cover estimated administrative costs and the costs of publication and notice.

**8-2-5-4: COUNCIL HEARING AND DECISION:** Subsequent to receipt of a complete claim or subsequent to the Council indicating its interest in making an Old Road determination, the matter shall be set for public hearing. The City Recorder shall cause notice of the public hearing to be given by one publication not less than twenty (20) days prior to the public hearing in a newspaper of general circulation within the City, by posting at each end of the Old Road and by mailing copies of the notice by registered or certified mail, return receipt requested, to owners of property abutting the Old Road at issue. Copies of the notice shall also be sent via first-class, pre-paid postage, mail to owners of other affected property. The notice shall include a description of the Old Road, the identity of the claimant, if any, and the date, time and place of the public hearing before the Council. The claimant shall have the burden of proof. After providing the claimant and other interested persons an opportunity to address the Council, the Council shall consider the claim, if any, and all evidence submitted in making its determination. The Council may determine that the Old Road was vacated because of the 1864 State Law. In rendering its decision the Council may determine that even if the right-of-way was vacated because of the 1864 State Law, the public has reestablished its right to the use of the right-of-way by other lawful means.

**8-2-5-5: COUNCIL ACTION:** In conjunction with its determination, the Council may direct the claimant's interest in the Old Road be acquired by the City or that the City take whatever other judicial or administrative action is in the public interest. If the Council determines the claim is supported by substantial evidence on the whole record, it may declare the Old Road vacated and may delay, modify or abandon any improvement project. If the Council determines the claim is not supported by substantial evidence on the whole record, it may proceed with any proposed improvement. The decision of the Council shall be by resolution and shall be final. A copy of the decision shall be mailed to the claimant, if any, the abutting and affected property owners and any other person testifying before the Council at the public hearing.

Amended by Ordinance 14, 1996 (10-21-96)
Amended by Ordinance 11, 1997 (10-22-97)
Amended by Ordinance 1, 2000 (2-7-20)
Amended by Ordinance 1, 2007 (2-7-07)
Section 8-2-4-2 Amended by Ordinance 8, 2009 (5-18-09)
Section 8-2-4-1-D: 1,8 and 13 amended by Ord 12, 2009) (8-19-09)
Section 8-2-4-1-E 1 and 2 amended by Ord. 12, 2009) (8-9-09)
Section 8-2-3-3-E and 8-2-3-4-D amended by Ordinance 9, 2009 (11-2-09)

TITLE 8
CHAPTER 3

# PROPERTY VACATIONS

SECTION:

8-3-1: Purpose
8-3-2: Definitions
8-3-3: Initiation
8-3-4: Determination of Value
8-3-4-1: Council Hearing on Initiation
8-3-4-2: Criteria
8-3-4-3: Action
8-3-4-4: Payment of Costs
8-3-5: Planning Commission Recommendation
8-3-5-1: Planning Commission Hearing
8-3-6: Council Decision
8-3-6-1: Council Hearing
8-3-6-2: Council Action
8-3-6-3: Payment of Costs of Vacation

**8-3-1: PURPOSE:** The purpose of this chapter is to provide a procedure for the vacation of public streets, alleys, or other rights-of-way or parts thereof, taking into consideration that the vacation of a public right-of-way may confer a special benefit to an abutting property.

**8-3-2: DEFINITIONS:** For purposes of this chapter the following words and phrases shall mean:

| | |
|---|---|
| AFFECTED PROPERTY | The land lying on either side of the public way or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the public way for 400 feet along its course beyond each terminus of the part proposed to be vacated to its termini, the land embraced in an extension of the public way for a distance of 400 feet beyond each terminus shall also be included. |
| CITY MANAGER | The Council appointed City Manager or the manager's designee. |
| PUBLIC WAY | Any public street, alley or other right-of-way reserved for vehicular or pedestrian use. |

**8-3-3: INITIATION:** Proceedings for the vacation of a public way or part thereof, may be initiated upon petition of the abutting owner(s) or upon the majority vote of the Council. The petition of the abutting owner(s) shall be accompanied by an application fee set by resolution. The fee is to cover administrative costs and the costs of publication and notice, and is not refundable.

**8-3-4: DETERMINATION OF VALUE:**

**8-3-4-1: COUNCIL HEARING ON INITIATION:** Upon receiving the petition for vacation the City Manager shall set a public hearing before the Council to make a preliminary determination of the public interest in the vacation, if any, and to determine the value of the public way to be vacated if the vacation appears to be in the public interest. Not less than five days prior written notice of the hearing shall be given to the petitioners and the owner(s) of affected property. Such notice shall be by first class U.S. Mail to such property owners as shown in the latest Lane County tax assessment roll or upon the City's utility records.

**8-3-4-2: CRITERIA:** In determining the value of the public way to be vacated, the Council shall consider any relevant appraisals the City possesses and the public information in the files of the Lane County Assessment and Taxation Department or its successor agency. Except for direct uses by a public body supported by local property taxes, in the absence of more relevant information the Council shall calculate the value based on the square foot value of abutting real property as shown on the current Lane County assessment roll, less a

percentage for easements retained for public use. The abutting owner(s) may request the Council to obtain other evidence of value from a licensed real estate appraiser hired by the City. All such appraisal costs shall be borne by the requesting abutting property owner(s). The Council may consider this evidence and adjust its determination of value as the Council may find to be just and equitable. The basis for any such adjustment shall be stated on the record at the time the Council takes action. A determination of value shall be made and assessed to abutting property owners for all public ways being vacated.

**8-3-4-3: ACTION:** After the hearing is closed, the Council may deny the petition or may forward the petition to the Planning Commission for its recommendation and shall set the amount of the assessment.

**8-3-4-4: PAYMENT OF COSTS:** Where the abutting owner(s) is to be assessed the value of the public way proposed for vacation, the petitioner shall deposit with the City the estimated cost of preparing the notice and its publication as required in Sections 8-3-5 and 8-3-6, prior to any further proceedings. The petition shall be deemed denied unless the estimated costs are paid within 30 days following the Council action.

**8-3-5: PLANNING COMMISSION RECOMMENDATION:**

**8-3-5-1: PLANNING COMMISSION HEARING:** Upon referral of vacation proceedings from the Council, the City Manager shall set a public hearing before the Planning Commission. Notice shall be given at least seven days before the public hearing by mailing the notice to the petitioner(s), affected property owners and others appearing on the matter before the Council in its hearing under subsection 8-3-4-1.

**8-3-5-2: ACTION:** After the hearing is closed, the Planning Commission shall determine whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Planning Commission shall consider the goals of the Florence Comprehensive Plan and Section 10-1-1-3 of this Code. The Planning Commission's decision shall be in the form of a recommendation to the Council.

**8-3-6: COUNCIL DECISION:**

**8-3-6-1: COUNCIL HEARING:** Following the Planning Commission's recommendation, the City Manager shall set a public hearing before the Council.

A. Commencing at least 20 days before the hearing the notice required by this subsection shall be:

1. Published for three consecutive weeks in a newspaper of general circulation in the City;

2. Posted at each end of the public way proposed for vacation and if the length of the public way exceeds 150 feet, within the area to be vacated in a conspicuous place at least once every 150 feet of length;

3. Mailed to the petitioner(s), the owners of affected property and any other person appearing before the Council and Planning Commission in the earlier hearings.

B. The notice required by this subsection shall:

1. Describe the public way proposed to be vacated;

2. Identify the name of at least one petitioner;

3. Identify the date the Council initiated the proceedings and, if appropriate, the cost to be assessed abutting property;

4. The date, time and place by which any written remonstrance must be filed;

5. The date, time and place of the public hearing before the Council; and

6. Where people may telephone or write for additional information.

**8-3-6-2: COUNCIL ACTION:**

A. After the hearing is closed, the Council shall determine whether the consent of the abutting owners has been obtained, whether notice has been duly given, and whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Council shall consider the goals of the Florence Comprehensive Plan, Section 10-1-1-3 of this Code, and whether the public way to be vacated may be needed for future public use. The Council may grant the petition in whole or in part, with such reservations as would appear to be for the public interest, including reservations pertaining to the public use of any easements retained by the City in the portion vacated.

B. If such matters are determined in favor of the petition, the Council shall direct that an ordinance be prepared that would make such determination a matter of record and vacate the public way or part thereof. After the abutting owner(s) has paid or agreed to pay the value of the public way to be vacated, as provided in Section 8-3-6-3 of this chapter, the Council may take final action on the ordinance. If the abutting owner(s) has not done so or taken reasonable steps to do so within 30 days after the Council has directed that an ordinance be prepared, the petition shall be deemed withdrawn and the Council shall take no further action.

C. Denial of the petition shall be by resolution setting forth the reasons for the denial.

**8-3-6-3: PAYMENT OF COSTS OF VACATION:**

A. The abutting owner(s) shall, within 30 days after the Council has directed that a vacation ordinance be prepared, either pay the amount of the assessment in full, or, where the assessment is to be one hundred dollars ($100.00) or more, apply, upon forms provided by the City Manager, for the voluntary imposition upon the parcel for a lien for the full amount of the assessment and the payment of that lien in twenty (20) semi-annual installments plus interest at the rate of ten percent (10%) per annum. Upon receipt of such an application, and following adoption of the vacation ordinance in the manner described in Section 8-3-6-2-B. Of this chapter, the City Manager shall compute the amount of the assessment and shall report to the City Recorder the amount of the assessment, the date upon which that assessment is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in her docket of liens, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and interest upon that charge at the rate of ten percent (10%) per annum, which interest shall be the full and only compensation to the City for its administrative costs. That lien shall be enforced in the manner provided in ORS chapter 223.

B. If the proposed vacation is wholly denied, only the actual costs of preparing and giving the notice occasioned by the proceedings shall be retained by the City.

C. Any money retained, and any sum assessed and collected as benefits, shall be paid into the City treasury.

Resolution No. 61, Series 1989 repealed and
Ordinance No. 24, Series 1990 established 11-19-90
effective 12-19-90.
Amended by Ord. No. 11, Series 1996
Section 8-3-4-2 amended by Ord. No. 11, Series 2014

TITLE 8
CHAPTER 4

# TREES AND VEGETATION

SECTION:

8-4-1: Approval of Location and Species
8-4-2: Maintenance
8-4-3: Species Prohibited
8-4-4: Removal of Trees

**8-4-1: APPROVAL OF LOCATION AND SPECIES:** Approval of the proposed location and species of all trees planted within the street right of way shall be required. Application shall be made to the City. Approval of the Public Works Director is required before proceeding.

**8-4-2: MAINTENANCE, TRIMMING:**

A. No property owner or person in charge of property abutting a street shall permit the branches of any tree or shrub upon or in front of the premises he is in charge of to be less than eight feet (8')above the sidewalk or less than thirteen feet seven inches (13'7") above the level of any street.[1]

At no time shall trees, shrubs and other vegetation on public or private property be allowed to obstruct vision at street, alley, bike path or pedestrian way intersections. (Ord. 696, 8-2-83)

B. Responsibility for Trimming: The owner of property abutting a right of way is responsible for maintenance of vegetation within the right of way abutting said property.

All trees, shrubs, plants or vegetation within the right of way area between the improved road surface & the property line may be trimmed, pruned or removed at any time by the City or the City may require any property owner to trim, prune or remove plants or vegetation within the right of way area between the improved road surface & the property line abutting upon said owner's property, and failure to comply therewith, after ten (10) days' notice by the City Recorder, shall be deemed a violation of this Chapter. (Ord 6 Series 1987, eff 7-23-87)

C. Dangerous trees in right of way: An abutting property owner may make application to the City Manager for permission to fall and remove leaning trees, snags or similar trees that may endanger private property. Upon application for a permit to remove such trees, the City Manager or designated staff person shall investigate and either issue or deny such permit within ten (10) days. Removal of trees must be done by a qualified person.(Ord. 6 Series 1987 eff. 7-23-87)

**8-4-3: SPECIES PROHIBITED:** It shall be unlawful to plant any fir, acacia, cedar, balm, poplar, locust or cottonwood trees in any parking strip in any street in the City. (Ord. 220, 5-2-49)

**8-4-4: REMOVAL OF TREES:** Whenever, in the opinion of the City Manager, the root of any tree in any street has entered any sewer, lateral sewer or house connection in said street and is stopping, restricting or retarding the flow of sewage therein, he shall notify the owner to remove such tree. If the owner fails to remove said tree within thirty (30) days, the City Manager may remove or cause to be removed said tree and assess the costs of such removal against the property. (Ord. 220, 5-2-49; amd. 1981 Code.)

[1] See subsection 6-1-7-12A of this Code.

TITLE 8
CHAPTER 5

# REIMBURSEMENT DISTRICTS

**SECTION:**


8-5-1: Purpose
8-5-1-1: Definitions
8-5-1-2: Application for a Reimbursement District
8-5-1-3: Public Works Director's Report
8-5-1-4: Notice of Hearing
8-5-1-5: Hearing
8-5-1-6: Resolution; Agreement
8-5-1-7: Reimbursement to the Applicant
8-5-1-8: Notice of Adoption of Resolution
8-5-1-9: Recording the Resolution
8-5-1-10: Contesting the Reimbursement District
8-5-1-11: Completion; Public Hearing
8-5-1-12: Obligation to Pay Reimbursement Fee
8-5-1-13: Annual Fee Adjustment
8-5-1-14: Administration


**8-5-1: PURPOSE:** The purpose of this Chapter is to provide the process and means by which a person who is required to make certain public improvements to serve their property may recover a portion of the cost of such improvements when the improvements benefit, within a specified time period, other properties.

**8-5-1-1: DEFINITIONS**: As used in this Chapter, except where the context clearly indicates a different meaning, the following words and phrases shall have the meanings ascribed to them by this subsection:

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| APPLICANT | A person who submits an application to the City for establishment of a reimbursement district. The "applicant" may be the City. |
| CITY RECORDER | The person designated by the City Manager to perform the functions described. |
| FINANCE DIRECTOR | The person designated by the City Manager to perform the functions described. |
| PERSON | A natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent, employee or any representative thereof. |
| PUBLIC IMPROVEMENT | An improvement, including, but not limited to, sewer, storm water, street, water, parks, and sites for parks, fire protection facilities and schools, that conforms to City standards and adopted plans. |
| PUBLIC WORKS DIRECTOR | The person designated by the City Manager to perform the functions described. |
| REIMBURSEMENT DISTRICT | The area that is determined by the City Council to derive a benefit from, and will have an opportunity to utilize, the construction of a street, water, sewer, storm water, or other |

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| | public improvement, financed in whole or in part by the applicant. |
| REIMBURSEMENT FEE | The fee required to be paid, as established by a resolution of the City Council and the reimbursement agreement. |
| SEWER IMPROVEMENT | A sewer or sewer main improvement conforming with City standards and including but not limited to extending a sewer main to property, other than property owned by the applicant, so that sewer service can be provided for such property without further extension of the main. |
| STORM WATER IMPROVEMENT | A storm water facility, not constructed as part of a street improvement, conforming to City standards. |
| STREET IMPROVEMENT | A street or street improvement conforming with City standards and including but not limited to streets, surface water drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way. |
| WATER IMPROVEMENT | A water or water main improvement conforming to City standards and including but not limited to extending a water main to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the main. |

**8-5-1-2: APPLICATION FOR A REIMBURSEMENT DISTRICT:**

A. Any person who chooses to finance some or all of the cost of a public, street, water, sewer or storm water improvement that could serve property other than property owned by the person making the improvement, may request that the City establish a reimbursement district. The request must be made by written application filed with the Public Works Director. The City may also initiate formation of a reimbursement district.

B. A public, street, water, sewer or storm water improvement is eligible for a reimbursement district if the improvement is in addition to, or in a size greater than, that which would otherwise be required by permit approval. Also, the improvement must be available to provide service to property other than property owned by the applicant. Examples include, but or not limited to, full street improvement instead of half street improvements, off-site sidewalks, connection of street section for continuity, extension of water mains and extension of sewer mains, parks, and sites for fire stations or schools.

C. The application shall include the following:

1. A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.

2. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar data necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.

3. The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the Public Works Director.

4. The estimated date of completion of the public improvements.

5. The fee, established by resolution, sufficient to cover the cost of administrative review and notice.

D. Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 8-5-1-13.

**8-5-1-3: PUBLIC WORKS DIRECTOR'S REPORT:**

The Public Works director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Public Works Director may require the applicant submit additional information to assist in the evaluation.

A. The Public Works Director shall prepare a written report for the City Council that includes the following information:

1. A description of the proposed improvement and evaluation of the improvements likely benefit to properties owned by persons other than the applicant.

2. Whether the applicant will finance some or all of the proposed improvements;

3. The area to be included in the reimbursement district.

4. The estimated cost of the improvement within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;

5. A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The methodology for determining the amount of the reimbursement fee shall be based on the special and peculiar benefits accruing to the parcel from the improvement and may include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the Public Works Director. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related improvement in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

B. After considering the report furnished under A above, the Council may:

1. Direct that a public hearing be held on the proposed reimbursement district consistent with the Public Works Director's report and direct that notice of the hearing be given as provided in 8-5-1-4;

2. Modify the Public Works Director's report and then direct that a public hearing be held on the proposed reimbursement district consistent with the Public Works Director's report as modified and direct that notice of the hearing be given as provided in 8-5-1-4;

3. Require additional information about the proposed reimbursement district; or

4. Decide not to make the proposed reimbursement district.

**8-5-1-4: NOTICE OF HEARING:**

A. When directed by the City Council the City Recorder shall cause notice of the proposed reimbursement district and the public hearing to be given by one publication not less than (10) days prior to the public hearing in a newspaper of general circulation within the City and by mailing copies of the notice by first class, postage pre-paid mail to the owner of each lot affected by the proposed reimbursement district.

B. The notice shall contain:

1. A general description of the proposed reimbursement district and proposed improvements. The description need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property.

2. An estimate of the total cost of the improvement, the portion anticipated to be reimbursed to the applicant by the proposed district, and the methodology and any alternate methodologies proposed for determining the method for reimbursement.

3. The time and place of the public hearing.

4. A statement regarding where additional information concerning the proposed reimbursement district is available to the public.

5. Any other information the Council may direct to be included.

**8-5-1-5: HEARING:**

A. At the time of the public hearing, the City Council shall hear and consider testimony, both oral and written, on the proposed reimbursement district.

B. After close of the public hearing the Council may, in its discretion, order the reimbursement district to be created. If the Council determines formation of the reimbursement district in the best interests of the City, the Council may form the reimbursement district even if affected property owners object to the proposed district.

If the Council elects to create the reimbursement district, it shall, within ninety (90) days after the date of the creation, adopt a resolution establishing the reimbursement district and the methodology to be used when determining the amount of reimbursements.

C. At the public hearing the Council may modify the proposed reimbursement district by revising the scope of improvements, reducing or enlarging the boundaries of the district, or making other modifications as it finds reasonable. If the Council modifies the scope of the proposed reimbursement so that the reimbursement apportioned to one or more lots is substantially increased, if the Council enlarges the boundaries of the proposed district, or if the Council substantially changes the proposed reimbursement as it was set forth in the notice, it shall hold a public hearing on the revised proposed reimbursement district and shall notify affected property owners. Notification shall comply with 8-5-1-4-B. No publication shall be required. Instead of closing the public hearing and taking action, the Council may continue the hearing to a later date.

**8-5-1-6: RESOLUTION; AGREEMENT**

A. If the Council elects to create a reimbursement district the resolution referred to in 8-5-1-5-B shall incorporate the Public Works Director's report as approved or modified.

If the applicant is not the City, the resolution shall instruct the City Manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:

1. The public improvement(s) must meet all applicable City standards.

2. The estimated total amount of reimbursement to the applicant.

3. The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to

the City's establishment of the district.

4. The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.

5. Other provisions as the City Council determines necessary and proper to carry out the provisions of this Chapter.

If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.

The City Council resolution shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee. The methodology shall consider the cost of reimbursement to the applicant for financing the construction of park, street, water, sewer or storm water improvement(s), or dedication of property for parks, fire station or school sites, within the reimbursement district.

A reimbursement fee shall be computed by the City for all properties within the boundaries of the reimbursement district, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant except for property dedicated for park, fire station or school sites.

**8-5-1-7: REIMBURSEMENT TO THE APPLICANT:**

A. The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, acquiring off-site-rights of way, and proportionate share of the value of property dedicated for park, fire station or school sites. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 15% of eligible construction costs. If the applicant is other than the City, the costs to be reimbursed for rights of way shall be limited to the reasonable market value of land or easements purchased from a third party to complete off-site improvements.

B. No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs that are eligible for system development charge credits, or any costs that cannot be clearly documented.

C. No reimbursement shall be allowed for construction costs that occur prior to the formation of the reimbursement district.

**8-5-1-8: NOTICE OF ADOPTION OF RESOLUTION**: The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property is obligated to pay the reimbursement fee, and the amount of the fee.

**8-5-1-9: RECORDING THE RESOLUTION:** The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Assessor so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

**8-5-1-10: CONTESTING THE REIMBURSEMENT DISTRICT:** No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district.

**8-5-1-11: COMPLETION; PUBLIC HEARING:**

A. Within three (3) month after completion, and acceptance of the improvements by the City, the applicant shall submit to the Public Works Director the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The Public Works Director shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under Section 8-5-1-3. The final cost shall not exceed by more than 10% the cost estimated at the time the reimbursement district was authorized by the City Council unless an exception is approved by the City Council. An exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.

B. After considering the report furnished in A above the Council may:

1. Direct that a public hearing be held on the completed improvements in the reimbursement district consistent with the Public Works Director's report and direct that notice, consistent with the requirements of Section 8-5-1-4, of the hearing be given, for the final project reimbursement schedule.

2. Modify the Public Works Director's report and then direct that a public hearing be held on the completed improvements in the reimbursement district, and direct that notice, consistent with the requirements of Section 8-5-1-4, of the hearing be given, for the final reimbursement schedule.

C. Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to Section 8-5-1-6. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district.

**8-5-1-12: OBLIGATION TO PAY REIMBURSEMENT FEE:**

A. If a person with property located within a reimbursement district receives approval of any of the activities delineated below (within the time specified in the reimbursement resolution), the person shall pay the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council.

1. A building permit for a new building;

2. Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed twenty-five percent (25%) of the value within any 12-month period. The value of the building shall be the amount shown on the most current records of the Lane County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;

3. Any change in use of the property which would cause an increase in activity to or on the property exceeding twenty-five percent (25%), as determined by standards established under Florence City Code.

4. Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under Florence City Code at the time of permit application;

5. Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;

6. Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;

7. Connection to or use of a street improvement, if the reimbursement district is based on

the street improvement;

8. Connection to or use of a storm water improvement, if the reimbursement district is based on the storm water improvement.

B. The City's determination of who shall pay the reimbursement fee is final.

C. A person applying for a permit whose property is within a reimbursement district receives a benefit from the construction of street improvement, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this Chapter is intended to modify or limit the authority of the City to provide or require access management.

D. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in Subsection 8-5-1-12-A unless the reimbursement fee has been paid in full. Where approval is given as specified in Subsection 8-5-1-12-A, but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

E. The right of reimbursement shall not extend beyond fifteen years from the district formation date. The right of reimbursement may be less than fifteen years, but only if the shorter time period is explicitly set forth in the resolution and the agreement.

**8-5-1-13: REIMBURSEMENT FEE ADJUSTMENT:**

The City Council may include in the resolution creating the reimbursement district a requirement for an adjustment in the reimbursement fee at the time the reimbursement fee is paid. The reimbursement fee adjustment shall be based upon the Engineering News Record (ENR) 20-City Composite Construction Cost Index (CCI), and shall be the difference between the ENR CCI for the month in which the reimbursement district is approved, and the ENR CCI for the month in which any of the actions in Section 8-5-1-12 are approved and which require payment of the reimbursement fee. The reimbursement fee as adjusted herein shall be the reimbursement fee as provided for in this chapter.

**8-5-1-14: ADMINISTRATION:**

A. The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future payments are to be made.

B. The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.

C. The reimbursement fee is in lieu of a local improvement district charge for the improvement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the City.

D. The amount of the City's charge for administering the district shall be fixed by the City Council and will be included in the Resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in 8-5-1-6 is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by 8-5-1-11.

Ord. No. 25, Series 2003 – effective January 1, 2004

TITLE 8
CHAPTER 6

# AIRPORT

SECTION:

8-6-1: Administrative Provisions
8-6-2: General Rules
8-6-3: Taxiing
8-6-4: Traffic Pattern
8-6-5: Buildings, Structures
8-6-6: Fuel Flowage Tax
8-6-7: Non Aviation Events

## 8-6-1: ADMINISTRATIVE PROVISIONS:

A. Conflicting Provisions: Nothing in this chapter shall be construed as requiring or permitting any violation of State or Federal laws or regulations, and in case of conflict, the State or Federal laws and regulations shall take precedence.

B. Definitions:

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|---|---|
| FLORENCE AIRPORT AUTHORITIES | Shall mean and include the governing body of the City, the City Manager, Public Works Director, or others as authorized by the City Manager. (Ord. 1, 2012) |
| FLORENCE MUNICIPAL AIRPORT | Shall include that certain airport facility and all land lying in the following described real property:<br><br>Beginning at the South one-quarter corner of Section 22, Township 18 South, Range 12 West of the Willamette Meridian; thence along the West line of the Southeast one-quarter of said Section 22 North 0°25'46" East 2657.60 feet to the Northwest corner of said Southeast one-quarter of Section 22; thence along the Northerly line of the West one-half of said Southeast one-quarter North 89°58'12" East 1317.28 feet to the Northeast corner of the West one-half of the said Southeast one- quarter; thence along the Easterly line of the West one-half of the said Southeast one- quarter South 0°22'16" West 1327.59 feet; thence leaving said Easterly line South 89°55'06" West 520.14 feet; thence South 12°05'47" East 1558.21 feet; thence North 89° 51'30" East 80.55 feet; thence South 3°12'53" East 620.73 feet; thence South 89°51'30" West 238.13 feet; thence South 12°05'47" East 1336.42 feet; thence North 89°51'15" East 61.54 feet; thence South 0°08'45" East 521.47 feet; thence South 89°55'10" West 513.48 feet; thence North 12°05'47" West 2703.30 feet to the Southerly line of said Section 22; thence along said Southerly line South 89°52' West 275.17 feet to the point of beginning in Lane County, Oregon.<br><br>And shall include all clear zone properties outside the above referenced boundaries currently under the ownership of the City or to be purchased in the future designated as clear zone lying south of the above referenced property and northwest of the above referenced property as disclosed on that certain Florence Municipal Airport property map attached as Exhibit A to application for Federal Assistance AIP # 3-41-0019-010, a copy of which is on file in the City Recorder's office. (Ord. 1, 2012) |
| PERSON | Any individual, firm, copartnership, company, association or any trustee, receiver, assignee or other similar representative thereof. |

**8-6-2: GENERAL RULES:**

A. Public Safety:

1. All aviation activity at the Florence Municipal Airport shall be conducted in accordance with the provisions of all pertinent Federal Air Regulations as issued by the Federal Aviation Administration (FAA).

2. The conduct and management of the public at the airport shall be subject to the control of the Florence Airport Authorities. Authorized personnel and authorized users of the airport facilities are to cooperate with said Airport Authorities to carry out these rules.

B. Airport Access:

1. Unauthorized persons are not allowed on any portion of the airport property except for the parking and administration building area.

2. Spectators are not allowed to trespass through the hangars, parked aircraft, refueling area, or loading zones unless granted by appropriate authority and accompanied by authorized personnel.

3. Gate codes and/or swipe card(s) will be provided by the Public Works Director or designee to personnel authorized to access the airport. Authorization may be obtained at the airport office.

C. Commercial Operation: No person may use the Florence Airport for carrying on activities in aviation on a commercial basis or for any other commercial enterprise except those persons that have entered into a lease or other contractual arrangement with the City.

D. Authorized Vehicles: Authorized vehicles shall be only those owned or operated by the City and those designated by the Public Works Director or designee.

E. Personal Conduct: No acrobatic flying, parachute jumping, or other air exhibitions shall be allowed over the airport without the consent of the Airport Authority and FAA.

F. FAA Rules: All flying shall be done in accordance with the rules set forth by the FAA, City Code (Title 8 Chapter 6) and Florence Airport Authorities. Instructors shall acquaint their students with all these rules.

G. Securing Aircraft: Unhangared aircraft must be secured to the ground by chains, stakes, wheel blocks, or other suitable means when left unattended over night, or when weather conditions indicate the necessity for doing so. The owner of aircraft left unattended shall be responsible for any damages to persons or property which may be caused by failure to properly secure such airplanes.

**8-6-3: TAXIING:**

A. All aircraft shall use the taxiways to and from the runway unless a NOTAM (Notice to Airmen) to the contrary is published. No take-off or landing will per permitted on taxiways or apron, except as may be necessitated by construction or repair work on the runway, in which case, proper notice shall be given. The FAA recognizes only one (1) landing surface at the Florence Municipal Airport. It is the paved runway. Pilots who elect to operate on anything other than the recognized landing surface operate at their own risk. The City does not maintain, provide for or encourage use of any landing surface other than Runway 15-33.

B. Aircraft shall be taxied at a safe and reasonable speed. Aircraft departing the runway shall use a taxiway intersection. Run-ups shall only be accomplished in the area specified at the ends of each runway or on the ramp in a safe location. Only sufficient power to taxi shall be used elsewhere. All aircraft must clear the runway without delay after landing. Pilot shall avoid blocking the runways by not taxiing against traffic.

**8-6-4: TRAFFIC PATTERN:**

A. Traffic Pattern: The traffic pattern for the Florence Municipal Airport is regulated by the FAA.

**8-6-5: BUILDINGS, STRUCTURES:**

A. The City will make available lease sites for hangars and other buildings under such rules, regulations and fees as may, from time to time, be set by the City Council. All plans for buildings, hangars, ramps, walks, aprons, drainage or construction of any type, must be approved by the City Manager prior to start of construction. Building permits will be required for all construction.

B. Tie-downs will be installed by the City at various locations. The fees charged for use of tie-downs shall be set by resolution.

**8-6-6: FUEL FLOWAGE TAX:**

A. Any person purchasing aircraft fuel at the Florence Municipal Airport shall pay a tax in the amount of 5 cents per gallon purchased. The tax constitutes a debt owed by the purchaser to the City, and the debt is extinguished only when the tax is remitted by the airport operator to the City. The tax shall be paid to the airport operator at the time of purchase. The airport operator shall enter the tax into the record when collected. If for any reason the tax due is not paid to the operator of the airport, the City Manager or designee may require that such tax shall be paid directly to the City.

B. The taxes collected by the airport operator are payable to the City as directed by the City Manager. If the airport operator or the purchaser fails to remit the tax when due, the City Manager or designee shall add a penalty of ten percent (10%) of the amount of the tax due. In addition to any penalties imposed, an operator who fails to remit any tax imposed by this section shall pay interest on the amount of tax due, exclusive of penalties, at the rate of eight percent (8%) per month or fraction thereof, without proration for portions of a month, from the date on which the remittance first becomes delinquent until paid in full.

**8-6-7: NON AVIATION EVENTS:** In an effort to provide every opportunity for the Florence Municipal Airport to be seen in the best light possible, the City encourages public events on the airport property, both aviation and non-aviation related. With today's increased emphasis on security and security awareness, the City deems it necessary for the City to be aware of these activities or events taking place on the airport property. The following guidelines have been established to accomplish this purpose. (Ord. 1, 2012)

A. Anytime there is a scheduled event anywhere on the airport property, it is incumbent upon the event organizer to notify the City in writing concerning the event. A "scheduled event" is defined as a gathering of twenty five (25) or more people with the intent of having a meeting, rally, cookout, conference or similar assembly for any purpose. Notification information shall include: primary sponsor, purpose of the gathering, date(s), time(s), and location on the airport.

B. The event organizer shall advise the City and submit an application for events license to the City at least one month prior to the event date.

C. Depending upon the size of the event, the Public Works Director or designee may require the event organizer to submit a traffic control plan, taxiway and runway security plan, sanitary convenience plan, set-up and cleanup plan, and emergency ingress and egress plan.

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Ordinance No. 5, Series 1990
All sections amended by Ordinance No. 1, Series 2012, effective 2-17-12

TITLE 8
CHAPTER 7

# RIGHT OF WAY MANAGEMENT

SECTION:


8-7-1: Short Title
8-7-2: Jurisdiction and Management of the Public Rights of Way
8-7-3: Regulatory Fees and Compensation Not a Tax
8-7-4: Definitions
8-7-5: Scope of Chapter; Registration of Communications Providers
8-7-5-1: Scope of Chapter; Purpose of Registration
8-7-5-2: Registration Required
8-7-5-3: Registration Fee
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8-7-6: Construction Standards
8-7-6-1: General
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**8-7-1: SHORT TITLE:** This Chapter shall be referred to as the "Right of Way Management Chapter."

## 8-7-2: JURISDICTION AND MANAGEMENT OF THE PUBLIC RIGHT OF WAY

A. The City has jurisdiction and exercises regulatory management authority over all City Public Rights of Way pursuant to the City Charter and State law. The City's purpose for exerting its management authority over the Public Rights of Way is to protect and efficiently manage the public's resources, to ensure fair and non-discriminatory access to the Public Right of Way, and to protect the public health, safety and welfare.

B. The City has jurisdiction and exercises regulatory management over each Public Right of Way whether the City has a fee, easement, or other legal interest in the Right of Way. The City has jurisdiction and regulatory management of each Right of Way whether the legal interest in the Right of Way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

C. No Person may occupy or encroach on a Public Right of Way without the permission of the City. The City grants permission to use Rights of Way through Franchise Agreements and Construction permits.

D. The exercise of jurisdiction and regulatory management of a Public Right of Way by the City is not official acceptance of the Right of Way, and does not obligate the City to maintain or repair any part of the Right of Way.

E. The City retains the right and privilege to cut or move any Communications Facilities located within the Public Rights of Way as the City may determine to be necessary, appropriate or useful in response to a public health or safety Emergency.

F. The City desires champion the ready availability of Communications Services for all its residential and commercial citizens by providing infrastructure and amenities that make Florence a better place to do business. The City is committed to authorizing the private access and use of the Public Right of Ways for such Services so long as such use is consistent with and does not unduly burden or interfere with the principal purpose of the Public Ways, which is to facilitate the free transit of Persons and goods in commerce for the public's health, safety and welfare.

G. The City holds the health, safety, welfare, quality of life and opportunities to prosper, as well as such physical assets such as the Public Right of Way, in trust for all of its citizens and has a fiduciary responsibility to assure that any use of City resources, especially its Public Ways, benefits all of the citizens and, where it is deemed appropriate, allows for the recovery of a fair and reasonable compensation from private entities using public resources.

H. If Communications Providers make “percentage of gross revenue” payments which account for only portion of the Communications Services they provide within the City, then they are not compensating the City fairly for their private use and enjoyment of public assets and resources. Such Providers may derive an unfair economic advantage and such unfair competition does not foster the City’s desired technological and business growth. Among the purposes of this chapter is not only to ensure that the public is properly compensated for the private use of City assets and resources, but also to ensure that all similarly-situated Communications Providers are treated similarly and fairly to foster technological growth and innovation.

I. Certain Communications, Cable or Utility Providers who provide no Communications Services within the City but occupy City Rights of Way do not fall within the scope of this Chapter and shall be governed instead by City of Florence Ordinance No. 14, Series 2007, which adopts a right of way license process and establishes rates for such Providers.

**8-7-3: REGULATORY FEES AND COMPENSATION NOT A TAX**

A. The fees and costs addressed in this Chapter, and any compensation charged and paid for regarding the use of the Public Rights of Way addressed in this Chapter, are separate from and in addition to any and all other federal, State, local, and City fees, taxes, or charges as may be levied, imposed, or due from a Communications Provider, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of Communications Services.

B. The City has determined that any fee provided for by this Chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners.

C. The fees and costs provided for in this Chapter are subject to applicable federal and State laws.

**8-7-4: DEFINITIONS.** For the purpose of this Chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined herein shall be given the meaning set forth in the Communications Act of 1934, as amended, the Cable Act, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act. If not defined there, the words shall be given their common and ordinary meaning.

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| CABLE ACT | Shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, *et seq.* |
| CABLE SERVICE | Is to be interpreted consistent with federal law and means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, required for the selection or use of such video programming or other programming service. |
| CABLE SERVICE PROVIDER | Any provider of Cable Service. |

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| CITY | The City of Florence, an Oregon municipal corporation, and individuals authorized to act on the City's behalf. |
| CITY COUNCIL | The elected governing body of the City of Florence, Oregon. |
| CONTROL | Actual working control in whatever manner exercised. |
| CITY PROPERTY | Means and includes all real property owned by the City and all property held in a proprietary capacity by the City but does not include Public Rights of Way and Utility Easements as defined herein. |
| COMMUNICATIONS FACILITIES OR FACILITIES | All plant, equipment and systems, other than customer premises equipment, used by any Communications Provider. For the purposes of this Chapter, Facilities used by Cable Service Providers to provide Cable Service are Communications Facilities. |
| COMMUNICATIONS PROVIDER(S) OR PROVIDER(S) | Any provider of Communications Services and includes, but is not limited to: every Person who directly or indirectly owns, controls, operates or manages Communications Facilities within the City and Cable Service Providers. |
| COMMUNICATIONS SERVICE(S) OR SERVICE(S) | Any Service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the Provider itself. Communications Services includes all forms of telephone services and voice, video, data or information transport and expressly includes Cable Service offered by a Cable Service Provider, but does not include: (1) open video system service, as defined in 47 C.F.R. 76; (2) private Communications System services provided without using the Public Rights of Way; (3) over-the-air radio or television broadcasting to the public-at-large from Facilities licensed by the Federal Communications Commission or any successor thereto; and (4) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act. |
| CONDUIT | Any structure, or portion thereof, containing one or more Ducts, Conduits, manholes, bolts, cables, fiber, or other infrastructure used by or for any telegraph, telephone, electrical utility, conductors, or Cable Service. |
| CONSTRUCTION | Any activity in the Public Rights of Way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing Facilities. |
| DAYS | calendar Days unless otherwise specified. |
| DUCT | A single enclosed raceway for conductors or cable. |
| EMERGENCY | Has the meaning provided for in ORS 401.025. |
| FACILITIES | Communications Facilities as defined herein. |
| FEDERAL COMMUNICATIONS COMMISSION | The federal administrative agency, or its lawful successor, authorized to regulate and oversee Communications or Cable Service Providers on a national level. |

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| FRANCHISE OR FRANCHISE AGREEMENT | An agreement between the City and a Communications Provider which grants a privilege to the Communications Provider to use Public Right of Way within the City for a limited, dedicated purpose and in return for specific compensation called a Franchise Fee. |
| FRANCHISEE | A Communications Provider who is a non-breaching party to an unexpired Franchise Agreement with the City. |
| OPUC | The statutorily created State agency in the State of Oregon responsible for licensing and regulation of certain Communications Providers as set forth in Oregon law, or its lawful successor. |
| OVERHEAD FACILITIES | Utility poles, Utility Facilities and Communications Facilities above the surface of the ground, including the underground supports and foundations for such Facilities. |
| PERSON | An individual, corporation, company, association, joint stock company or association, firm, partnership, or limited liability company. |
| PRIVATE COMMUNICATIONS NETWORK | A system, including the Construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a Person for their own use and not for resale, directly or indirectly. "Private communications network" includes services provided by the State of Oregon pursuant to ORS 190.240 and 283.140. |
| PUBLIC RIGHT(S) OF WAY OR RIGHT(S) OF WAY | Include, but are not limited to: City streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and other public ways generally open to travel, including the subsurface under and air space over these ways; but does not include parks, parkland or other City Property not generally open to the public for travel. This definition applies only to the extent of the City's right, title, interest or authority to grant a Franchise to occupy and use such areas for Communications Facilities. "Public Rights of Way or Right of Way" shall also include Utility Easements as defined below. |
| RIGHT OF WAY USE FEE | The fee imposed upon a Communications Provider for its occupation of or use of the City's Public Right of Way under this Chapter which is based upon all the Services provided by the Provider within the City. |
| STATE | The State of Oregon. |
| TELECOMMUNICATIONS ACT | The Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996, 47 U.S.C. § 151 *et seq*. |
| UNDERGROUND FACILITIES | Utility and Communications Facilities located under the surface of the ground, but does not include underground foundations or supports for "Overhead Facilities." |
| UTILITY EASEMENT | Any easement granted to or owned by the City and acquired, established, dedicated, or devoted for public utility purposes. "Utility Easement" does not include any easement dedicated solely for City use or Facilities or any easement where the proposed use is inconsistent with the terms and conditions of the easement granted to or owned by the City. |

UTILITY FACILITIES — The plant, equipment and property, including but not limited to the poles, pipes, mains, Conduits, Ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the Public Right of Way of the City and used or to be used for the purpose of providing utilities, Cable or Communications Service.

## 8-7-5: SCOPE OF CHAPTER; REGISTRATION OF COMMUNICATIONS PROVIDERS

**8-7-5-1: Scope of Chapter; Purpose of Registration.** This Chapter shall apply to all Communications Providers who use or occupy the Public Rights of Way to provide Communications Services to Persons within the City. Communications Providers whose Facilities occupy the Public Rights of Way but who provide no Communications Services within the City are not subject to this Chapter, but must comply with Ordinance No 14. Series 2007. The purpose of registration is:

A. To assure that all Communications Providers who have Facilities within the City Rights of Way and who provide Communications Services within the City using the Public Right of Way comply with the ordinances, rules and regulations of the City.

B. To provide the City with accurate and current information concerning Communications Providers who offer Communications Service within the City and who own or operate Communications Facilities within the City Right of Way.

C. To assist the City in the enforcement of this Chapter, management and caretaking of the Public Right of Way, and the collection of any City Franchise fees or Right of Way Use Fees or charges.

**8-7-5-2: Registration Required.**

A. Unless excepted in this Section 8-7-5-2-B., all Communication Providers who own, operate or use Facilities within the City's Public Right of Way and who provide Communication Services to any Person or customer within the City, shall register with the City, on a form provided by the City, within forty-five (45) Days of the effective date of this Chapter. Any prospective Communications Providers who want to install or use Communications Facilities within the City's Public Right of Way to provide Communications Services within the City after the effective date of this Chapter shall register with the City, on a form provided by the City, prior to installing Facilities or providing Services.

B. Unless excepted in Section 8-7-5-2-B 1 and 2 below, after registering with the City pursuant to subsection 8-7-5-2-A, the Communication Provider shall, by December 31st of each year, file with the City a new annual registration form if it intends to maintain Facilities or provide Services at any time in the following calendar year.

1. Communications Providers who file an initial registration pursuant to subsection 8-7-5-2-A on or after September 30th shall not be required to file an annual registration until December 31st of the following year.

2. Communications Providers who are non-breaching parties to an unexpired Franchise Agreement and pay all Franchise Fees or Right of Way Use Fees due and owing on all the Services they provide within the City.

C. In lieu of filing the City's registration form, a Communications Provider may submit to the City a copy of its application and approved license from either: a) the Oregon Public Utility Commission (PUC); or b) the Federal Communications Commission. To the extent not included in the application and license materials submitted pursuant to this subsection 8-7-5-2-C, registrants also shall provide the following information:

1. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information.

2. The name, address, and telephone number for the duly authorized officer, agent, or employee to be contacted in case of an Emergency.

3. A description of the registrant's existing or proposed Facilities within the City, a description of the Facilities that the registrant intends to construct, and a description of the Communications Service that the registrant intends to offer or provide to Persons, firms, businesses, or institutions within the City.

**8-7-5-3: Registration Fee.** Unless excepted in Section 8-7-5-3-A., each registration form shall be accompanied by a nonrefundable registration fee in an amount to be determined by resolution of the City Council. The registration fee required by this Section shall be subject to all applicable limitations imposed by federal or State law.

A. Communications Providers who are non-breaching parties to an unexpired Franchise Agreement and pay all Franchise Fees or Right of Way Use Fees due and owing on all the Services they provide within the City.

**8-7-5-4: Exemptions from Registration.** The following Communications Providers and Facilities are exempted from registration:

A. Communications Facilities owned and operated exclusively by the State or a political subdivision of this State, for their own use.

B. A Private Communications Network, provided in a manner that does not occupy any Public Rights of Way.

## 8-7-6: CONSTRUCTION STANDARDS

**8-7-6-1: General.** No Person shall commence or continue with the Construction, excavation, installation or operation of Facilities within a Public Right of Way except as provided in Sections 8-7-6-4 through 8-7-7-5, and in compliance with all applicable City and State codes, rules, and regulations.

**8-7-6-2: Construction Codes.** Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, State and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

**8-7-6-3: Construction Permits Requests.** Except in the event of an emergency, no Person shall construct or install any Facilities within a Public Right of Way without first obtaining a Construction or Excavation permit and paying any applicable Construction permit fee as established by City Code and the City's Right of Way permitting process. No permit shall be issued for the Construction or installation of Communications Facilities within a Public Right of Way unless:

A. The requestor, if so required, has first filed a registration form with the City as required by Section 8-7-5 of this Chapter; and

B. The requestor has applied for and received a Franchise pursuant to Sections 8-7-8-1 through 8-7-8-16 of this Chapter.

C. In the event of an emergency and in compliance with City Code, a permittee or its contractor may perform work on its Facilities to address the emergency without first obtaining a permit from the City provided it attempts to notify the City prior to commencing the emergency work and in any event applies for a permit from the City and pays any applicable permit fee as soon as reasonably practicable. As used in this Section 8-7-6-3, "emergency" means a circumstance in which immediate repair to damaged or malfunctioning Facilities is necessary to restore lost service or prevent immediate harm to Persons or property.

**8-7-6-4:Construction Permits.** Requests for permits to construct Communications Facilities shall be submitted upon forms to be provided by the City and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

A. That the Facilities will be constructed in accordance with all Federal, State, and City applicable codes, rules and regulations.

B. That the Facilities will be constructed in accordance with any applicable Franchise Agreement.

C. The location and route of all Facilities to be installed aboveground or on existing utility poles.

D. The location and route of all Facilities on or in the Public Rights of Way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route within the City. Existing Facilities shall be differentiated on the plans from new Construction. If requested, a cross section shall be provided showing new or existing Facilities in relation to the street, curb, sidewalk or Right of Way.

E. The Construction methods to be employed for protection of existing structures, fixtures, and Facilities within or adjacent to the Public Rights of Way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

**8-7-6-5:Verification.** All Construction permit requests shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative affirming that the drawings, plans and specifications submitted comply with applicable technical codes, rules and regulations.

**8-7-6-6:Construction Schedule.** All Construction permit applications shall be accompanied by a written Construction schedule, which shall include an estimated date for completion of Construction. The Construction schedule is subject to approval by the Public Works Director.

**8-7-6-7:Construction Permit Fee.** Prior to issuance of a Construction permit, the requestor shall pay a permit fee in an amount established in the City Code and City's Right of Way excavation and permitting process. Such fee shall be designed to defray the costs of City administration of the Construction. The City shall waive the Construction Permit Fee if the requestor is a non-breaching party to an unexpired Franchise Agreement with the City or is a Provider acting in compliance with this Chapter, including Right of Way Use Fee payment obligation.

**8-7-6-8:Issuance of Permit.** If satisfied that the plans and documents submitted comply with all requirements of this Chapter and with any applicable Franchise Agreement, the Public Works Director shall issue a permit authorizing Construction of the Facilities, subject to such further conditions affecting the time, place and manner of performing the work.

**8-7-6-9:Notice of Construction.** Except in the case of an Emergency, the permittee shall notify the Public Works Director not less than two (2) working Days in advance of any excavation or Construction in the Public Rights of Way.

**8-7-6-10: Compliance with Permit.** All Construction practices and activities shall be in accordance with the permit and the approved final plans and specifications for the Facilities. The Public Works Director and representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

**8-7-6-11: Noncomplying Work.** Subject to the notice requirements in Section 2-7-7-4, all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this Chapter, shall be removed at the sole expense of the permittee. The City is authorized to stop work in order to assure compliance with the provision of this Chapter.

**8-7-6-12: Completion of Construction.** The permittee shall promptly complete all Construction activities so as to minimize disruption of the Public Rights of Way and other public and private property. All Construction work within Public Rights of Way, including restoration, must be completed within one hundred twenty (120) Days of the date of issuance of the Construction permit unless an extension or an alternate schedule has been approved by the appropriate City official.

**8-7-6-13: As-Built Drawings.** Unless otherwise provided in an unexpired Franchise Agreement, if requested by the City, the permittee shall furnish the City with up to two (2) complete sets of plans drawn to scale and accurately depicting the location of all Facilities constructed pursuant to the permit. These plans shall be submitted to the City Engineer or designee within sixty (60) Days after completion of Construction, in a format acceptable to the City.

**8-7-6-14: Restoration of Public Rights of Way and City Property.**

A. When a permittee, or any Person acting on its behalf, does any work in or affecting any Public Rights of Way or City Property, it shall at its own expense promptly restore such ways or property to as good an order and condition as existed prior to the work, unless otherwise directed by the City. Repairs guaranteed by permittees shall meet all of the following conditions in order to remain in conformance with this Chapter:

   1. The entire area shall be free from delamination of the approved surface material.

   2. No distortion of one-half inch (1/2" or greater shall exist over more than five percent (5%) of the total surface area of the repair.

   3. No cracks of one-quarter inch (1/4") or greater shall exist in the surface or edges of the repair totaling more than five percent (5%) of the repair perimeter.

   4. Distortion conditions over one inch may necessitate that full repairs be completed within twenty-four (24) hours of notification by the City.

B. Unless otherwise provided in an unexpired Franchise Agreement, the permittee shall, for a period of five (5) years thereafter, be fully liable for all defects in materials and workmanship relating to such Construction or Restoration.

C. If weather or other conditions do not permit the complete restoration required by this Section, the permittee shall temporarily restore the affected Rights of Way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

D. If the permittee fails to restore Rights of Way or property to good order and condition, the City shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) Days to restore the Rights of Way or property. If, after notice, the permittee fails to restore the Rights of Way or property to as good an order and condition as existed before the work was undertaken, the City shall cause such restoration to be made at the expense of the permittee.

E. A permittee or other Person acting on its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any Person, vehicle or property by reason of such work in or affecting such Rights of Way or property.

**8-7-6-15: Performance and Completion Bond.** Unless otherwise provided in an unexpired Franchise Agreement, a performance bond or other form of surety acceptable to the City equal to at least 100% of the estimated cost of Constructing Permittee's Facilities within the Public Rights of Way of the City shall be provided to the City before Construction is commenced.

A. Unless otherwise provided in an unexpired Franchise Agreement, the surety shall remain in force until sixty (60) Days after substantial completion of the work, as determined in writing by the City, including restoration of Public Rights of Way and other property affected by the Construction.

B. Unless otherwise provided in an unexpired Franchise Agreement, the surety shall guarantee, to the satisfaction of the City:

1. Timely completion of Construction;

2. Construction in compliance with applicable plans, permits, technical codes and standards;

3. Proper location of the Facilities as specified by the City;

4. Restoration of the Public Rights of Way and other property affected by the Construction; and

5. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

## 8-7-7: LOCATION OF FACILITIES

**8-7-7-1: Location of Facilities.** All Facilities located within the Public Right of Way shall be constructed, installed and located in accordance with the terms of the Construction permit and approved final plans and specifications for the Facilities, and all applicable City codes, rules and regulations. Whenever any existing electric utilities or Communications Facilities are within a Public Right of Way and are located underground or required to be located underground by City Code, a Communications Provider occupying or proposing to occupy the same Public Right of Way must also locate its Facilities underground at its own expense.

**8-7-7-2: Interference with the Public Rights of Way.** No Communications Provider may locate or maintain its Facilities so as to interfere with the City's use of the Public Rights of Way or to unreasonably interfere with use by the general public or by other Persons authorized to use or occupy the Public Rights of Way. All use of Public Rights of Way shall be consistent with City codes, ordinances and regulations.

**8-7-7-3: Relocation or Removal of Facilities.**

A. A Communications Provider shall, at no cost to the City, temporarily or permanently remove, relocate, change or alter the position of any Facilities within the Public Rights of Way, including relocation of aerial Facilities underground, when requested to do so in writing by the City.

B. Nothing in this Section 8-7-7-3 shall be deemed to preclude a Communications Provider from requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements, provided that the Communications Provider shall timely comply with the requirements of this Section 8-7-7-3 regardless of whether or not it has requested or received such reimbursement or compensation.

C. The City shall provide at least 30 days written notice of the time by which the Communications Provider must remove, relocate, change, alter or underground its Facilities. The City may grant extensions upon the Communications Provider's request. If a Communications Provider fails to remove, relocate, alter or underground any Facility as requested by the City and by the date established by the City, the Communications Provider shall pay all costs incurred by the City due to such failure, including but not limited to costs related to project delays. Upon such failure, the City may cause the Facility to be removed, relocated, altered or undergrounded at the Communications Provider's sole expense and shall use qualified personnel or contractors consistent with applicable State and federal safety laws and regulations. Upon receipt of a detailed invoice from the City, the Communications Provider shall reimburse the City for the costs the City incurred within thirty (30) Days.

**8-7-7-4: Removal of Unauthorized Facilities.** Within thirty (30) Days following written notice from the City or at a later date agreed upon by the parties, any Communications Provider or other Person who owns, controls or maintains any unauthorized system, Facility, or related appurtenances within the Public Rights of Way shall, at its own expense, remove such system, Facilities and/or appurtenances from the City Public Rights of Way. A system, Facility, or appurtenance is subject to removal under this Section in the following circumstances:

A. One (1) year after the expiration or termination of the Communications Provider's Franchise Agreement, unless the City has provided written authorization for abandonment in place.

B. Upon abandonment of a Facility within the Public Rights of Way. A Facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety (90) Days or longer. A Facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the Facility is being replaced. The City shall contact the Provider before concluding that a Facility is abandoned. A Facility may be abandoned in place and not removed if the City authorizes such abandonment and non-removal in writing and there is no apparent risk to the public safety, health, or welfare.

C. If the Facility was Constructed or installed without the appropriate prior authority at the time of Construction or installation.

D. If the Facility was Constructed or installed at a location not authorized by the Communications Provider's Franchise or other legally sufficient permit.

**8-7-7-5: Coordination of Construction Activities.** A Communications Provider is required to make a good faith effort to cooperate with the City.

A. By January 1 of each year, a Communications Provider shall provide the City with a schedule of their known proposed Construction activities in or near the Public Rights of Way or affecting the Right of Way.

B. If requested by the City, a Communications Provider shall meet with the City to schedule and coordinate Construction in the Public Rights of Way.

C. All Construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer or designee, to minimize public inconvenience, disruption or damages.

## 8-7-8: COMMUNICATIONS FRANCHISE AGREEMENTS REQUIRED

### 8-7-8-1: Registration, Franchise Application and Franchise Agreement Required.

A. Prior to occupying City Public Rights of Way, all Communications Providers who plan to provide Services within the City or who provide Services within the City shall register with the City pursuant to Section 8-7-5-2, shall file a Franchise Application with the City pursuant to Section 8-7-8-2, and shall enter into a Franchise Agreement with the City.

B. Multiple Franchises Not Required. Notwithstanding anything to the contrary in this Chapter, a Communications Provider who is a non-breaching party to an unexpired Franchise Agreement for a Service it provides within the City shall not be required to enter into a multiple or different Franchise Agreements for its provision of a different Service within the City as long as the Provider has registered all its Services with the City pursuant to Section 8-7-5-2 of this Chapter. Further, nothing in this subsection waives a Provider's duty to pay Franchise Fees or Right of Way Use Fee as required under Section 8-7-8-7 of this Chapter.

C. Any Person whose Communications Facilities occupy the Public Right of Way and are used to provide Services within the City, with or without a valid Franchise Agreement from the City, must comply with all provisions of this Chapter, specifically including payment of any applicable Right of Way Fees pursuant to Section 8-7-8-7.

### 8-7-8-2: Franchise Application.

A. Any Person who desires a Franchise Agreement with the City must first file a Franchise Application with the City Manager. The purpose of a Franchise Application is to provide the City with necessary information regarding the Communications Provider's Services and Public Right of Way needs. The Franchise Application shall include, at minimum, the following information:

1. The identity of the applicant.

2. A description of the services to be offered or provided by the applicant over its Facilities, including an indication of whether the applicant will provide solely Cable Service.

3. Engineering plans, specifications, and a network map in a form customarily used by the applicant of the Facilities located or to be located within the Public Rights of Way in the City, including the location and route requested for applicant's proposed Facilities.

4. The area or areas of the City the applicant desires to serve and a preliminary Construction schedule for build-out to the entire Franchise area.

5. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the Facilities and to offer or provide the Communications Service proposed.

6. An accurate map showing the location of any existing Facilities in the City that applicant intends to use or lease.

B. Any Communications Provider occupying the Public Rights of Way without a Franchise Agreement as of the effective date of this Chapter shall file a Franchise Application pursuant to this Section within forty-five (45) Days of the effective date of this Chapter.

**8-7-8-3: Determination by the City.** The City shall issue a written preliminary determination granting or denying the Franchise application in whole or in part. If the Franchise Application is denied, the written determination shall include the reasons for denial. The City shall evaluate the Franchise Application based upon: the continuing capacity of the Public Rights of Way to accommodate the prospective Franchisee's proposed Facilities; the prospective Franchisee's legal, technical and financial ability to comply with the provisions of this Chapter; and the prospective Franchisee's compliance with applicable Federal, State and local laws, rules, contractual obligations and regulations.

**8-7-8-4: Scope of Franchise Agreement; Effect of Chapter on Franchise Agreement**

A. No Franchise granted pursuant to this Chapter shall convey any right, title or interest in the Public Rights of Way, but shall be a non-exclusive grant to use and occupy the Public Rights of Way for the limited purposes, terms, and conditions provided in the Franchise Agreement.

B. The rights granted by any Franchise Agreement are limited to the right to use the Public Rights of Way for the provision of Communications Services as defined herein. Nothing in the Franchise shall be construed to prevent the City from grading, paving, repairing and/or altering any Public Rights of Way, constructing, laying down, repairing, relocating or removing City infrastructure or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any City Infrastructure. If a Franchisee's Facilities interfere with the Construction, repair, replacement, alteration or removal of any Public Rights of Way, public work, City utility, City improvement or City infrastructure, except those used to provide competing Communications Services, such Facilities shall be removed or relocated as provided in Section 8-7-7-3 and 8-7-7-4 of this Chapter, in a manner acceptable to the City and consistent with industry standard engineering and safety codes.

C. Application to Franchise Agreements Adopted After this Chapter. A Franchise Agreement granted hereunder shall at all times comply with the requirements of this Chapter unless this Chapter expressly authorizes different terms. In this Chapter, such authorization is indicated by the introductory phrase, "Unless otherwise specified in an unexpired Franchise Agreement…"

D. Application to Franchise Agreements Adopted Prior to this Chapter. To the extent that this Chapter can be implemented consistently with an unexpired Franchise Agreement adopted prior to this Chapter, the terms of this Chapter shall prevail. To the extent that this Chapter conflicts with and cannot be implemented consistently with an unexpired Franchise Agreement adopted prior to this Chapter, the terms of the unexpired Franchise Agreement shall prevail.

**8-7-8-5: Term of Grant.** Unless otherwise provided in an unexpired Franchise Agreement, a Franchise granted hereunder shall be in effect for an initial term of five (5) years and may be renewed subject to Sections 8-7-8-9 and 8-7-8-10 of this Chapter.

**8-7-8-6: Franchise Territory.** Unless otherwise provided in an unexpired Franchise Agreement, a Franchise granted hereunder shall be limited to a specific geographic area of the City to be served by the Franchisee and the Public Rights of Way necessary to serve such areas and may include the entire City.

**8-7-8-7: Franchise Fee and Right of Way Use Fee.**

A. Franchise Agreement and Franchise Fee. A Franchise Agreement granted hereunder shall require the Franchisee to pay a Franchise Fee in an amount determined by resolution of the City Council.

B. Right of Way Use Fee Imposed. Every Communications Provider occupying or using the Public Rights of Way to provide Services within the City, whether or not the Provider owns the Facilities used to provide its Services, shall pay a Right of Way Use Fee, which shall be based upon all the Communications Services it provides within the City. Such Right of Way Use Fee shall be in an amount determined by resolution of the City Council.

C. Credit and Waiver.

1. The City shall provide a Right of Way Use Fee Credit to any Communications Providers who, pursuant to a Franchise Agreement, pays to the City Franchise Fees due and owing. The amount of the Right of Way Use Fee Credit shall be equal to the Franchise Fees paid to the City during that Right of Way Use Fee billing period.

2. The City Manager or designee may, at his or her sole discretion and through the adoption of a written rules, grant a full or partial Right of Way Use Fee annual waiver for a Communications Provider who can demonstrate that it has received, earned, or derived (or expects to receive, earn or derive) little or no gross revenues from its use or occupation of the Right of Way during that year. Such written rule shall establish the maximum threshold gross revenue amounts necessary for such waiver to apply.

D. If the Communications Provider's sole use of the Public Right of Way is to place wireless Facilities above the ground on existing poles or similar structures in the Public Right of Way and the operator does not install or use lines, wires or cables, such Communications Provider is not required to pay a Right of Way Use Fee or a Franchise Fee under this Section, as long as it complies with all other applicable requirements of this Chapter and all other applicable City codes, regulations and rules. Nothing in this Subsection C limits the City's authority to charge reasonable rental or pole attachment rates for the private use of City property.

E. Unless otherwise specified in an unexpired Franchise Agreement, the Franchise Fees required by this Section shall be paid within thirty (30) Days after the end of each calendar quarter. Each payment shall be accompanied by an accounting of gross revenues and a calculation of the amount payable. Unless otherwise specified in an unexpired Franchise Agreement, the Franchisee shall pay interest at the rate of nine percent (9%) per year for any payment made after the due date.

F. The Franchise Fee or Right of Way Use Fee required in this Section remain subject to any applicable limitations imposed by federal or State statutes.

**8-7-8-8: New Facilities or Services.**

A. A new registration shall be required of any Franchisee who desires to extend or locate its Facilities within Public Rights of Way if such Facilities are not previously included in a Franchise Agreement with the City.

B. A new registration shall be required of any Franchisee who desires to provide an additional Communication Service which was not previously included in a Franchise Agreement with the City.

**8-7-8-9: Franchise Term Renewals.** Unless otherwise provided in an unexpired Franchise Agreement and unless prohibited under State or federal law, a Franchise, if renewed, shall be renewed in the following manner. Franchisees who desire to renew an unexpired Franchise under this Chapter shall, not less than one hundred eighty (180) Days before expiration of the current Franchise Agreement, file a request for renewal with the City, which shall include the following information:

A. The information required pursuant to Section 8-7-8-2 of this Chapter.

B. Any additional information required pursuant to the existing Franchise Agreement between the City and the Franchisee.

C. Any desired amendments to the existing Franchise Agreement, including the desired renewal term, provided that such amendments do not violate or conflict with this Chapter.

**8-7-8-10: Renewal Determinations.** Within ninety (90) Days after receiving a complete renewal request under Section 8-7-8-9, the City shall issue a written determination granting or denying the renewal request in whole or in part. Such renewal shall be for a renewal term or terms to be mutually decided on by the parties. If the renewal request is denied, the written determination shall provide the reasons for non-renewal. The City shall evaluate the renewal based upon the capacity of the Rights of Way to accommodate the Franchisee's Facilities; the Franchisee's legal, technical and financial ability to comply with the provisions of this Chapter; and Franchisee's compliance with any applicable federal, State and local laws, contractual obligations, rules, or regulations.

**8-7-8-11: Obligation to Cure As a Condition of Renewal.** The City shall not renew a Franchise Agreement unless the Franchisee has cured any violations or defaults in the Franchisee's performance of the Franchise Agreement, this Chapter, or has provided the City with a City-approved plan detailing the corrective action to be taken.

**8-7-8-12: Assignments or Transfers of Franchise.** A Franchise granted under this Chapter may not be directly or indirectly transferred, assigned or disposed of by sale, lease, merger, consolidation or by other act of the Franchisee, by operation of law or otherwise, without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. City consent conditions shall include, but shall not be limited to:

A. The Franchisee and the proposed assignee or transferee of the Franchise shall agree in writing to assume and abide by all of the provisions of the Franchise Agreement.

B. No transfer shall be approved unless the City determines the assignee or transferee has the legal, technical and financial ability to comply with the provisions of this Chapter and applicable Federal, State and local laws, rules, regulations.

C. The Franchisee shall reimburse the City for all direct and indirect fees, costs, and expenses reasonably incurred by the City in considering a request to transfer or assign a Franchise, unless City is expressly prohibited from requesting such reimbursement by state or federal statutes.

D. Any transfer or assignment of a Franchise, system or integral part of a system without prior City approval or without a valid Franchise Agreement shall be void and is cause for revocation of the Franchise.

**8-7-8-13: Termination of Franchise Agreement.** A Franchise Agreement to use or occupy Public Rights of Way may be terminated by the City for the following reasons:

A. Construction or operation in the City or in the Public Rights of Way without a Construction permit.

B. Construction or operation at an unauthorized location or in violation of any required City approvals or permits.

C. Failure to comply with Section 8-7-8-12 herein with respect to sale, transfer or assignment of a system or Franchise.

D. Misrepresentation by or on behalf of a Franchisee to the City in any Registration request or Franchise Application or Franchise Renewal Request.

E. Unauthorized abandonment of Facilities in the Public Rights of Way.

F. Failure to relocate or remove Facilities as required in this Chapter.

G. Failure to pay taxes, compensation, fees or costs when and as due the City under this Chapter or under an applicable Franchise Agreement.

H. Insolvency or bankruptcy of the Franchisee.

I. Violation of material provisions of this Chapter.

J. Violation of the material terms of a Franchise Agreement.

**8-7-8-14: Notice and Duty to Cure.** In the event that the City believes that grounds exist for termination of a Franchise Agreement, the City shall give the Franchisee written notice of the alleged violation and shall provide a short and concise statement of the nature and general facts of the violation. City shall provide the Franchisee a reasonable period of time, not exceeding thirty (30) Days, to furnish evidence that:

A. Corrective action has been or is being expeditiously pursued to remedy the violation;

B. Rebuts the alleged violation; and/or

C. Explains why it would be in the public interest to impose a penalty or sanction less than termination.

**8-7-8-15: Public Hearing.** In the event that a Franchisee fails to provide evidence reasonably satisfactory to the City as provided in Section 8-7-8-14, the City Manager shall refer the alleged violation to the City Council. The City Council shall provide the Franchisee with notice and a reasonable opportunity to be heard concerning the matter.

**8-7-8-16: Standards for Termination or Lesser Sanctions.** If persuaded that the Franchisee has violated a material provision of this Chapter or of a Franchise Agreement or has committed the violations listed in Section 8-7-8-13 above, the City Council may terminate the Franchise or may establish some lesser sanction and cure, including but not limited to the assessment of penalties pursuant to Section 8-7-9-5. In doing so, the City Council shall consider the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors, whether:

A. The violation was egregious.

B. Substantial harm resulted.

C. The violation was intentional or repeated.

D. There is a history of prior violations of the same or other requirements.

E. There is a history of overall compliance.

F. The violation was voluntarily disclosed, admitted or cured.

**8-7-8-17: Other City Costs.** All Franchisees or Communications Providers shall, within thirty (30) Days after City's written demand therefore, reimburse the City for all reasonable direct and indirect costs and expenses incurred by the City in connection with any modification, amendment, renewal or transfer of the Franchise or any Franchise Agreement, unless the City is expressly prohibited from requesting such reimbursement by federal or state statute.

**8-7-8-18: Damage to Communication Provider's Facilities.** Unless otherwise provided in an unexpired Franchise Agreement or expressly prohibited by federal or state statute, the City shall not be liable for any damage or injury to or loss of any Facility, property, or Person as a result of or in connection with any City public works, public improvements, Construction, excavation, grading, filling, or work of any kind in the Public Rights of Way by or on behalf of the City, or for any consequential losses resulting directly or indirectly therefrom unless such damage or injury is directly caused by the City's negligent, intentional or malicious acts. City liability hereunder shall at all times be limited by Oregon's statutory and constitutional tort claim limits.

**8-7-8-19: Duty to Provide Information.**

A. Except in emergencies, within sixty (60) Days of the City's written request, a Communications Provider shall provide the City with the following:

   1. Information sufficient to demonstrate that Communications Provider has complied with all requirements of this Chapter and any applicable Franchise Agreement, including but not limited to the Franchise Fee or Right of Way Use Fee payments required by Section 8-7-8-7.

   2. Unless otherwise provided in an unexpired Franchise Agreement, all books, records, maps, and other documents, maintained by the Communications Provider with respect to its Facilities within the Public Rights of Way.

B. If the City's audit or review of the Communications Provider's books, records and other documents or information demonstrates that the Communications Provider has underpaid the applicable Franchise Fee or the Right of Way Use Fee by three percent (3%) or more in any one fiscal year, the Communications Provider shall correct the underpayment and pay any interest or penalties owed. Unless otherwise provided in an unexpired Franchise Agreement, the Provider shall also reimburse the City for the cost of the audit or review. Any underpayment, including any interest or audit cost reimbursement, shall be paid within thirty (30) Days of the City's notice to Communications Provider of such underpayment, unless other payment timelines are otherwise provided in an unexpired Franchise Agreement.

**8-7-8-20: City Use of Provider's Services or Facilities.** Unless otherwise provided in an unexpired Franchise Agreement, if the City contracts for the use of a Communications Provider's Facilities, services, installation, or maintenance, the Communications Provider shall offer the City its' most favorable current rate charged to similar Oregon users for similar services. With the City's written permission, the Communications Provider may deduct the agreed-upon applicable City charges for such City use of the Provider's Facilities or services any Franchise Fees or Right of Way Use Fees due and owing. The terms and conditions of the City's use of such services or facilities shall be specified in a written Franchise Agreement or other agreement between the City and the Communications Provider.

**8-7-8-21: Compensation for City Property.** If any right is granted by lease, Franchise Agreement, or other manner, to use and occupy City Property (not Right of Way) for the installation of Facilities or other infrastructure, the compensation to be paid for such right and use shall be fixed by the City through a separate agreement with the Communications Provider.

**8-7-8-22: Cable Franchise.** Cable Service Providers shall be subject to this Chapter to the extent not inconsistent with the Cable Act. The City and the Cable Provider shall enter into a Cable Franchise Agreement pursuant to Section 8-7-8-1 of this Chapter and such Franchise Agreement shall be subject to all applicable provisions of State and federal law, including the Cable Act.

**8-7-8-23: Leased Capacity.** A Communications Provider may, without prior City approval, offer or provide capacity or bandwidth to its customers by lease, use agreements or otherwise, provided that the Communications Provider shall notify the City of the following: that such lease or use agreement has been granted and the type or nature of the use or lease granted.

**8-7-8-24: Insurance.** Unless otherwise provided in an unexpired Franchise Agreement, each Communications Provider shall, as a condition of the grant, secure and maintain liability insurance policies in amounts and types satisfactory to the City which insure both the Communications Provider and the City and its elected and appointed officers, officials, agents and employees as additional insured. Unless otherwise provided in an unexpired Franchise Agreement, the liability insurance policies required by this Section shall be maintained by the Communications Provider throughout the term of the Franchise Agreement, and any such other period of time during which the Communications Provider is operating or has Facilities within the Public Rights of Way. Unless otherwise provided in an unexpired Franchise Agreement, each Communications Provider shall maintain continuous uninterrupted coverage and shall provide such policies upon City's request. As an alternative to the insurance requirements contained herein, a Communications Provider may provide evidence of self-insurance, subject to written acceptance by the City.

**8-7-8-25: General Indemnification.** Each Franchise Agreement shall include, unless prohibited by State or federal statutes, the Franchisee's express promise to defend, indemnify and hold the City and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, relating to, resulting from or alleged to arise out of, relate to or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the Franchisee or its affiliates, officers, employees, agents, contractors or subcontractors in the Construction, operation, maintenance, repair or removal of its Facilities or related to the Communication Provider's provision of Services over the Facilities, whether or not such acts or omissions are authorized, allowed or prohibited by this Chapter or by a Franchise Agreement.

**8-7-8-26: Performance Surety.** Unless otherwise provided in an unexpired Franchise Agreement, before a Franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the Communications Provider shall provide a performance bond, in form and substance acceptable to the City, as security for the full and complete performance of a Franchise Agreement granted under this Chapter, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the Franchisee to comply with the City Code, ordinances, rules, regulations or permits. This obligation is in addition to the performance surety required by Section 8-7-6-15 for Construction of Facilities.

## 8-7-9: GENERAL PROVISIONS

**8-7-9-1:Governing Law.** Any Franchise Agreement granted under this Chapter is subject to the provisions of the constitutions and laws of the United States and the State of Oregon and the ordinances and Charter of the City.

**8-7-9-2:Written Agreement.** No Franchise Agreement shall be granted hereunder except by a writing duly executed by the Franchisee and the City.

**8-7-9-3:Nonexclusive Grant.** No Franchise Agreement granted under this Chapter shall confer any exclusive right, privilege, license or Franchise to occupy or use the Public Rights of Way for delivery of Communications Service or any other purposes.

**8-7-9-4:Severability and Preemption.** If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this Chapter is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, or superseded by State or federal legislation, rules, regulations or decision, the remainder of the Chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of the Chapter, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of this Chapter shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or State laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Chapter, then the provision shall be read to be preempted only to the extent required by law. In the event such federal or State law, rule, or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the City.

**8-7-9-5:Penalties.** Any Person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter or a valid Franchise Agreement shall, pursuant to Section 1-4-2 of the City Code. A separate and distinct offense shall be deemed committed each day on which a violation occurs.

**8-7-9-6:Other Remedies.** Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.

**8-7-9-7:Captions.** The captions to sections throughout this Chapter are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Chapter.

**8-7-9-8:Compliance with Laws.** Any Communications Provider under this Chapter shall comply with all federal and State laws and regulations, as well as all ordinances, resolutions, rules and regulations of the City.

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Created by Ord. No. 5, Series 2017, effective April 19, 2017

# TITLE 9

## UTILITIES


| SUBJECT | CHAPTER |
|---|---|
| UTILITIES SYSTEMS ENLARGEMENT | 1 |
| WATER REGULATIONS | 2 |
| SEWER REGULATIONS | 3 |
| SOLID WASTE MANAGEMENT | 4 |
| STORMWATER MANAGEMENT UTILITY, USER FEE SYSTEM AND STORMWATER MANAGEMENT REQUIREMENTS | 5 |
| STREET MAINTENANCE FEE | 6 |

TITLE 9
CHAPTER 1

# UTILITIES SYSTEMS ENLARGEMENT

SECTION:

9-1-1: Administrative Provisions
9-1-2: Definitions
9-1-3: Systems Enlargement Charge Provided
9-1-4: Collection
9-1-5: Exemptions
9-1-6: Credits
9-1-7: Compliance With State Law
9-1-8: Appeals
9-1-9: Regulations

## 9-1-1: ADMINISTRATIVE PROVISIONS:

A. Purpose: The purpose of the systems development charge is to impose a portion of the public cost of capital improvements upon those developments that create the need for or increase the demands on capital improvements. (Ord 15, Series 1991).

B. Scope: The systems development charge provided in this Chapter is separate from and in addition to any applicable tax, assessment, charge or fee otherwise provided by law or imposed as a condition of development. A systems development charge is to be considered in the nature of a charge for service to be rendered or a service hookup charge. (Ord 15, Series 1991).

C. Construction: The rules of statutory construction provided in ORS 174.010 to 174.110 are adopted and by this reference made a part of this Chapter.

## 9-1-2: DEFINITIONS:

ASSISTED LIVING FACILITY — A facility that employs caregivers; residents live in private apartments; may take meals in a central dining room.

CAPITAL IMPROVEMENT(S) — Facilities or assets used for any of the following:

A. Water supply, treatment and distribution;

B. Sanitary sewers, including collection, transmission and treatment;

C. Storm sewers, including drainage and flood control;

D. Transportation, including but not limited to streets, sidewalks, bike paths, street lights, street trees, public transportation, vehicle parking, and bridges; or

E. Park and recreation, including but not limited to mini-neighborhood parks, neighborhood parks, community parks, metropolitan parks, and other recreational facilities. (Ord. 15, Series 1991)

DEVELOPMENT — The act of conducting a building or mining operation, or making a physical change in the use or appearance of a structure or land, which increases the usage of any capital improvements or which creates the need for additional capital improvements. (Ord 15, Series 1991).

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| DWELLING UNIT | A dwelling to be occupied as a residence for an individual family. |
| EXTRA CAPACITY FACILITIES | Includes, but are not limited to:<br><br>A. For Water: For participation in water mains over eight inches (8") in diameter, pump stations, reservoirs, wells and all additions for expansions of the water treatment and distribution systems, except service laterals eight inches (8") or less in diameter.<br><br>B. For Sewers: For participation in sewer mains over eight (8") in diameter, storm drains over twelve inches (12") in diameter, separation of storm and sanitary sewers, lift stations and all expansions or additions to the sewage collection and treatment systems, except service laterals over eight inches (8") or less in diameter.<br><br>C. For Street: Signalization, channelization, arterial streets, collector streets, street widening, participation in over-width street paving, and right-of-way requisition.<br><br>D. For public stormwater management facilities conveying or treating stormwater originating from multiple property ownerships. (Ord. 11, Series 2005) |
| IMPROVEMENT FEE | A fee for costs associated with capital improvements to be constructed after the date this ordinance becomes effective. (Ord 15, Series 1991). |
| LAND AREA | All surface area of any parcel, including building area, excepting any portion of the parcel within a recorded right of way for a public street or alley. |
| NURSING HOME FACILITY | A facility with permanent facilities that include inpatient beds, providing medical services, including nursing services excluding surgical services. |
| PARCEL OF LAND | A platted lot or any other tract of land which is occupied, or may be occupied by a structure or other use; including the yards and other open spaces required under the zoning regulations of the City, or reasonably attributable to an existing or proposed use. |
| PUBLIC USE | Any facility, activity or service which the local government seeking the exemption is authorized by law to possess or perform. (Ord. 23 Series 1990, 9-4-90). |
| QUALIFIED PUBLIC IMPROVEMENTS | A capital improvement that is:<br><br>A. Required as a condition of development approval;<br><br>B. Identified in the plan adopted pursuant to subsection 9-1-7-B; and<br><br>C. Not located on or contiguous to a parcel of land that is the subject of the development approval. As used in this definition "contiguous" means: in a public way which abuts. (Ord. 15, Series 1991) |
| REIMBURSEMENT FEE | A fee for costs associated with capital improvements constructed or under construction on the effective date of this Ordinance. (Ord 15, Series 1991). |

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| RESIDENTIAL CARE FACILITY | A facility that cares for six or more persons over the age of 18 on A twenty-four hour basis. |
| SYSTEMS DEVELOPMENT CHARGE | A reimbursement fee, an improvement fee or a combination thereof assessed or collected at any of the times specified in subsection 9-1-4-A. It shall also include that portion of a water or sanitary sewer connection charge that is greater than the amount necessary to reimburse the City for its average cost of inspecting and installing connections with the water system or the sanitary sewer system. "Systems development charge" does not include:<br><br>A. Any fees assessed or collected as part of a local improvement district;<br><br>B. A charge in lieu of a local improvement district assessment; or<br><br>C. The cost of complying with requirements or conditions imposed upon a land use decision. (Ord. 15, Series 1991) |

**9-1-3: SYSTEMS ENLARGEMENT CHARGE PROVIDED:**

A. Rates:

1. System development charge established. Unless otherwise exempted by the provisions of this chapter or other local or state law, effective July 1, 1991 a systems development charge is hereby imposed upon all new development within the City, and all development outside the boundary of the City that connects to or otherwise uses the water or sanitary sewer systems of the City. (Ord 15, Series 1991).

2. Applicable to Certain Properties: A parcel of land is exempt from applying for or paying a fee for a building permit is not thereby exempt from paying any part of the systems development charge. The owner or developer of such land prior to the commencement of any construction upon that parcel upon each occasion that a building permit would be applied for and paid for, except for such exemption, shall notify the City that such construction is imminent and the City Manager shall thereupon issue to the owner a fee-exempt building permit for such construction. Upon that occasion, or as soon as the City Manager learns that construction has commenced, if the owner or developer fails to give notice, the systems development charge shall be calculated and shall become immediately due and payable, but the owner may apply to subject the property to a City lien and to pay that lien in installments as otherwise provided in this Chapter. No connection to the sewer or water facilities of the City may be made unless the appropriate systems development charge has been paid or the lien and installment payment method has been applied for. (Ord 15, Series 1991).

B. Indexing:
System Development Charges shall be adjusted annually July 1 of each year, based on the change in the 20-City Construction Cost Index (Index) published annually by the Engineering News Record ENR. Each Systems Development Charge will be adjusted by a percentage equal to the percentage of change in the ENR Annual Average for the previous calendar year. For example, the ENR Index for 2004 was 7511. The Index for 2005 was 7446 or a percentage change of 4.65%. Thus on July 1, 2006 the System Development Charges will be adjusted upward by 4.65%. (Ord. No. 3, Series 2006)

**9-1-4: COLLECTION:**

A. The systems development charge is immediately due and payable upon impact to the system such as at annexation, issuance of a building permit or connection to any system of the City, or upon enlargement of a structure as provided in this Chapter, whichever occurs first. If construction is commenced or connection is made to the any city system without an appropriate permit, the systems development charge is immediately due and payable upon the earliest date that any such permit was required. The developer, owner or other person benefiting from the development shall pay and the City Manager shall collect the applicable systems development charge, upon annexation, when issuing any building permit or before permitting any connection to any system of the City. The City Manager shall decline to issue such a permit or to permit such connection until that charge has been paid in full. Whenever the full and correct systems development charge has not been paid and collected, for any reason, the City Manager shall report to the Council the amount of the uncollected charge, the description of the real property to which the charge is attributable, the date upon which the charge was due, and the name or names of the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement of the described land. The City Council shall set a public hearing and shall direct the City Manager to give notice of that hearing to each of those owners and contract purchasers together with a copy of that Manager's report concerning the unpaid charge, either in person or by certified mail. Upon public hearing, the Council may accept, reject or modify the Manager's report and, if it finds that any charge is unpaid and uncollected, the Council, may direct the City Recorder to docket the unpaid and uncollected charge in the City's record of liens and, upon completion of the docketing, the City shall have a lien against the described land for the full amount of unpaid charge, interest and the City's actual costs of serving notice upon the owners or contract purchasers. That lien shall be enforced in the manner provided in ORS chapter 223. (Ord 15, Series 1991). (Ord. 5, Series 2007)

B. Whenever a system development charge of one thousand dollars ($1000.00) or more would otherwise be due and collectible, the owner of the parcel of land may apply, upon forms provided by the City Manager, for the voluntary imposition upon the parcel for a lien for the full amount of the systems development charge and the payment of that lien in twenty (20) semi-annual installments plus interest.

This type of financing for SDC's are only made available to:

1. Existing development with the city limits
2. Existing development which is annexed into the city after April 1, 2007

The burden of showing the identity of the owner of record or of the contract purchaser of record of the parcel shall be upon the applicant. Upon receipt of such an application, the City Manager shall compute the amount of the systems development charge and shall report to the City Recorder the amount of the charge, the date upon which that charge is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in the City's docket of liens, and from the time that docketing is completed, the City shall have a lien upon that described land for the amount of the charge and a market rate interest calculated at three points (3 points) over the Federal Home Loan Bank of Seattle Intermediate/Long-Term-Fixed-Rate Advance Index. The City Manager is authorized to request that all or part of the interest may be waived for public agencies, by the City Council whenever the City manager deems this to be in the public interest. (Ord. 6, Series 2009) That lien shall be enforced in the manner provided in ORS chapter 223. (Ord 15, Series 1991).

Section 7. Declaration of Emergency. It is hereby found and determined that matters regarding the deferral of fees and charges referenced in Sections 1, and 2 herein above are necessary for the immediate economic stimulation and encouragement of development within the city limits of Florence, Oregon's planning and building jurisdiction and, therefore, and emergency exists and this ordinance shall take effect upon adoption by the Council and approval by the Mayor.

C. Collection deferral. *[Section 9-1-4-C shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*

1. Deferral option. For the assessment of charges pursuant to Section 9-1-4-A related to new construction, the charges may be deferred at the request of the property owner until the final building occupancy is requested.

2. Payment upon conveyance. In the event that the real property on which the fees have been deferred is sold or otherwise conveyed, the charges deferred shall become immediately due and payable to the City. Sale includes selling, conveying or assigning any or all of the property or the owner's interest in the property.

3. Enforcement. The deferred charges shall be a lien upon the property until paid in full. In addition, the owner shall be required to execute a request for and a consent to an enforcement agreement in the amount of the charges deferred on each property for which a deferral is requested. The request and consent shall be made on a form prepared by the City. Upon receipt, the City shall record the enforcement agreement in the City's lien docket. The enforcement agreement shall authorize the City to withhold setting a water meter on the property for which a deferral has been requested, or, if the property is already receiving water service, to remove the water meter pursuant to Section 4-1-5-7, and withhold service to their property until the deferred charges have been paid in full.

**9-1-5: EXEMPTIONS:**

A. Full Exemption: Any parcel of land which has established use:

1. Of streets by an existing structure or a valid building permit issued for the property; and

2. Of water by connection to the City water system or a water tap order issued for the property; and

3. Of sewers by connection to the City sewer system or a sewer connection permit issued for the property on or before the effective date hereof.

4. Of storm drainage by an existing structure or a valid building permit issued for the property. (Ord. 11, Series 2005)

is exempt from the systems development charge to the extent of the structure then existing on the land or covered by the building permit issued for the land on or before the effective date hereof and to the extent of the parcel of land as it is constituted on that date.

B. When adopting the methodology resolution, the Council may establish full or partial exemptions from all or part of the systems development charge. (Ord 15, Series 1991).

C. Public Property:
Exemption for certain property taxes supported units of government: Any parcel of land and proposed improvements thereon in the City which are or will continue in public use by a unit of local government supported by property taxes levied on property within the City may be exempted from System Development Charge when the City Council deems it to be in the best interest of the City, subject to the following conditions:

If the land or improvements thereon are or become subject to payment of property taxes due to the termination of the property tax exemption under ORS 307.090, at any time within ten years after the date that the System Development Charge would have been otherwise due and payable, the amount of the System Development Charge, together with any increase indicated by the Engineering News Record 20-City Construction Index, shall be paid by the owner of the land or improvements causing the termination of the property tax exemption. (Ord. No. 3, Series 2006)

D. Affordable Housing: *[Section 9-1-4-D shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*
New single-family residential dwelling units meeting the following square footage criteria shall be eligible for a partial exemption in the amount indicated. The square footage classifications shall be determined by a measurement of the floor space of the residential dwelling unit's interior living space (excluding garages, but including unfinished basements).

| Square footage classification | Amount of partial exemption |
|---|---|
| Less than 1,000 sq. ft. | 60% exemption |
| 1,000 – 1,199 sq. ft. | 50% exemption |
| 1,200 – 1,399 sq. ft. | 40% exemption |
| 1,400 – 1,599 sq. ft. | 30% exemption |
| 1,600 – 1,799 sq. ft. | 20% exemption |

E. Accessory Dwelling Units: *[Section 9-1-4-E shall lapse, and be of no further effect after June 30, 2021 without need of any action by the City Council per Ordinance No. 6, Series 2020 effective July 1, 2020, and shall be removed by administrative action of the City Recorder]*
New Accessory Dwelling Units as defined in FCC 10-2 shall be eligible for a 100% exemption.

**9-1-6: CREDITS:**

A. When development occurs that must pay a system development charge under Section 9-1-3 the system development charge for the existing use shall be calculated and if it is less than the system development charge for the proposed use, the difference between the system development charge for the existing use and the system development charge for the proposed use shall be the system development charge required under Section 9-1-3. If the change in use results in the system development charge for the proposed use being less than the system development charge for the existing use, no system development charge shall be required, however, no refund or credit shall be given. (Ord 15, Series 1991).

B. The limitations on the use of credits contained in this subsection shall not apply when credits are given under subsection C of this section. A credits shall be given for the cost of a qualified public improvement associated with a development. If a qualified public improvement is located partially on and partially off the parcel of land that is the subject of the approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the parcel of land. The credit provided for by this subsection shall be only for the improvement fee charged for the type of improvement being constructed and shall not exceed the improvement fee even if the cost of the capital improvement exceeds the applicable improvement fee. (Ord 15, Series 1991).

C. When establishing the methodology, the Council may provide for a credit against the improvement fee, the reimbursement fee, or both, for a capital improvement constructed as part of the development that reduces the development's demand upon existing public capital improvements or the need for future public capital improvements or that would otherwise have to be constructed at City expense under the then-existing Council policies. (Ord 15, Series 1991).

D. Credit shall not be transferable from one type of capital improvements to another.

**9-1-7: COMPLIANCE WITH STATE LAW:**

A. The revenues received from the systems development charges shall be deposited to the fund for each capital improvement designated in the methodology resolution and shall be budgeted and expended as provided by state law. The accounting of such revenues and expenditures required by state law shall be included in the City's annual financial audit required by ORS Chapter 294.

B. The capital improvement plan required by state law as the basis for expending revenues from the improvement fee of the systems development charge shall be the documents identified in the methodology resolution. (Ord 15, Series 1991).

**9-1-8: APPEALS:** Any person who is aggrieved by the methodology adopted by the Council, by the expenditure of systems development charges revenues or by a decision made by the City Manager under this Chapter may appeal that decision to the City Council by filing a written request with the City Recorder within ten days (10) of the Council's action adopting the methodology or authorizing the expenditure or of receiving the City Manager's written decision. Such appeal shall describe with particularity the decision from which the person seeks reconsideration or appeals, the error of that opinion and the relief sough by the person from the City Council. In determining the appeal, the Council shall determine whether the decision is correct and may affirm, modify, extend or overrule that decision. (Ord 15, Series 1991).

**9-1-9: REGULATIONS:** The City Manager may adopt such rules and regulations as the Manager deems necessary for the proper and uniform administration and interpretation of this Chapter. Such rules and regulations shall be subject to review by the City Council. (Ord 19, Series 1990).

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Amended by Ord 19, Series 1990.
Amended by Ord 23, Series 1990.
Amended by Ord 15, Series 1991.
Amended by Ord. 11, Series 2005
Amended by Ord. 3, Series 2006
Amended by Ord. 5, Series 2007 (Section 9-1-4)
Amended by Ord. 6, Series 2009 (Section 9-1-4-B)
Amended temporarily by Ord. 7, Series 2009 (Section 9-1-4) – Expired 12.31.09
Amended temporarily by Ord. 20, Series 2009 (Section 9-1-4) – Expired 12.31.09
Sections 9-1-5-D and E, and Section 9-1-4-C were added temporarily by Ord. 9, Series 2018, and extended by Ordinance No. 6, Series 2020 sections shall lapse and be of no further effect after 6.30.19

TITLE 9
CHAPTER 2

# WATER REGULATIONS

SECTION:

9-2-1: Definitions
9-2-2: Water Service Establishment and Discontinuance
9-2-2-1: Establishing Service
9-2-2-2: Type, Location and Arrangement
9-2-2-3: Temporary Construction Service
9-2-2-4: Discontinuance of Service
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9-2-3: Customer Responsibility
9-2-3-1: Repairs of Leaks
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9-2-5-7: Water Funds, Use
9-2-5-8 Water Curtailment Procedures
9-2-8-9: Constitutionality and Saving Clause

**9-2-1: DEFINITIONS:** The following terms, whenever used in this Chapter, shall be construed as follows unless the context shows a different meaning:

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| APPLICANT | A person, firm, corporation, association or agency applying for water service. |
| CITY | City of Florence, a municipal corporation of the State of Oregon. |
| CUSTOMER | A person, firm, corporation, association or agency receiving water service from the City water facility. |
| DATE OF PRESENTATION | The date upon which a bill or notice is mailed or delivered personally to the customer. |
| DISCONTINUED WATER SERVICE | The termination of the arrangement between the customer and the City water utility for the supply of water and to normally shut off the City valve at the meter. |

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| EMERGENCY | Any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, spills of oil or other substances, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage and war. (Ord. 718, 6-12-84) |
| FIRE PROTECTION SERVICE | Provision of water to premises for automatic fire protection. |
| MAINS | Distribution pipe lines located in streets, highways, public ways or private rights of way which are used to serve the general public. |
| PREMISES | The integral property or area, including improvements thereon, to which water service is or will be provided. |
| RATE SCHEDULE | The entire body of effective rates, rentals, charges and regulations as adopted by resolution of the City Council pursuant to Section 9-2-5-6 of this Chapter. |
| SERVICE CONNECTION | The pipe, valves and other facilities by means of which the water utility conducts water from its distribution mains to and through the meter, but does not include the piping from the meter to the property served. |
| WATER SUPERINTENDENT | The person designated by the City Manager to perform the functions described or his/her designee. (Ord #7, Series 1995) |

**9-2-2: WATER SERVICE ESTABLISHMENT AND DISCONTINUANCE:**

**9-2-2-1: ESTABLISHING SERVICE:**

A. Applicants requesting service in a location not previously served or a change in the size of an existing service shall submit a written application for water service accompanied by the prescribed fees and deposit as set forth in the rate schedule adopted by the Council by resolution, pursuant to Section 9-2-5-6 of this Chapter. The application shall state the following information:

1. The date of application.

2. The location of premises to be served.

3. The date on which applicant will be ready for service.

4. Whether the premises have ever before been supplied by the City water utility.

5. The purpose for which the service is to be used.

6. The size of service.

7. The address to which bills are to be mailed or delivered.

8. Whether the applicant is an owner or tenant of, or agent for, the premises.

9. An agreement to abide by all rules, regulations and ordinances of the City water utility, as now exists or as hereafter changed or amended, and that any delinquent water bills shall be and become a lien against said premises.

10. Such other information as the City water utility may reasonably request.

B. Applicants requesting service at a location previously served by the City water utility may make their request by either writing or by oral request to the utility office in the City Hall. All customers, after having given such notice for the commencement of water service, shall, within fifteen (15) days after

service begins, submit a properly filled out and signed application for water service to the City water utility office, with the prescribed fees and deposits as set forth in the rate schedule adopted by the Council by resolution pursuant to Section 9-2-5-6 of this Chapter, or the City water utility may discontinue water service to the customer.

C. Since a water meter has both minimum and maximum measuring capabilities, the Public Works Superintendent may review the type, size and arrangement of meters, piping and flow- detecting devices, and if he should consider the sizes requested to be improper for the flows and use desired, he may require that the application be amended accordingly.

D. A deposit in the amount set by the rate schedule adopted by Council resolution, pursuant to Section 9-2-5-6 of this Chapter, may be required with each application for water service, which amount shall draw interest at the rate of three percent (3%) per annum during the period such sum remains on deposit. Upon the permanent discontinuance of water service, such amount together with accrued interest shall be paid to the depositor, provided such depositor has complied with all the rules and regulations herein contained and has made payment of all of the water charges herein imposed. In case of the failure of said depositor to pay all of said charges imposed hereunder, the amount of said delinquent water charges shall be deducted from said deposit and the accrued interest; and the surplus, if any remains, shall be paid over to said depositor upon request. The City water utility, at its option, may refund a deposit at any time after a customer's credit has been established. If the applicant has good credit at the time of application, the City water utility may reserve the right to waive customer's deposit.

**9-2-2-2: TYPE, LOCATION AND ARRANGEMENT:**

A. Location of Service Pipe and Meter: Location of the service pipe and meter shall be at the discretion of the City water utility. If a customer requests that a service pipe and meter be installed at a location other than that proposed by the City water utility, and if there is an additional expense involved, the customer must pay the regular connection fee plus the additional expense to have the service pipe and meter installed at his preferred location.

B. Number of Services to Separate Premises: Separated premises under the single control of management will each be supplied through individual service connections unless the City water utility elects otherwise.

C. Service to Multiple Units: Buildings with combined living or business quarters on the same premises under a single control or management may be served at the option of the City by either of the following methods.

1. Through separate service connections to each or any unit, provided that the pipe line system from each service is independent of the others, and is not interconnected.

2. Through a single service connection to the entire premises on which one minimum charge will be applied per unit.

The responsibility for payment of charges for all water furnished to combined units supplied through a single service connection must be assumed by the applicant.

D. Fire Protection Service: Fire protection connections will be allowed inside of buildings under the following conditions:

1. All fire lines must be installed in compliance with the Uniform Fire Code adopted in subsection 4-1-1-D of this Code and with subsection 9-2-3-5 of this Chapter.

2. The City water utility shall require a service meter of approved pattern to be furnished and maintained by the owner of any service system or combination hose and sprinkler system. The connection with the City main and the setting of the meter chamber shall be made by the City water utility upon payment of the charges prescribed by the Council by resolution, pursuant to Section 9-2-5-6 of this Chapter.

3. When the owner of a building desires, or when the Building Code calls for a certain size pipe to supply water to a wet or dry sprinkler system without hose connections, such pipe or pipes may be covered by an approved proportional meter or a detector check. The owner or agent of such building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing a fire. If at any time it is found that hose connections have been added to the system or that registration is recorded on the meter or detector check, the immediate installation of an approved meter may be required by the utility. Such water registered shall be charged for at double the regular meter rate.

4. No charge will be made for water used in the extinguishing of fires if the owner or agent reports such use to the City water utility in writing within ten (10) days of such usage.

5. Standby charges for automatic fire service shall be as prescribed by the rate schedule adopted by the Council by resolution, pursuant to Section 9-2-5-6 of this Chapter.

   The charges shall be based on wet or dry sprinkling systems without hose or other connections. Combined systems will pay the regular meter minimums and the regular meter rates.

6. Water for Fire Storage Tanks: Water may be obtained from a fire service for filling a tank connected with the fire service, but only if written permission is secured from the City water utility in advance and an approved means of measurement is available. The rates for general use will apply.

7. Ownership of service connection and all equipment appurtenant thereto, including the meter and check-valve, shall be the sole property of the City water utility, and no part of the cost thereof will be refunded to the applicant.

8. Pressure and Supply: The City water utility assumes no responsibility for loss or damage because of lack of water pressure and merely agrees to furnish such quantities and pressure as are available in its general distribution system. The service is subject to shut-downs and variations required by the operation of the system.

**9-2-2-3: TEMPORARY CONSTRUCTION SERVICE:**

A. An owner or contractor who requires temporary water service for construction or for any other purpose shall be supplied with water by meter measurement and pay the customary connection fee, deposits and water user rates set forth by the rate schedule adopted by the Council by resolution, pursuant to Section 9-2-5-6 of this Chapter.

B. The customer shall use all possible care to prevent damage to the meter or to any other loaned facilities of the City water utility which are involved in furnishing the temporary service from the time they are installed until they are removed, or until forty eight (48) hours' notice in writing has been given to the City water utility that the contractor or other person is through with the meter or meters and the installation. If the meter or other facilities are damaged, the cost of making repairs shall be paid by the customer.

C. A connection to a fire hydrant for other than fire emergency is allowed only if written permission is secured from the City water utility in advance and an approved means of measurement is available.

**9-2-2-4: DISCONTINUANCE OF SERVICE:** When a change of occupancy or legal responsibility takes place on any premises served by the City water utility, or a customer wishes to have his water service discontinued, notice shall be given as set forth in Section 9-2-2-6B of this Chapter. If notice is not given, the outgoing customer or one having legal responsibility will be required to pay for water service until such notice is received by the City water utility. The closing bill will be calculated and mailed in the manner prescribed in Section 9-2-5-1.

**9-2-2-5: RE-ESTABLISHMENT OF SERVICE:** Application in the form prescribed in Section 9-2-2-1A of this Chapter shall be made to the City water utility to re-establish discontinued water service to a property. If the discontinued service pipe and meter is, in the opinion of the Public Works Superintendent, still capable of being used, a service charge may be made as set forth in the rate schedule adopted by the Council by resolution, pursuant to Section 9-2-5-6 of this Chapter; otherwise, the applicable connection fee as set forth in the resolution of rate schedule shall be payable.

**9-2-2-6: NOTICES:**

A. Notice to Customers: Notices required to be given by the City water utility to a customer will normally be given in writing and may be either delivered or mailed to him personally or delivered or mailed to him at the address to which his service is rendered.

B. Notice From Customers: Notice from the customer to the City water utility shall be given by him or his authorized representative by writing or orally at the City water utility office in the City Hall.

**9-2-3: CUSTOMER RESPONSIBILITY:**

**9-2-3-1: REPAIRS OF LEAKS:**

A. Every customer shall maintain his pipes, fittings and fixtures in proper order free from leakage or wastage. Where water is wastefully or negligently used on a customer's premises, seriously affecting the general services, the utility may discontinue the service if such conditions are not corrected within forty eight (48) hours after giving the customer written notice.

B. Where there is a leak between the main and the meter, the City water utility shall make all repairs free of charge. When a service pipe at the proper grade is damaged or destroyed by contractors or others, the person, contractor or company responsible for such damage shall pay the utility for the cost of repairing or replacing such pipes on the basis of the cost to the City in labor and materials plus fifteen percent (15%) for overhead expenses.

**9-2-3-2: ADMISSION OF CITY EMPLOYEES:** Employees of the City shall be admitted during reasonable hours to customers' properties in order to inspect any water pipe, appliance or fixture upon such premises. Such employees shall, on request, show proper identification.

**9-2-3-3: USE OF WATER:**

A. Except where it forms part of a manufactured product, no water shall be sold or conveyed beyond the property served without permission of the City water utility.

B. The customer shall install a suitable valve at the time of installation or replacement of the meter, as close to the meter location as practicable, the operation of which will control the entire water supply from the service.

C. The operation by the customer of the City water utility's valve in the meter box is not permitted.

**9-2-3-4: ABATEMENT OF NOISE, PRESSURE SURGES:** No apparatus, fitting or fixture shall be connected, allowed to remain connected, or operated in a manner which will cause noise, pressure surges or other disturbances which, in the opinion of the City Manager's designee, result in annoyance or damage to other customers' property or to the water system.

If any such condition exists, the City Manager's designee may give notice to the customer to correct the fault within forty- eight (48) hours' notice or such lesser period as may be specified in the notice and the customer shall correct the fault within the period designated. (Ord. 718, 6-12-84)

**9-2-3-5: PREVENTION OF CONTAMINATION: (Amended Ord 4, 2008)**

A. PURPOSE: Pursuant to Chapter 333, Division 61, of the Oregon Administrative Rules (OAR) it is the responsibility of the City of Florence to protect the public potable water supply and distribution system of the City against actual or potential contamination or pollution by isolating within the premise any contaminant or pollutant that may enter the public potable water supply due to backflow, through an undiscovered or unauthorized, actual or potential cross connection on the premise.

1. To eliminate existing or potential connections between the potable water supplied by the City and other sources of water that are not approved as safe and potable for human consumption
2. To eliminate existing or potential connections between the potable water supplied by the City and any source of contamination or pollution.
3. To prevent the making of cross connections in the future.

B DEFINITIONS: The following terms, whenever used in this subsection shall have the meaning indicated unless the context shows a different meaning:

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| APPROVED BACKFLOW ASSEMBLY | Means backflow prevention devices of a make, model, orientation and size on the list of approved assemblies accepted by the Oregon Department of Human Services and installed in accordance to State standards. |
| BACKFLOW | Means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any sources other than it's intended source, and is caused by backsiphonage, backpressure or capillary action. |
| BACKFLOW PREVENTION ASSEMBLY | Means a backflow prevention assembly such as a Double Check Valve Assembly, Double Check Detector Assembly, Reduced Pressure Principle Assembly Reduced Pressure Principle Detector Assembly, Pressure Vacuum Breaker Assembly or any other device approved by the Oregon Department of Human Services and the affiliated test cocks and attached shutoff valves on the inlet and outlet ends of the assembly, assembled as a complete unit. |
| BACKPRESSURE | Means an elevation of pressure downstream of the distribution system that would cause, or tend to cause, water to flow opposite of its intended direction. |
| BACKSIPHONAGE | Means a drop in distribution system pressure below atmospheric pressure (partial vacuum) that would cause, or tend to cause water to flow opposite of its intended direction. |
| CAPILLARY ACTION | Is the ability of a substance to draw another substance into it. It occurs when the adhesive intermolecular forces between the liquid and a substance are stronger than the cohesive intermolecular forces inside the liquid. The effect causes a concave meniscus to form where the substance is touching a vertical surface. This is the same effect that causes porous materials to soak up liquids. |

A common apparatus used to demonstrate capillary action is the *capillary tube*. When the lower end of a vertical glass tube is placed in a liquid such as water, a concave meniscus forms. Surface tension pulls the liquid column up until there is a sufficient weight of liquid for gravitational forces to overcome the intermolecular forces. The weight of the liquid column is proportional to the square of the tube's diameter, but the contact length (around the edge) between the liquid and the tube is proportional only to the diameter of the tube, so a narrow tube will draw a liquid column higher than a wide tube. For example, a glass capillary tube

0.5 mm in diameter will lift a theoretical 2.8 cm column of water. Actual observations show shorter total distances.

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| CERTIFIED TESTER | Means a person who has been certified by the Oregon Department of Human Services to test approved backflow prevention assemblies. |
| CHECK VALVE | Means a valve, which allows flow in only one direction |
| CITY | City of Florence |
| CONTAMINANT | Means any physical, chemical, biological, or radiological substance or matter in water that creates a health hazard. |
| CONTRACT TESTER | means a person, who is certified by the Oregon Department of Human Services to test an approved backflow prevention assembly and who is the owner or employee of a firm, company or corporation hired by the City to perform testing of backflow prevention assemblies on one or two family residential dwellings. |
| CROSS CONNECTION | Means any actual or potential unprotected connection or structural arrangement between the public or customers potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substances other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices, and other temporary or permanent devices through which, or because of which, backflow can occur are considered to be cross connections. |
| CROSS CONNECTION SPECIALIST | Means a person certified by the Oregon Department of Human Services, Health Services, as a cross connection specialist, and is the person appointed by the Public Works Director to manage the City's Backflow Prevention and Cross Connection Control Program. |
| CUSTOMER | Means the owner, tenant, trustee, mortgagee, receiver or occupier whether person, corporation, or firm of a premise which is connected to the public potable water system. |
| DEGREE OF HAZARD | Means either pollution (non-health hazard) or contamination (health hazard) and is determined by an evaluation of hazardous conditions within a system or premise. |
| DEPARTMENT | Means the Public Works Department of the City of Florence. |
| DISTRIBUTION SYSTEM | Means the network of pipes and other facilities, which are used to distribute water from the source, treatment, transmission, or storage facilities to the customer. |
| DOUBLE CHECK DETECTOR ASSEMBLY (DCDA) | Means a specially designed assembly composed of a line size approved double check valve assembly with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly must be a complete device and listed in the currently approved backflow prevention assemblies list developed by the University of Southern |

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| | California, Foundation for Cross-Connection Control and Hydraulic Research, or other laboratories using equivalent testing methods as approved by the Oregon Department of Human Services. This assembly is designed to protect against a non-health hazard. |
| DOUBLE CHECK VALVE ASSEMBLY(DCVA) | Means an assembly of two independently acting approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks. This assembly must be a complete device and listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other laboratories using equivalent testing methods as approved by the Oregon Department of Human Services. This assembly is designed to protect against a non-health hazard. |
| EXISTING RESIDENTIAL PROPERTIES | Defined as one or two family residential properties that have been constructed and occupied prior to the effective date of this ordinance. |
| HEALTH HAZARD | Means an impairment of the quality of the water that could create an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, or other non-potable substances. |
| IRRIGATION SYSTEM | Means any type of piping on a premise designed for the purpose of conveying water to irrigate or water grass, flowers, trees, and shrubbery of any type. Irrigation systems can be above or below ground and can be of any type i.e. pop-up, rotary, drip etc. |
| MOBILE UNIT | Means pesticide applicator vehicles, mobile carpet cleaning vehicles, water trucks, portable tanks and sprayers and others as determined by the cross connection specialist. |
| NON-HEALTH HAZARD | Means an impairment of the quality of the water to degree that does not create a hazard to the public health, but does adversely affect the aesthetic qualities of such water for public use. |
| POINT OF DELIVERY | Means the point of connection between a public water system and the customer's water system. Beyond the point of delivery, the Oregon Plumbing Specialty Code applies. |
| POLLUTANT | Means a substance that creates an impairment of the quality of the water to a degree which does not create a hazard to the public health, but which does adversely affect the aesthetic qualities of the water. |
| POTABLE WATER | See Safe Drinking Water. |
| POTENTIAL CROSS CONNECTION | Means a cross connection that would most likely occur, but may not be taking place at the time of an inspection. |
| PREMISE | Means real estate and the structures on it. |
| PREMISE ISOLATION | Means the practice of protecting the public water supply from contamination or pollution by installing backflow prevention assemblies at, or near, the point of delivery where the water supply enters the premise. Premise isolation does not guarantee protection to persons on the premise. |
| PUBLIC WATER SYSTEM | Means a system for the provision to the public of potable water for human |

consumption, including but not limited to, the water supply source, including all public treatment, storage, and distribution facilities under the water suppliers control, and ending at the point of delivery to the customers water system.

REDUCED PRESSURE PRINCIPLE ASSEMBLY(RPPA) Means an assembly containing two independently acting check valves, together with a hydraulically operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve.

The unit shall include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly must be a complete device and listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other laboratories using equivalent testing methods as approved by the Oregon Department of Human Services. This assembly is designed to protect against a non-health hazard or a health hazard.

REDUCED PRESSURE DETECTOR ASSEMBLY(RPDA) Means a specifically designed assembly composed of a line size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle assembly. The meter shall register accurately for only very low rates of flow up to three gallons per minute and shall show a registration for all rates of flow. This assembly must be a complete device and listed in the currently approved backflow prevention assemblies list developed by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research, or other laboratories using equivalent testing methods as approved by the Oregon Department of Human Services. This assembly is designed to protect against a non-health hazard or a health hazard.

SAFE DRINKING WATER Means water which has sufficiently low concentrations of microbiological, inorganic chemical, organic chemical, radiological or physical substances so that individuals drinking such water at normal levels of consumption, will not be exposed to disease organisms or other substances which may produce harmful physiological effects and meets all state and federal regulations.

SERVICE CONNECTION Means the piping connection by means of which water is conveyed from a distribution main of a public water system to a customer's premise. The portion of the service connection that conveys water from the distribution main to the customer's property line, or to the service meter, where provided, is under the jurisdiction of the water supplier.

THERMAL EXPANSION Means the pressure increase due to a rise in water temperature that occurs in a water piping system when such systems become "closed" by the installation of a backflow prevention assembly or other means, and will not allow for expansion of water within the plumbing system.

WATER SUPPLIER Means a person, group of persons, municipality, district, corporation or other entity, which owns or operates a public potable water system. IE: The City of Florence.

WATER SYSTEM Means a system for the provision of piped water for human consumption.

C. PREMISE ISOLATION PROGRAM

1. It is the intent and desire of the City of Florence to have installed at all service connections

that are supplied with potable water by the City, an approved backflow prevention assembly.

2. All new one or two family residential premises shall have installed at the point of delivery a minimum of a Double Check Valve Assembly (DCVA).

3. All other premises shall have an approved backflow prevention assembly installed at the point of delivery, in accordance with, but not limited to, those listed in the OAR 333-061-0070, Table 32 and Table 33, and all other premises not specifically mentioned, according to the degree of hazard as determined by the Cross Connection Specialist.

4. The installation of backflow prevention assemblies under the Premise Isolation Program shall begin with industrial and commercial properties and over a period of time as specified by the City Council include existing residential properties.

D. CONTRACT TESTING PROGRAM: It is the intent and desire of the City of Florence that all backflow prevention assemblies installed on service connections for one or two family residential dwellings are tested annually by a contract tester. The contract for testing shall be awarded by means of a Request for Qualifications/Proposal. The term of contract awarded will be not less than one year and may at the end of one year, at the discretion of the City Manager, Public Works Director, and/or City Council be awarded for up to two additional years.

All other customers shall receive an annual Test Due Notice from the Public Works Department, cross connection specialist and shall be responsible to make arrangements for annual testing through a state certified tester of their choice. A list of local certified testers shall be provided with the annual test due notice.

E. COSTS OF COMPLIANCE:

1. Industrial, Commercial, Multi-family and Institutional Properties

a) The initial costs of purchase, installation, testing, maintenance and repair of backflow prevention assemblies installed on non one or two family residential properties, also known as industrial, commercial, multi-family and institutional properties are that of the property owner, developer, builder or customer.

b) The costs of annual testing, maintenance and repair of backflow prevention assemblies installed on non one or two family residential properties, also known as industrial, commercial, multi-family and institutional properties is that of the property owner or customer.

2. One or Two Family Residential Properties

a) The initial costs of purchase, installation, testing, maintenance and repair of backflow assemblies installed on new service connections for one or two family residential dwellings are that of the property owner, developer, builder or customer.

b) The costs of annual testing, maintenance and repair of “Premise Isolation” backflow prevention assemblies installed on service connections for one or two family residential dwellings are that of the City of Florence and shall be conducted through the City’s Contract Testing program.

c) The costs of annual testing, maintenance and repair of all other non premise isolation backflow prevention assemblies installed on one or two family residential dwellings are that of the property owner or customer.

F. DISCONTINUANCE OF SERVICE: The water service may be discontinued to any premise served by the City of Florence for, but not limited to, any of the following:

1. Failure to remove or eliminate an existing unprotected or potential cross connection.
2. Failure to install a required approved backflow prevention assembly.
3. Failure to maintain an approved backflow prevention assembly.
4. Failure to conduct the required testing of an approved backflow prevention assembly.
5. Removal of a required approved backflow prevention assembly without contacting the Department
6. Refusal to allow authorized City personnel access to a premise for the purpose of determining water usage and inspecting for cross connections.
7. Bypassing an approved backflow prevention assembly.
8. Failure to comply with the requirements of this Code.
9. In cases of extreme emergency, and an immediate threat to life or public health is found to exist.

G. RESPONSIBILITIES:

1. Water Customer:

The water customer has the responsibility to prevent contamination of the public potable water supply by eliminating cross connections on the customer's premises and to prevent the creation of cross connections on the customer's premises. The water customer's responsibility begins at the downstream end of the Point of Delivery and includes any and all piping on the premises. The water customer is responsible for the installation of and for maintaining properly operating temperature pressure relief valves or thermal expansion tanks within the premise plumbing. The water customer shall be financially responsible for all damages and investigations on premise or off the premises caused as a result of any backflow or cross connection on the customers premise.

2. Water Supplier:

The water supplier's responsibility for cross connection control shall begin at the water supply source, include all public treatment, storage, and distribution facilities under the water suppliers control, and end at the point of delivery to the customers water system. The water supplier shall also ensure that at least one person is certified as a Cross Connection Specialist and Backflow Prevention Assembly Tester.

The water supplier shall notify customers of thermal expansion concerns.

3. Plumbing Official:

The plumbing official has the responsibility for enforcement of plumbing regulations as outlined in the latest edition of the Uniform Plumbing Code or other plumbing code as adopted by the State of Oregon. The plumbing official's responsibility begins at the downstream end of the point of delivery and includes all piping on the water user's premise. The plumbing official has the explicit responsibility of preventing cross connections from being designed and built into the structures within the plumbing official's jurisdiction. Where the review of building plans suggests or detects the potential for cross connections being made as an integral part of the plumbing system, the plumbing official has the responsibility for requiring that such cross connection practices be eliminated or provided with an approved backflow prevention assembly.

The plumbing official shall not grant final approval for a premise without first receiving a passing backflow prevention assembly test report for all backflow prevention assemblies located on the premise with copies turned in to the Department.

4. Certified Tester:

A certified tester shall be responsible for performing accurate field tests, as approved by the Oregon Department of Human Services, for maintenance of backflow assemblies and making reports of such to the customer and the cross connection specialist on forms approved by the Department. Testers shall provide the Department with a copy of the latest test gauge calibration report for any test gauge being used by the tester. Test gauge calibration must be completed in an annual basis. The tester shall give, at a minimum, 24 hours notice prior to testing in order for a representative of the Department to witness tests if desired. The tester shall provide the Department with a list of materials or parts used in the maintenance of backflow prevention assemblies. The tester shall be equipped with and be capable of using all the necessary tools, gauges, and other equipment necessary to properly test and maintain backflow prevention assemblies to state regulations.

5. Cross Connection Program Manager/Specialist: The cross connection program manager shall be responsible for management, daily operation and maintenance of the City's cross connection control program and shall be responsible for supervision of and assignment of duties as necessary of other specialists and testers on staff.

The cross connection program manager shall be responsible for implementation and enforcement of all requirements of the OAR 333-061-0070 and for enforcement of the regulations of this Code. The cross connection program manager shall be responsible for having all testing and maintenance of all backflow prevention assemblies on properties owned by the City.

The cross connection program manager shall give notice by letter, of annual testing requirements, to the customers or owners of premises other than those being tested by the City's contract tester.

The cross connection program manager shall oversee the contract testing program.

The cross connection program manager shall hold a current backflow assembly testers certification as well as a cross connection specialist certification.

The cross connection program manager shall report directly to the Public Works Director and/or designee.

H. BACKFLOW PREVENTION ASSEMBLY INSTALLATION REQUIREMENTS:

1. Assemblies shall be installed at a location adjacent to the service connection or point of delivery. Any alternate location must be with the approval of the cross connection specialist.
2. The premise owner shall ensure no connections exist between the point of delivery from the public water system and the backflow prevention assembly.
3. Assemblies shall be installed to facilitate proper operation, maintenance, inspection, and/or in-line testing.
4. Assemblies shall be installed to preclude the possibility of continuous submersion and precludes the possibility of any submersion of the relief valve on a Reduced Pressure Principle Assembly and/or RPDA.
5. The Reduced Pressure Principle Assembly shall be installed a minimum of 12" above grade.
6. Assemblies shall be installed in compliance with all applicable safety and OROSHA regulations.
7. All assembly installations shall meet the standard installation requirements of the City of Florence.

I. BACKFLOW PREVENTION ASSEMBLY TESTING REQUIREMENTS:

1. A State Certified tester shall perform all tests.
2. Assemblies shall be tested upon installation, when moved, repaired or replaced, and annually thereafter or time frame designated by the Cross Connection Specialist.
3. Test reports shall be prepared by the tester and provided to the Department within 10 days of the initial completed test.
4. If a customer refuses to comply with testing requirements, the City shall have the tests performed and all costs associated with the tests shall be billed to the customer.
5. The Department may require backflow prevention assemblies to be tested at any time at the customers expense, in addition to the annual test requirement as it shall deem necessary to verify test procedures and results.
6. The Department may require backflow prevention assemblies to be tested more frequently than the annual testing requirement if an assembly repeatedly fails.
7. Whenever fire services are discontinued longer than necessary to perform tests the tester shall notify the local fire official that fire services are shut off for repair.

J. MOBILE UNITS:

1. Any mobile unit or apparatus, which uses the water from any premises within the City's water system, shall first obtain a permit from the City and be inspected to assure an approved air gap or reduced pressure principle assembly is installed on the unit.

K. IRRIGATION SYSTEMS:

1. Prior to the installation of any type of irrigation system on property served by the City of Florence, plans, prints, drawings, and or diagram of the system, must be submitted to the Cross Connection Specialist and Plumbing Official. Plans shall include owners name and address, size of line being used, point of connection to the water system, location and description of backflow prevention assembly being installed (size, make, and model).
2. If a premise isolation backflow prevention assembly is not installed at the service connection to the premise where an irrigation system is to be installed, the owner shall have installed at the owners expense an approved backflow prevention assembly at the service connection and shall provide the necessary equipment for thermal expansion.

L. ACCESS TO PREMISES: The cross connection specialist shall have access during reasonable hours to all parts of a premise and within the structures on a premise to which water is supplied for the purposes of determining water usage and conducting inspections for cross connections.

M. RETROACTIVE, CHANGE OF OWNERSHIP OR USAGE REQUIREMENTS:

1. Customers shall replace backflow prevention assemblies installed prior to the date of passage of this Code that do not comply with the standards set forth in this Code with assemblies that meet all requirements of this Code.

2. For commercial, industrial, multi-family and institutional properties, when there is a change of ownership or type of use change on a premise served by the public water system and there is no premise isolation backflow prevention assembly installed, the owner shall install an approved backflow prevention assembly at the service connection and have installed the appropriate thermal expansion protection.

3. An approved backflow prevention assembly shall be installed at the service connection to any premise where an irrigation system of any type is installed.

4. All commercial, industrial, multi-family and institutional properties served by the City of Florence public water system shall have installed at the service connection an approved backflow prevention assembly and the required assembly shall be installed at the owner's expense and within a time specified by the City. In addition to this requirement accommodations for appropriate thermal expansion protection are to be provided.

N. VARIANCES: Any variance from the requirements of this code shall be requested in writing by the owner or customer of the premises affected and may be approved by the cross connection specialist upon a finding that the requested variance is consistent with the purpose of this Code and that the variance will provide the same protection to the public water supply as the regulation for which the variance is sought. The decision of the cross connection specialist may be appealed to the Public Works Director, whose decision shall be final.

**9-2-3-6: SPRINKLING RESTRICTIONS:** For the purpose of this Section and of regulations made hereunder, sprinkling shall be understood to include distribution of water by sprinkling or any other means on lawns, gardens or other outdoor areas.

The Council may from time to time impose restrictions on sprinkling, or change or revoke such restrictions, and in so doing may make the restrictions applicable at specified times or on specified days and may differentiate between classes of customers or areas of the City or otherwise. Sufficient notice of such restrictions shall be deemed to have been given by publication in a local newspaper or announcement of the local radio stations, or an announcement by Council at meetings. It shall be unlawful for any person to sprinkle in contravention of such restrictions.

**9-2-3-7: TAMPERING WITH FACILITIES:**

A. No person shall tamper or interfere with the City's water utility system, nor shall any person, except as authorized by the City Manager, connect to or operate any pipe, valve, meter, hydrant or other part of the City's water utility system.

B. The customer shall be liable for any damage to a meter or other equipment or property owned by the utility which is caused by an act of the customer, his tenants or agents. The City water utility shall be reimbursed by the customer for any such damage promptly on presentation of a bill.

**9-2-4: OPERATION, MAINTENANCE, INSPECTION:**

**9-2-4-1: PRESSURE, SUPPLY AND QUALITY:**

A. The City water utility does not guarantee pressure nor continuous supply of water, nor does it accept responsibility at any time for the pressure on its lines nor for increase or decrease in pressure. The City water utility reserves the right at any and all times, without notice, to change operating water pressures, to shut off water, or otherwise to interrupt water service for the purposes of making repairs, extensions, alterations or improvements or for any other reason, and to increase or reduce pressure at any time. Neither the City water utility, its officers, employees or agents shall incur any liability of any kind whatever by reason of the cessation in whole or in part of water pressure or water supply, or change in operation pressures, or by reason of the water containing sediments, deposits, or other foreign matter.

B. Customers depending on a continuous and uninterrupted supply of water or having processes or equipment that require particularly clear or pure water shall provide such emergency storage, oversize piping, pumps, tanks, filters, pressure and adequate supply of water suitable to their requirements.

**9-2-4-2: FACILITIES REMOVAL, RELOCATION:** Property owners or others desiring the removal or relocation of City water utility owned facilities including service pipes, meters, valves, chambers, hydrants or other fittings and appurtenances shall bear all costs of removal or relocation. The City Council may refuse to permit the removal or relocation of facilities, if, in their opinion, fire protection or the operation or control of any portion of the City water system or other public or private facilities would be endangered.

**9-2-4-3: "AT COST" WORK PROVISIONS:** Any person having work done at cost may select one of the following alternatives:

A. Cost: Cost will include the amount expended by the City water utility for gross wages and salaries, employees' fringe benefits, materials, equipment rentals at rates paid by the City or set by the City water utility for its own equipment, or any other expenditures incurred in doing the work, plus fifteen percent (15%) of the total of the said items expended to cover administrative expenses.

The City water utility will supply an estimate of cost and will require an advance payment prior to commencement of the work. Any additional cost shall be paid to the City water utility and any surplus shall be refunded.

B. Fixed Price: When the owner or agent requests a fixed price for such installation, the City water utility shall determine such a price based on the estimated cost as provided in this Section. Where a price has been fixed, no refund will be made by the City water utility and no additional cost will be charged to the customer.

**9-2-4-4: REPLACEMENT OF PIPES:** The City water utility will replace, at no cost to the customer, the City's service pipe when it has deteriorated to the point of leaking or significantly losing capacity, with a new service pipe equal in size and capacity of the original installation.

**9-2-4-5: CITY PIPES, OWNERSHIP:** The service connection and meter, whether located on public or private property, is the property of the City water utility and City water utility reserves the right to repair, replace and maintain it, as well as to remove it after discontinuance of service for a period of one year or longer. A new service shall be placed only upon the owner making an application and paying for a new connection in the regular manner.

**9-2-4-6: PRIVATE PIPES, OWNERSHIP:** Every private service pipe, whether on private property or on the street, shall remain the property of the customer and he shall be responsible for its maintenance. If, in the installation, maintenance or removal of any private service pipe, it is necessary for any person to occupy or excavate in the street, or to remove or re-lay any sidewalk or other street improvement, he shall do so in a manner satisfactory to the City Manager, and shall obtain any permits required and pay the appropriate fees or charges.

**9-2-4-7: EQUIPMENT CHANGES:** When excessive flow or consumption periodically overloads the capacity of a meter used to supply service to any premises, the City Manager's designee may so notify the customer. The customer shall thereupon supply an estimate of his flow requirement and other pertinent data required to the City Manager's designee to enable him or her to estimate the size of an adequate meter and service pipe and to estimate the cost of its installation. The installation of adequate meter and service pipes shall be at the cost of the customer.

The City Manager's designee will notify the owner to apply for a larger meter and service pipe and the customer shall apply and pay the required deposit within thirty (30) days thereafter. If the application and deposit are not made within thirty (30) days, the City may proceed with the work and charge full costs to the owner, or the City water utility may discontinue service pursuant to Section 9-2-4-8. (Ord. 718, 6-12-84)

**9-2-4-8: SERVICE DISCONTINUED OR DISCONNECTED BY CITY:**

A. The City water utility may refuse to provide water or may discontinue service to any premises:

1. Where an apparatus, fitting, fixture, container, appliance or equipment using water is dangerous, unsafe or being used in violation of ordinances or legal regulations of the City;

2. Where excessive demands by one customer will result in inadequate service to others; or

3. If payment of any bill for water service to the premises has not been made after notice and within the time set in sub-section 9-2-4-9 of this Chapter.

B. The City water utility may disconnect water service to any premises:

1. Which violates sub-section 9-2-3-5 of this Chapter, or

2. Where water service has been turned on without authority from the City water utility.

C. The City's cost of discontinuing or disconnecting water service including shutting off at the water main, removal of the water meter and all related work and administrative costs, shall be a lien against the premises which may be satisfied as provided in sub-section 9-2-5-3 of this Chapter. (Ord. 718, 6-12-84)

**9-2-4-9: NOTICE AND APPEAL OF DISCONTINUED SERVICE OR DISCONNECTION:**

A. The City Manager' designee shall determine whether water service shall be discontinued or disconnected under subsection 9-2-4-8 of this Section. Notice shall be sent by mail to the customer's address as provided in subsection 9- 2-2-6 notifying the customer that water service will be discontinued or disconnected on or after the 10th day following the date notice is sent. The notice shall describe the reasons for discontinuing or disconnecting water service. The proceedings to discontinue or disconnect water service may be terminated if the reason therefore no longer exists. If the decision to discontinue or disconnect water service is not appealed as provided in paragraph B of this subsection, service may be discontinued or disconnected without further notice.

B. Any customer has the right to appeal the determination of the City Manager's designee to discontinue to disconnect service. The notice of appeal must be filed in writing within ten days of the date notice of discontinuing or disconnecting service is sent and must be filed with the office of the City Manager in writing stating:

1. The name and address of the appellant.

2. The address of the affected premises.

3. The nature of the determination being appealed.

4. The reason the determination is incorrect.

5. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his or her objections and the appeal shall be dismissed. If notice of appeal is properly filed, except in an emergency, service shall not be discontinued or disconnected until there is a final determination of the appeal.

C. The City Manager shall proceed to hear and determine the appeal on the basis of the written statement and such additional evidence as the City Manager deems appropriate. The appellant shall be allowed at least ten (10) days' written notice of the hearing on appeal. At the hearing the appellant may present testimony and oral argument personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply. The decision of the City Manager shall be in

writing and shall contain findings of fact that substantiate his/her decision.

The decision shall be mailed to the appellant within 10 days of the completion of the appeal hearing. The decision of the City Manager shall be final. (Ord. 718, 6-12-84)

**9-2-4-10: DISCONTINUED OR DISCONNECTED SERVICE: EMERGENCY:** Not withstanding the provisions of Section 9-2-4-9, when an emergency exists, the City Manager's designee may discontinue or disconnect water service without notice to the customer; provided, however, that if service is discontinued or disconnected without notice, the customer may within 10 days of the notice of discontinuing or disconnecting water service file a notice of appeal of the decision to discontinue or disconnect service. If a notice of appeal is filed, the provisions of Section 9-2-4-8-B. and C. shall apply. (Ord. 718, 6-12-84)

**9-2-4-11: EXTENSION OF MAINS:** The extension of a main to serve premises not heretofore served by the City water system shall be made at the discretion of the City Council. The benefited property shall pay the total cost of installation of water mains, including the cost of valves, fittings and fire hydrants, except that the City Council may exclude the extra cost of mains larger than a minimum size of six inches (6") by future resolution or by special assessment district. The City water utility shall have the absolute right to determine the size and all other matters in relation to main extensions. All such construction shall be done by the City or under direct supervision of the City.

**9-2-5: BILLING AND COLLECTION:**

**9-2-5-1: BILLING PRACTICES:**

A. Meters will ordinarily be read at regular intervals for the preparation of monthly bills and as required for the preparation of opening, closing and special bills. The City water utility reserves the right to estimate meter readings in cases where actual meter readings are not available and to adjust consumption when actual readings are obtained.

B. Bills for water service will ordinarily be rendered monthly, unless otherwise provided for in the rate schedule. The City water utility reserves the following options and rights:

1. To read meters and render bills for a lesser or longer period than one month.

2. To render bills on an estimated consumption basis in cases where the City water utility is unable to obtain actual readings.

3. To include with the regular service billing the amount of any valid obligation due the City water utility; or a deposit amount sufficient to bring the customer's total deposit to the full deposit limit.

C. Billing for a fractional month will be as follows:

1. Opening and reconnecting accounts for water service that have been supplied for less than fifteen (15) days will not have bills rendered until the next regular monthly billing date.

2. Opening and reconnecting accounts for water service that have been supplied for fifteen (15) days or more will have bills rendered on the basis of a full month.

3. Closing of an account for water service that has been supplied for fifteen (15) days or more will have a billing on a full month's basis.

4. Closing of an account for water service that has been supplied for less than fifteen (15) days will have the consumption added to the previous month's consumption and from the bill for such sum, the amount of the previous month's bill will be subtracted. The difference so determined will be the billing for the fractional period.

D. All bills for water and sewer services are due and payable at the City water utility office or at an

authorized collection point on or before the fifteenth day following the date of mailing the statement of said account, or the date of presentation of said account. A restoration fee shall be collected before service will be restored where the service was discontinued because of a delinquent account. The City Manager, in cases of extreme hardship, shall have the discretion of renewing service to a delinquent account upon receipt of a plan for the payment of back due amount in installments. (Ord. 718, 6-12-84; Ord 13, Series 1989).

E. Closing bills for water service will ordinarily be prepared by the billing office at the next regular billing date. If there is an amount due, it will be due and payable as set forth in subsection D above. If there is a refund due the customer, a check will be sent with the closing bill. (Ord. 598, 2-27-78)

**9-2-5-2: OWNER RESPONSIBILITY:** The property owner of record shall be responsible for payment of all charges prescribed in this Chapter.

All delinquent water charges shall be and become a lien, under Section 9-2-5-3 hereof, against the premises on which the water was used and the owner of any such premises shall be responsible for the payment thereof. It shall be the duty of the City to serve a written notice upon the owner of any premises upon the failure of any tenant occupying the same to pay the water charges, when due and payable within sixty (60) days after such delinquency.

If the owner fails to pay the delinquent water charges within fifteen (15) days after receipt of said notice, the amount of this charge shall be a lien against the property.

**9-2-5-3: LIENS:** Water service charges shall be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the City pertaining to its water system and such ledger records or other records shall remain accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for water service remains unpaid sixty (60) days after it has been rendered, the lien thereby created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by law or City ordinance.

The City shall have the right to refuse water service to a new tenant or new owner until the lien has been paid. It is hereby declared that the City retains the right to hold the property owner of record responsible for the delinquent account, whether or not a lien is attached. (Ord. 598-A, 4-9-79)

**9-2-5-4: METER ERROR:**

A. Meter Test: Prior to installation, each meter will be tested and no meter found to register more than two percent (2%) fast or slow under conditions of normal operation will be placed in service. On customer request:

1. A customer may, giving not less than one week's notice, request the utility to test the meter serving his premises. (Ord. 598, 2-27-78)

2. The utility may require the customer to deposit an amount set by resolution to cover the reasonable cost of test. (Ord. 598, 2-27-78; amd. 1981 Code)

3. This deposit will be returned if the meter is found to register more than two percent (2%) fast. The customer will be notified not less than five (5) days in advance of the time and place of the test.

4. A customer or his representative shall have the right to be present when the test is made.

5. A written report, giving the results of the test, shall be available to the customer within ten (10) days after completion of the test.

B. Adjustment of Bills for Meter Error:

1. Fast Meters: When, upon test, a meter is found to be registering more than two percent (2%)

fast, under conditions of normal operation, the City water utility will refund to the customer the full amount of the overcharge based on corrected meter readings for a period not exceeding three (3) months, that the meter was in use.

2. Slow Meters:

   a. When, upon test, a meter used for domestic or residential service is found to be registering more than twenty five percent (25%) slow, the City water utility may bill the customer for the amount of the undercharge based upon corrected meter readings for a period not exceeding one month that the meter was in use.

   b. When, upon test, a meter used for other than domestic or residential service is found to be registering more than five percent (5%) slow, the utility may bill the customer for the amount of undercharge upon correct meter readings for a period not exceeding one month that the meter was in use.

3. Non registering Meters: The City water utility may bill the customer for water consumed wile the meter was not registering. The bill will be at the minimum monthly rate or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same period and under similar circumstances and conditions.

4. Overbilling Due to Meter Reading Error: The bill shall be adjusted at the next billing date when the error is discovered. The bill for the prior month will be at the minimum rate or will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year or upon a reasonable comparison with the use of other customers receiving the same class of service during the same. period. The amount overpaid by the customer shall be returned to him by check.

5. Adjustment on Account of Underground Leaks: Where a leak exists underground between the meter and the building and the same is repaired within ten (10) days after the owner, agent or occupant of the premises has been notified of such leakage, the utility may allow an adjustment of fifty percent (50%) of the estimated excess consumption, as checked by the City personnel.

**9-2-5-5: BILLING OF SEPARATE METERS:** Each meter on the customer's premises will be considered separately and the readings of two (2) or more meters will not be combined unless specifically provided for in the rate schedule, or unless the City water utility's operating convenience requires the use of more than one meter, or of a battery of meters.

**9-2-5-6: WATER USER CHARGES:** Water user charges shall be fixed by the City Council by resolution and may, in like manner, be amended or altered from time to time, at the discretion of the City Council.

**9-2-5-7: WATER FUNDS, USE:** There is hereby reaffirmed that there is a fund already established that is known as the "Water Fund", into which all charges collected shall be deposited and kept as a fund to be used only for the establishment, operation and maintenance within or without the City limits for water treatment facilities, wells, reservoirs, lakes, transmission and distribution mains, pumping stations and appurtenances necessary, useful or convenient for a complete water system, including maintenance and extension of the present water system. (Ord. 598, 2-27-78)

**9-2-5-8: WATER CURTAILMENT PROCEDURES:**

**A. Findings And Declaration Of A Water Emergency:** Upon finding that the municipal water supply is incapable of providing an adequate water supply for normal usage due to a drought, system failure or any other event, the City Manager may declare a water emergency and require that water usage must be curtailed. The City Manager may include an estimated time for review or revocation of the emergency.

Once the water emergency has been declared, limitation on the use of water as to hours, purpose, or manner may be prescribed from time to time by order of the City Manager, based on a finding that the limitation is reasonable given the available and projected water supply and demand.

**B. Termination of Water Curtailment:** The City Manager is authorized to terminate water curtailment stages upon determination that a water shortage emergency condition no longer exists.

**C. Water Curtailment Stages:** Depending upon the severity of the potential water shortage, the City Manager may implement the following water curtailment stages.

1 Stage 1: – Water Shortage Alert – Initiating Conditions:
   a. General recognition of drought conditions in Lane County; or
   b. Demand reaches 80 percent of water supply capacity as determined by the City Manager for a period of 3 or more consecutive days; or
   c. Water supply approaches the minimum required for the fire protection or other essential needs as determined by the City Manager.

2. Stage 2: Serious Water Shortage – Initiating Conditions:
   a. Governor has declared a drought in Lane County and the continuation of hot, dry weather is predicted, or if the City's water demand is 81 to 90 percent of water supply capacity for 3 or more consecutive days as a result of a natural or human-caused event.

3. State 3: Sever Water Shortage – Initiating Conditions:
   a. Water demand is more than 90 percent of water supply capacity for 3 or more consecutive days for any reason, whether natural or human-caused.

4. Critical Water Shortage – Initiating Conditions:
   a. Failure of a system component or non-drought emergency conditions results in an immediate shortage of water. Examples include: failure of main transmission lines, failure of the intake or WTP chemical spills, or a malevolent attack on the system that introduces a contaminant at some point in the system.

**D. Water Curtailment Actions:** The City Manager is authorized to take the following applicable action specific to each water shortage stage:

1. Stage 1: Water Shortage Alert:
   a. The City will issue a written notice asking for voluntary water reduction by all users.
   b. Landscape watering will be between 6 p.m. and 10 a.m.
   c. Landscapes will be watered on odd – even days depending on odd-even address
   d. Exceptions:
      1. New lawn grass or turf that has been seeded or sodded 90 days prior to declaration of a water shortage may be watered as necessary until established.
      2. High-use athletic fields that are used for organized play.

2. Stage 2: Serious Water Shortage
   1. Outdoor water reduction measures will be compulsory.
   2. Water landscapes only between 6 p.m. and 10 a.m.
   3. Water landscapes only when allowed by the odd/even schedule.
   4. No water use for washing motorbikes, motor vehicles, boat trailers, or other vehicles except at a commercial washing facility that practices wash water recycling. (Exceptions include vehicles that must be cleaned to maintain public health and welfare, such as food carriers and solid waste transfer vehicles.)
   5. No water use to wash sidewalks, walkways, driveways, parking lots, tennis courts, and other hard-surfaced areas.
   6. No water use to wash building structures, except as needed for painting or construction.
   7. No water use for a fountain or pond for aesthetic or scenic purposes, except where necessary to support fish life.
   8. Discourage serving water to customers in restaurants unless water is requested by the

customer. This action does not provide significant water saving, but is useful for generating awareness of the need to curtail use.

9. No water use for dust control unless absolutely necessary, as determined by the City Manager.

3. Stage 3: Severe Water Shortage
    a. Perform actions indicated for Stage 2.
    b. Replace the restriction of odd/even watering from Stage 2 with a prohibition on all outdoor water (exceptions include new lawn, grass, or turf planted after March 1st of the calendar year in which restrictions are being imposed; sod farms; high-use athletic fields; or park and recreation areas specifically designated by the City Council.)
    c. No water use to fill, refill, or add to any indoor or outdoor swimming pools or hot tubs, except if one of the following conditions is met; the pool is used for a neighborhood fire control supply, the pool has a recycling water system, the pool has an evaporative cover; or the pool's use is required by a medical doctor's prescription.
    d. No water use from hydrants for construction purposes (except on a case-by-case basis approved by the City Manager), fire drills, or any purpose other than fire fighting.
    e. Implement limitations on commercial uses of water, depending on the severity of the shortage.
    f. Issue public service announcements to notify customers of the severity of the conditions.

4. Stage 4: Critical Water Shortage
    a. Stages 2 and 3 will be in place.
    b. City Manager/Staff, if the water is unsafe to drink, will notify the community using the local radio, print media, the City's website, and any other appropriate means.
    c. City will contact the Oregon Drinking Water Program, Department of Human Services, and request its assistance in responding to the problem.
    d. City will notify the local news media, if appropriate, to ask for their assistance in notifying customers.
    e. City will call an emergency Council Meeting.
    f. City will establish water hours which establishes periods of time during the day when water would be made available.
    g. City will contact the Oregon State Police and County Sheriff to obtain help in contacting customers.
    h. City will determine whether to use water system interties with other water providers, such as HWD.
    i. City to continue to investigate the contamination and develop specific backup plans; including plans that may include renting a water hauling truck and purchasing water from neighboring communities, sending customers to pre-designated water distribution locations, or supplying bottled water.

**E. Enforcement.**

1. Warning: The City shall send a letter of warning for each violation of a curtailment restriction if no previous letter of warning has been sent to the person responsible for the violation. The letter of warning shall specify the violation, may require compliance measures and shall be served upon the person responsible for the violation. Service may be in person, by office or substitute service or by certified or registered mail, return receipt requested.
2. Civil Infraction. After the person responsible for the violation has received a warning letter, any subsequent violation shall be treated as a civil infraction.

**F. Penalties.**

1. First Violation – Warning letter.
2. Second Violation of the same type – shall be subject to the general penalty set forth in FCC 1-4-1.
3. Third and subsequent violations of the same type – shall be subject to the general penalty set forth in FCC 1-4-1, and termination of services.

**G. Water Shut-Off.**
After the third violation of a curtailment restriction, the Public Works Director may order that the water service to the location where the violation has occurred shall be shut-off or reduced. A shut-off notice shall be posted on the property at least 48 hours prior to the scheduled shut-off or reduction. The shut-off notice shall specify the reasons for the shut-off or reduction. Any person wishing to avoid a shut-off must provide the Public Works Director with evidence that the shut-off will create a health or safety risk. All shut-offs imposed under this section shall be temporary, not to exceed thirty (30) days, provided the applicable charges are paid prior to reconnection. The reconnection charge and, if applicable, the meter disconnection charge imposed and shall be paid before the reconnection.

**9-2-5-9: CONSTITUTIONALITY AND SAVING CLAUSE:** That if any provision, section, sentence, clause or phrase of this Code or the application of same to any person or set of circumstances are for any reason held to be unconstitutional, void, invalid, or for any reason unenforceable, the validity of the remaining portions of this Code or its application to other persons or circumstances shall not be affected thereby, it being the intent if the City Council of the City of Florence in adopting and approving this Code that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

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Amended by Ordinance 7, Series 1995
Amended by Ordinance 4, Series 2008 (9-2-3-5)
Section 9-2-5-8 added and 9-2-5-9 amended by Ord. No. 9, Series 2010 (effective 5-19-10)

TITLE 9
CHAPTER 3

# SEWER REGULATIONS

SECTION:

9-3-1: Definitions
9-3-2: Use of Public Sewers Required; Prohibited Discharges
9-3-3: Building Sewers and Connections
9-3-4: Use of Public Sewers; Restrictions
9-3-5: Industrial Cost Recovery
9-3-6: Protection from Damage
9-3-7: Powers and Authority of Inspectors

**9-3-1: DEFINITIONS:** Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

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| BOD (Denoting Bio-chemical Oxygen Demand) | The quantity of oxygen utilized the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees ($20^{o}$) C., expressed in milligrams per liter. |
| BUILDING DRAIN | That part of the lowest horizontal piping of a building system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (5') outside the inner face of the building walls. |
| BUILDING SEWER | The extension from the building drain to the public sewer or other place of disposal. |
| COMBINED SEWER | A sewer receiving both surface runoff and sewage. |
| GARBAGE | Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce. |
| INDUSTRIAL WASTES | The liquid wastes from any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under the following divisions:<br><br>Division A - Agriculture, Forestry and Fishing<br>Division B - Mining<br>Division C - Manufacturing<br>Division E - Transportation, Communications, Electric, Gas, and Sanitary Services<br><br>A user in the Divisions listed may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences. |
| NATURAL OUTLET | Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water. |
| PERSON | Any individual, firm, company, association, society, corporation or group. |
| pH | The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter os solution. |
| PROPERLY SHREDDED | The wastes from the preparation, cooking and dispensing of |

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| GARBAGE | food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1/2") in dimension. |
| PUBLIC SEWER | A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority. |
| SANITARY SEWER | A sewer which carries sewage and to which storm surface and ground waters are not intentionally admitted. |
| SEWAGE | A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present. |
| SEWAGE TREATMENT PLANT | Any arrangement of devices and structures used for treating sewage. |
| SEWAGE WORKS | All facilities for collecting, pumping, treating and disposing of sewage. |
| SEWER | A pipe or conduit for carrying sewage. |
| SHALL, MAY | Shall is mandatory; may is permissive. |
| SLUG | Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration of flows during normal operation. |
| STEP SYSTEM | The septic tank effluent pump system that is owned, operated and maintained by the City. It is usually installed on private property under an easement to the City. It is required as a condition for service to pretreat sewage and pressurize septic tank effluent for delivery to a street sewer. |
| STORM DRAIN (sometimes termed STORM SEWER) | A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than un-polluted cooling water. |
| SUPERINTENDENT | The Superintendent of Public Works of the City or his authorized deputy, agent or representative. |
| SUSPENDED SOLIDS | Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering. |
| WATERCOURSE | A channel in which a flow of water occurs, either continuously or intermittently. |

**9-3-2: USE OF PUBLIC SEWERS REQUIRED; PROHIBITED DISCHARGES:**

A. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within thirty (30) days after date of official notice to do so; provided, that said public sewer is within two hundred feet (200') of the property line.

B. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

C. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

D. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage within the City, except those facilities owned and operated by the City.

**9-3-3: BUILDING SEWERS AND CONNECTIONS:**

A. Connection Permit Required, Inspection: No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

B. Classes; Application: There shall be three (3) classes of building sewer permits:

1. For residential and commercial conventional services; and

2. For STEP Systems; and

3. For service to establishments producing industrial wastes.

In any case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee for building sewer permit shall be paid to the City at the time the application is filed. The fee schedule for connection shall be set by resolution.

C. Sewer Service Charges:

1. There is hereby established a sewer charge to be applied to all buildings, structures and facilities located on premises which are adjacent to, or within two hundred feet (200') of any City sanitary sewer, whether connected thereto or not. Sewer service charges shall be set by resolution.

2. A sewer rate adjustment for STEP users may be required to compensate the City for any additional costs, such as periodic tank pumping, pump and component replacement. Such fee shall be set by resolution.

D. Costs Borne by Owner: All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

E. Separate Connections: A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

F. Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Chapter.

G. Construction Specifications: The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building and Plumbing Codes [1] or other applicable rules and regulations of the City. In the absence of Code provisions or in amplification of the A.S.T.M.

and W.P.C.F., Manual of Practice No. 9 shall apply.

The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Codes or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from prescribed procedures and materials must be approved prior to installation.

H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

I. Storm Sewer Connection Prohibited: No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

J. Excavation Barricaded: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

K. Special requirements pertaining to STEP Systems:

1. An easement to construct, operate and maintain the system will be required to be given to the City prior to installation. It shall be the responsibility of the property owner to keep clean and maintain the building sewer from the building to the connection with the public sewer.

2. A separate and independent building sewer shall be provided for and from every building to a STEP System. Where required, two or more buildings on one (1) tax lot under one (1) ownership can share a single STEP System that is approved by the City and appropriately sized. Each separate and independent building shall pay the applicable connection fee and monthly charges.

3. The materials, excavation and installation of the STEP System shall be in accordance with the plans and specifications of the City. Individual electrical and pump needs will have to be determined for each service connection.

4. The City shall own the pressure system and the STEP unit, consisting of a septic tank, pumping system, electrical conduit and cable to the home control panel, service box, and related appurtenances. The City will be responsible to pump the septic tank when required.

5. The property owner shall be responsible to provide 110 volt electrical power on a 20 amp circuit to control panel, and bear cost of electricity, and own and be responsible for sewer line from home to septic tank.

6. Installation of the STEP unit shall be by property owner, under City inspection, at time of home construction, and shall be as specified by City to ensure maintenance and operation compatibility=s.

**9-3-4: USE OF PUBLIC SEWERS; RESTRICTIONS:**

A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

2. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l or CN in the wastes as discharged to the public sewer.

3. Any waters or wastes having a pH lower than five and five-tenths (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, mild containers, etc. either whole or ground by garbage grinders.

D. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, and other pertinent factors. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees ($150^{o}$) F. ($65^{o}$C).

2. Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty two degrees ($32^{o}$) F. and one hundred fifty degrees ($150^{o}$) F. (0 and $65^{o}$ C.).

3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

4. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

5. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

6. Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction of such discharge to the receiving waters.

7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal Regulations.

8. Any waters or wastes having pH in excess of nine and five-tenths (9.5)

9. Materials which exert or cause:

   a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

   b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

   c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

   d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

10. Waters or wastes containing substances which are not amenable to the treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

E. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection D of this Section, and which, in the judgment of the Superintendent, may have deleterious effect upon the sewage works, processes, equipment or receiving waters, or
which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Reject the wastes,

2. Require pretreatment to an acceptable condition for discharge to the public sewers,

3 Require control over the quantities and rates of discharge, and/or

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of subsection J of this Section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

F. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection.

G. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

H. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

I. All measurements, tests and analysis of the characteristics of waters and wastes to which reference

is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazard to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always BOD and suspended solids analysis are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

J. No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern.

**9-3-5: INDUSTRIAL COST RECOVERY:**

A. All industrial users shall be required to pay that portion of the Federal assistance grant under PL 92-500 allocable to the treatment of waste from such users.

B. The system for industrial cost recovery shall be implemented and maintained according to the following requirements:

1. Each year during industrial cost recovery period, each industrial user of the treatment works shall pay its share of the total Federal grant amount divided by the recovery period.

2. The industrial cost recovery period shall be equal to twenty (20) years or the useful life of the treatment works, whichever is less.

3. Payments shall be made by industrial users no less often than annually. The first payment by an industrial user shall be made not later than one year after such user begins use of the treatment works.

4. An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works, such as strength, volume and flow rate characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.

5. An industrial user's share shall be adjusted when there is a substantial change in the strength, volume or flow rate characteristics of the user's wastes, or if there is an expansion or upgrading of the treatment works.

6. An industrial user's share shall not include any portion of the Federal grant amount allocable to unused or unreserved capacity.

7. An industrial user's share shall include any firm commitment to the City of increased use by such a user.

8. An industrial user's share shall not include an interest component.

C. This requirement applies only to those features of waste water treatment and transportation facilities which have been constructed with Federal assistance administered by the U.S. Environmental Protection Agency under PL 92-500.

**9-3-6: PROTECTION FROM DAMAGE:** No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provisions shall be subject to immediate arrest under charge of disorderly conduct.

**9-3-7: POWERS AND AUTHORITY OF INSPECTORS:**

A. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

B. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 571, 111-23-76) (Ord 8, Series 1989)

TITLE 9
CHAPTER 4

# SOLID WASTE MANAGEMENT

SECTION:


9-4-1: Purpose
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9-4-4-1: License Requirement
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9-4-5-1: Rate Determination
9-4-5-2: (Repealed by Ordinance 16 Series 1986)
9-4-5-3: (Moved to 9-4-4-7-A)
9-4-6: Public Responsibility
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9-4-7-5: City Enforcement


**9-4-1: PURPOSE:** To regulate the collection, transportation, disposal and resource recovery of solid waste.

**9-4-2: POLICY:** It is declared to be the public policy of the City to regulate solid waste management to:

A. Insure safe, efficient, economical and comprehensive solid waste service.

B. Insure fair and equitable consumer rates and to prohibit rate preferences or other practices that might be discriminatory, regulate service rates to the extent specified to protect consumers and the public generally and to assure adequate public service.

C. Conserve energy and material resources, reduce solid wastes and promote material and energy recovery consistent with state requirements.

D. Provide for technologically and economically feasible resource recovery.

E. Protect public health and the environment.

F. Insure public responsibility in solid waste management.

G. Protect against improper and dangerous handling of hazardous wastes.

H. Carry out local government responsibility and authority for solid waste management under ORS Chapter 459.

I. Set the level of service necessary for and required by the public in the following fields: 1. solid waste collection, 2. solid waste disposal, and 3. resource recovery of materials or energy from solid wastes.

J. Determine who will provide the above noted services through the licensing process.

**9-4-3: DEFINITIONS:**

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| BASE YEAR | A fiscal year ending August 31, upon which it is the intent of the City, Haulers, and EMAC to perform a review of revenues and expenses within City of Florence, with the intent of resetting rates to allow the projected composite hauler financial performance to be in accordance with standards set in Section 9-4-5-2-B of City Code. Generally, there will be one Base Year followed by two interim years. |
| CAN | Cans are owned by the customer. No customer can may exceed 32 gallon capacity or 60 lbs. |
| CART / CONTAINER | Carts / containers are provided by the licensee. Capacity limits are listed in the rate schedule. |
| CITY | The City of Florence |
| CITY MANAGER | The City Manager of the City or the City Manager's designee. |
| COLLECTION | All or any part of the activities involved in collecting solid waste, recyclable materials or yard debris for the transport to all permitted disposal or recycling facility. |
| COMMERCIAL | Stores, offices, including manufacturing and industrial offices; restaurants, warehouses, schools, hospitals, and any other industrial, manufacturing or non-manufacturing businesses. |
| COMMITTEE | The Environmental Management Advisory Committee is created by the City Council under Chapter 2-7 of this code or if the Committee is not appointed, the City Council Serves. |
| COMPOST | The controlled biological decomposition of organic material or the product resulting from such a process. |
| CONFIDENTIAL INFORMATION | All business and production records, including the annual reports for both interim and base year calculations shall be considered confidential. Including company reports shall not be made available to the public and aggregated information should not be made publicly available when there are two or fewer licensed haulers. |
| COUNCIL | The Council of the City of Florence. |
| CUSTOMER | Those persons or entities to whom a licensee provides collection services for solid waste, recyclable materials or yard debris. |
| DISABLED CUSTOMER | Those persons who are unable to place their own solid waste, recyclable or yard debris in the designated locations for pick-up. |
| FISCAL YEAR | The reporting year for Licensees is September 1 – August 31 |
| GENERATOR | A person or entity who last uses a material and makes it available for disposal or recycling. |

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| HAZARDOUS WASTE | Waste:<br><br>A. Defined as hazardous waste by or pursuant to Chapter 459 ORS; or<br><br>B. Defined as hazardous waste by another governmental agency or unit having jurisdiction; or<br><br>C. Found by the licensee to be hazardous to service workers, to service equipment, to property, or to the public. (Examples: Hypodermic needles, paints, acetones, thinners, lead based batteries, tires, propane containers, electronics containing lead) |
| HOUSEHOLD HAZARDOUS WASTE | Any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households. Household hazardous waste may include, but is not limited to, some cleaners, solvents, pesticides, and automotive or paint products. |
| INTERIM YEAR | The fiscal year ending August 31, upon which it is the intent of the City, Haulers, and EMAC to perform limited or no review procedures on the financial statements and change rates according to consumer price index and disposal cost drivers only. Generally, there will be two interim years followed by a base year. |
| LANDFILL | A DEQ permitted facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface. |
| LICENSEE | Any person licensed under this Chapter. |
| LINES OF BUSINESS | For the purposes of this license, lines of business include residential solid waste, residential recycling collection, commercial solid waste, commercial recycling collection, yard waste recycling collection, and drop box. |
| MATERIALS RECOVERY | Any process of obtaining from solid waste, by presegregation or otherwise, materials that still have useful physical or chemical properties and can be reused or recycled for some purpose |
| MATERIALS RECOVERY FACILITY | A DEQ permitted facility designed to sort co-mingled wastes for the purpose of recovering recyclable materials. |
| MULTI-RESIDENT COMMUNITY | A residential community consisting of several individual dwellings, which may or may not have an association which provides for certain public services as part of a dues structure |
| PERSON | Any individual, partnership, association, corporation, trust, firm, estate, joint venture or other private legal entity or any public agency or government unit. |
| PUTRESCIBLE SOLID WASTE | Any material or product that is liable to become decayed or decomposed. |
| RECYCLABLE MATERIALS | Any material that retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and is separated from solid waste. |
| RESOURCE RECOVERY | The process of obtaining useful material or energy resources from solid waste including reuse, recycling and other material recovery or energy recovery. |
| REUSE | The return of a commodity into the economic stream for use in the same kind of application as before without change in its identity. |

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| SOLID WASTE | All solid waste or semi-solid putrescible and nonputrescible solid waste including, without limitation, garbage, rubbish, refuse, trash, ashes or swill, newsprint or wastepaper, corrugated or cardboard; grass clippings; compost; residential, commercial, industrial, governmental or institutional wastes; discarded home or industrial appliances, equipment or furniture, vehicle parts or tires, vegetables or animal wastes; and, other wastes. |
| SOLID WASTE SERVICES | The collection, transportation, disposal and resource recovery of solid waste. |
| WASTE | Material no longer directly useable by the source, generator or producer of the material, which material to be disposed of or to be resource recovered by another person.<br><br>A. The fact that all or any part of the material may have value and thus be recovered does not remove the material from this definition.<br><br>B. The fact that the source, generator or producer of materials has separated or segregated such material from other wastes does not remove the materials from this definition. |
| WASTE PREVENTION | To reduce the amount of solid waste generated or resources used, without increasing toxicity, in the design, manufacture, purchase, or use of products or packaging. “Waste prevention” does not include reuse, recycling, or composting. |
| YARD DEBRIS | Any green waste generated from grass clippings, shrubbery, or tree trimmings not to exceed 12 inches in diameter. |

**9-4-4: SOLID WASTE SERVICE LICENSE:**

**9-4-4-1: LICENSE REQUIREMENT:**

A. As used in this section "Compensation" includes any return from salvage; including but not limited to resource recovery or payment made for the removal of waste.

B. No person shall provide or offer to provide solid waste services for compensation within the City limits without first obtaining a License from the City as provided in this Chapter.

**9-4-4-2: EXEMPTIONS:** Nothing in this Chapter requires a license for the following businesses or practices:

A. The collection, transportation and reuse of repairable or cleanable discards by a private charitable organization regularly engaged in such business or activity including, without limitation, Salvation Army, St. Vincent DePaul, Goodwill and similar organizations.

B. The collection, transportation and reuse or recycling of totally source separated materials or operation of a collection center for totally source separated materials by a religious, charitable, benevolent or fraternal organization, which organization was not organized nor is operated for any solid waste service purpose and which organization is using the activity for fund raising; including without limitation, scouts, community service clubs and churches.

C. The collection, transportation or redemption of returnable beverage containers under ORS Chapter 459 and that portion thereof commonly known as the "Bottle Bill".

D. The generator, producer or its subcontractor who transports and disposes of waste created as an incidental part of regularly carrying on the business or service of auto wrecking, to the extent licensed by the State of Oregon; of demolition, land clearing or construction; of janitorial service; of gardening, park maintenance or landscaping service; of street sweeping; of auto body recovery; or of septic tank pumping or sludge collection. As used in this paragraph: "subcontractor" does not include a person whose business is in substantial part contracting with others to provide solid waste services; and "janitorial service" does not include cleanup of accumulated or stored wastes.

E. The transportation by a person of solid waste generated or produced by such person to a disposal site, resource recovery site or market. This includes multiple residential dwelling units under common ownership, control or association that transport the solid waste generated by their occupants.

F. The transportation and resource recovery by the owner of totally source separated solid waste after the waste is purchased for fair market value.

G. The providing of service for hazardous wastes.

**9-4-4-3: APPLICATION, REVIEW AND ISSUANCE OF A LICENSE:**

A. Application for a license shall be on a form provided by the City Recorder and shall include but not be limited to the following information:

1. The applicant's true name and any assumed business names used within the City, if the applicant is an individual, his/her date of birth, and permanent address. If the applicant is a partnership, corporation, cooperative or association, the names, birth dates and addresses of the general partners, officers or principals.

2. The address, which City may use for purposes of notifying the applicant.

3. A description of the services for which the applicant is seeking a license.

4. The location from which the applicant will operate and the activities to be conducted at that location.

5. A description of the equipment and personnel the applicant has or will obtain to provide the service.

6. A description of prior experience and knowledge that demonstrates the applicant has the ability to provide services of the quality and quantity required by this Chapter.

7. Proof of compliance with all relevant federal, state, county and city laws.

8. A record of convictions of law, regulation or ordinance for the applicant and each of applicant's principals or officers which would affect the applicant's ability to satisfactorily perform the service being licensed.

9. Other information as the City may reasonably require.

The application required by this section shall be filed with the City Recorder and accompanied by a nonrefundable application fee set by Council resolution.

B. The Committee may issue a license and any renewal thereof upon finding that the applicant has met all requirements of federal, state, county, and city law including any rules authorized by this Chapter. If an application for a new or renewed license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions placed on the approval and that the license shall be issued or renewed upon the applicant's presentation to the City Recorder the required license fee, bond, proof of insurance, description of vehicles to be licensed and any other information required by the Committee. If the applicant fails to qualify for issuance of the license within 30 days of the notice, the approval shall expire. Upon good cause shown by the applicant, the City Recorder may extend the time to qualify for issuance of the license an additional 30 days or less. Committee approval of an application does not constitute issuance of a license. The license fees required of an applicant shall be doubled if an applicant provides solid waste services within the City before issuance of a license or after expiration of the old license and before its renewal.

C. Upon satisfactory proof that the applicant has met all the conditions stated in the tentative approval, the City Recorder shall issue a license, which shall thereafter be renewed annually upon the licensee updating all the information required by the City and payment of all license fees. No application fee shall be required for the renewal of a license.

D. The license fee required of each licensee shall be set by Council resolution and any amendments thereto.

**9-4-4-4: LICENSEE INSURANCE REQUIREMENT:** Before issuance of the license, the City Recorder shall receive:

A. Evidence acceptable to the City Attorney that the applicant has public liability insurance with a 30 day notice of cancellation clause which will cover the licensee's business operation including applicant's vehicles. The insurance shall be for at least the license year and coverage shall include the following: Commercial General Liability of not less than $1 million per occurrence, Automobile Liability of not less than $1 million per occurrence, and Worker's Compensation and Employer's Liability as statutorily required. The insurance shall indemnify and save the City harmless against liability or damage, which may arise or occur from an injury to persons or property as a result of the licensee providing solid waste services.

**9-4-4-5: LICENSEE RESPONSIBILITY:**

A. A licensee shall:

1. Dispose of solid waste at the site approved by the City Manager or resource recover such wastes, both in compliance with state law and with this Chapter.

2. Provide sufficient collection vehicles, containers, facilities and personnel to provide all solid waste services and to provide all solid waste programs adopted by the City. (Ord 27, 1990)

3. Respond to any written complaint on service and maintain a written record or the complaint and its response for at least two years.

4. Make available a weekly collection service to all customers.

5. Provide all customers an opportunity to recycle as required by ORS 459.165 through 459.200 and 459.200.

6. Operate and maintain solid waste storage and collection facilities which meet the following standards:

a. General Requirements. Storage and collection of solid waste shall be conducted in a manner to prevent:

1. Vector production and sustenance;

2. Conditions for transmission of diseases to man or animals;

3. Hazards to service or disposal workers or to the public;

4. Air pollution;

5. Water pollution or allow escape of solid wastes or contaminated water to public waters;

6. Objectionable odors, dust, unsightliness, aesthetically objectionable conditions or other nuisance conditions.

b. Storage Bins, Storage Vehicles, and Storage Facilities:

1. Storage bins and storage vehicles shall be leak-proof, have tight lids and covers that may be easily opened for intended use and shall have suitable fittings to facilitate removal or emptying;

2. Containers, storage bins or storage vehicles shall be readily washable or have liners of paper, plastic or similar materials, or both.

3. Storage Facilities:

a. Storage facilities shall be of rodent proof construction, which is readily cleanable with proper drainage,

b. Storage facilities, if not refrigerated, shall be adequately vented and all openings shall be screened.

7. Operate and maintain solid waste collection and transfer vehicles which meet the following standards:

a. Collection and Transfer Vehicles Construction and Operation:

1. Solid waste collection and transfer vehicles and devices shall be constructed, loaded, operated, and maintained in a manner so as to prevent, to the greatest extent practicable, dropping, leaking, sifting, or blowing or other escapement of solid waste, recyclable materials, compostables, liquids, vehicle fluids, or lubricants from the vehicle, while stationary or in transit, excepting:

i. Leakage of fluid or lubricant due to equipment failure provided that the failure is immediately contained and remedied as soon as practicable.

2. Collection and transfer vehicles and devices carrying loads which are likely to blow or fall shall have a cover which is either an integral part of the vehicle or device or which is a separate cover of suitable materials with fasteners designed to secure all sides of the cover to the vehicle or device and shall be used while in transit.

3. All collection vehicles shall be labeled with a sign on the rear, with lettering not less than four (4) inches high and clearly visible from a minimum of twenty (20) feet away, stating “Spillage Complaints? Call xxx-xxx-xxxx”, whereby the number entered shall be the Code Enforcement Officer. Each licensee shall pick up all material blown, littered, broken or leaked in the public right-of-way in the course of collection. The company name and telephone number shall be prominently and conspicuously displayed on both sides of the vehicle.

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4. All collection and transfer vehicles must be maintained and operated in compliance with all local and state statutes, ordinances, and regulations including compliance with regulations related to the safety of the collection personnel and the public. Any equipment not meeting standards shall not be used within the City until repairs are made.

b. Cleaning Collection Vehicles: Collection and transfer vehicles or other devices used in transporting solid waste shall be cleanable and shall be cleaned at weekly intervals or more often as necessary to prevent odors, insects, rodents, or other nuisance conditions.

c. Waste Water: Wastewater from the cleaning process of containers of non-hazardous waste shall be disposed of in a lawful manner.

d. Vehicle Condition:

1. Collection vehicles shall be painted no less than every 6 years, with entire collection fleet meeting the 6 year requirement by December 31, 2018.

8. Allow all vehicles, equipment and property used to conduct a solid waste service to be inspected at reasonable times to determine compliance with provisions of this Chapter. Consent to such inspection is a condition to granting and maintaining a solid waste service license.

9. The City Manager shall have the right to inspect and audit the books and records of a licensee at reasonable times and places. A licensee shall render all reasonable assistance to the City Manager during such inspection or audit of the books and records. Except for purposes of administering and enforcing this Chapter, except when a licensee has granted a written release to make the information public or except as required by law, the detailed financial information concerning a specific licensee gathered by the City Manager when performing the inspection and audit shall be and remain confidential and not subject to public disclosure.

10. Maintain on file in the City Recorder's office a copy of the licensee's current solid waste services and rate schedule for each service and provide rate information to its customers upon request.

B. A licensee shall not:

1. Subcontract with another entity on a regular, periodic, or long-term basis to provide solid waste and/or recycling collection service. With written approval of the city manager or designee, temporary subcontracting can be allowed as long as the licensee can justify a need for such service. Approval shall be based on the ability of the licensee to substantiate that the subcontractor meets all of the provisions of this chapter and rules adopted hereunder applicable to the service to be provided. Approval by the city manager or designee shall not relieve the licensee from the responsibility for compliance with the provisions of this code and the rules adopted hereunder.

2. Except in settlement of a collection action filed in a court, charge or collect less for service than the Council approved minimum rate for the service. This paragraph shall not prohibit any licensee with the City Manager's approval from volunteering service at reduced cost for charitable, community, civic or benevolent purpose.

3. Provide any classification of solid waste service until the Council has set the minimum rate for that classification of service.

4. Increase its rate for a classification of solid waste service until the affected customer has received at least 30 days' prior written notice of the increase.

5. Except when allowed by this Chapter, refuse to provide solid waste services to any person within the City.

6. Collect solid waste in areas of the City identified in the Florence Comprehensive Plan as planned designated low, medium or high density residential before 7:00 a.m. or after 8:00 p.m.

7. Collect solid waste in areas of the City zoned in the Florence Comprehensive Plan as Old Town area before 6:00 a.m. or after 8:00 p.m. Exceptions to this time restriction shall be made for holidays identified in City Code 10-26 and shall include, but are not limited to, New Years, Fourth of July, Thanksgiving, Christmas, and Rhododendron Weekend. This exception shall extend to the holiday day and the day following for weekend as necessary.

8. Voluntarily or involuntarily transfer a license issued under this Chapter.

9. Provide solid waste service to customers within the City during the time its license is suspended.

C. A licensee is not required to store, collect, transport, transfer, dispose of or resource recover any hazardous waste; provided, however, that a licensee may provide such service outside this Chapter in compliance with all applicable laws, ordinances and regulations.

**9-4-4-6: TERMINATION OF SERVICE:**

A. A licensee shall not terminate service to all or any of its customers unless one or more of the following occurs.

1. The street or road access is blocked for more than seven days and there is no alternate route.

2. Excessive weather conditions render providing service unduly hazardous to persons providing service, as determined by the City Manager, or such termination is caused by accidents or casualties caused by an act of God, public enemy or vandalism.

3. Where equipment failure interferes with providing all or a part of the required service for more than three days. The licensee shall immediately endeavor to find substitute equipment.

4. After five days written notice, a customer has not paid for service provided after a regular billing, or a customer continues in violation of paragraphs A,D,E,F,G,H,J,K or O of Subsection 9-4-6-1 of this Chapter. The given notice shall state the reason for the discontinuance; that by remedying the condition within five days the customer may have uninterrupted service and that the customer has a right to appeal the notice to the Committee within the ten days. A copy of the notice shall be filed with the City Recorder before the discontinuance occurs.

   If a customer remedies the reason for the notice within the five days and requests service be reinstated, the licensee shall resume service. A customer may seek review of the licensee's decision to discontinue service by appealing to the Committee under Subsection 9-7-4-3 of this Chapter.

5. Licensee will provide ninety days' written notice of intent to terminate all solid waste services to the City Recorder and all affected customers.

6. Licensee has had its license suspended, revoked or it has expired.

B. A customer shall provide no less than 7 (seven) days notice, to licensee of intent to terminate service.

C. Except when authorized by paragraph A of this subsection, if a licensee fails to provide solid waste services within the City for 20 days, its license shall be revoked upon ten days' written notice by the City Recorder.

**9-4-5: RATE REGULATIONS AND BUSINESS PRACTICES:**

**9-4-5-1 RATE REVIEW SCHEDULE**

A. The Committee and Council shall review rates no less than once every three years, with any recommended adjustments presented by March 1 with rates effective July 1.

1. In years designated as 'base years,' licensed haulers shall provide a comprehensive review of operations on forms provided by the City Manager by November 1 for the base year most recently completed. Such forms may include a standard chart of accounts, and inputs for revenues, customer count, driver hours, disposal volumes, and regulated recycling information by line of business as determined by the City. Costs to compile the forms shall be considered allowable.

B. Licensed haulers shall provide an abbreviated annual report that summarizes revenues and expenses incurred within the City of Florence by November 1 or each interim year most recently completed. Such report will include license revenues and enumerate total licensee expenses incurred within the City using the chart of accounts specified and accounting policies set forth in the City's comprehensive base year reporting format. Only revenue and expenses need to be reported.

**9-4-5-2: RATE DETERMINATION:**

A. To ensure fair and equitable consumer rates and to prohibit discriminatory practices, the Council may, by resolution, establish rates for solid waste services following the procedures and standards in this Section.

B. In recommending and determining rates, under this Section, due consideration shall be given to information from all licensees regarding: current and projected revenue and expenses; actual and overhead expense; the cost of acquiring and replacing equipment; the services of owner, family and management; the cost of providing for future, added or different service; the revenue from and cost of resource recovery services; a reasonable return for doing business; systems to avoid or recover the cost of bad debts; interest on late payments; and, such other factors deemed relevant. Rates charged by other persons performing the same or similar services in the same or similar areas under the same or similar service conditions may also be considered.

C. Requests to establish a minimum rate for a new classification of solid waste service may be made at any time. Adjustments to the Council established rates may be initiated or made not more often than once per calendar year provided, however, that In addition to the possible annual rate adjustment, a supplemental rate adjustment may be requested when the cost of service is decreased or increased by governmental or environmental regulations and compliance therewith; or where there is substantial decrease in expenses that was not anticipated at the time of the last rate adjustment.

1. Adjustments to the Council established rates may be initiated by a licensee, a petition of 20 customers using solid waste services, the Committee, the Council or the City Manager.

2. A request for rate adjustment or a request to establish a rate for a new classification of service shall be in writing and shall be accompanied by factual information substantiating the request and filed with the City Recorder.

3. Except for a request by the Council, Committee, or City Manager which shall not require a fee, any request for a rate adjustment or for the establishment of a rate for a new classification of service shall be accompanied by the nonrefundable filing fee of $500 or an amount otherwise set by Council resolution.

4. Upon receiving a request for rate adjustment or for establishment of a rate for a new classification of service, the City Manager shall prepare a staff report to initiate a full review and evaluation no later than 30 days after receiving the request, and present it to the Committee.

5. The Committee shall consider the request and staff report and hear testimony thereon. Before making its recommendation to the Council, the Committee shall give public notice inviting evidence and oral or written comment on the request and receive such at a public hearing. Within 90 days after it receives the request, the Committee shall make its written findings and recommendation to the Council.

6. The Council shall consider the Committee's recommendation and receive oral or written arguments on the recommendation. Based on substantial evidence in the record, the Council shall resolve to approve, modify and approve or reject the recommendation. The decision of the Council shall be final.

7. Rate adjustment requests solely to pass through costs associated with increases to the county's solid waste disposal / tipping fees shall be by resolution and amendment to the fee schedule and is not subject to a full rate review and hearings processes.

D. Any contracts negotiated pursuant to this Solid Waste code shall be adjusted as identified by the Council - effective the beginning of the contracted entity's fiscal year.

E. All rate adjustments or rates establishing a new classification of service shall take effect at the time specified in the Council resolution.

**9-4-6: PUBLIC RESPONSIBILITY:**

**9-4-6-1: PUBLIC RESPONSIBILITY:** In addition to and not in lieu of compliance with Chapter 459, ORS, and rules promulgated there under, and other applicable laws and regulations:

A. No person shall place hazardous wastes (such as hypodermic needles and paint in liquid form) out for collection or disposal by a licensee nor place it into any solid waste container or box supplied by a licensee without prior written approval from the licensee. A person placing such wastes for collection shall, prior to the notice to the licensee, obtain the approval of the disposal site to be used for the disposal of such wastes. Where required, an additional approval shall be obtained from the local government unit having jurisdiction over the disposal site. This disposal approval shall be in writing, signed by the person designated by the disposal site or local government unit affected. Either the licensee or the disposal site or the local government having jurisdiction of the disposal site may require written authorization from the Oregon Department of Environmental Quality for the handling of such hazardous wastes. This subsection does not apply to household waste generated at and by a residential dwelling unit.

B. No person shall place material in nor remove material from a solid waste or recyclable materials collection container, can, or bag without permission of the proprietor. For the purposes of this section the proprietor is the licensee, the licensee's employees or the customer to whom the container is assigned.

C. No unauthorized person shall remove solid waste or recyclable materials placed out for collection and resource recovery by a licensee or by a person exempted pursuant to this Chapter and operating solely within that exemption.

D. No person shall install an underground solid waste container for storage and collection. A licensee is not required to service an underground container unless the person responsible for it places the can above ground prior to the time of collection.

E. A garbage can set out for manual pickup shall not exceed 32 gallons in size nor 60 pounds in gross loaded weight. Such can shall be tapered from top to bottom to facilitate unloading. Such can shall be rigid and shall have proper handholds or bales together with a rim handhold at the base of the container. All solid waste containers shall be rodent proof. All containers shall not be subject to cracking or splitting. Any lid on a container shall be tight fitting and shall be kept on containers except during cleaning or unloading.

F. Unless otherwise agreed upon to by licensee, no garbage container for residential service shall be located behind any locked or latched gate, door or inside a building or structure. Containers shall be placed an adequate distance from overhead obstructions to allow an employee to carry a tote can on this shoulder.

G. Each customer shall provide safe access to the solid waste container, drop box or the solid waste to be hauled without risk or hazard to the licensee and its employees.

H. No container or box designed for mechanical pickup shall exceed the safe loading weights or volume as established by the manufacturer of the collection equipment. A licensee may establish maximum weights or load lines for unusually heavy materials or prohibit the placement of such materials in a container or box.

Containers of one cubic yard or more capacity shall be placed on a hard level surface and shall have a hard surface between the point of storage and the point of collection.

I. Where a customer requires an unusual volume of service or a special type of service requiring substantial investment in equipment, a licensee may require a contract with the customer as necessary to finance and assure the amortization of such equipment. The purpose of this provision is to assure that such equipment shall not become a charge against other customers who are not benefited.

J. Stationary compacting devices for solid wastes shall comply with Federal and State safety standards; provide adequate protection to the user and the licensee and its employees. A licensee may require such devices be compatible with licensee's collection equipment.

K. No person shall block access to any container or drop box or roll off box supplied by a licensee.

L. Every person who generates or produces wastes shall remove or have removed all putrescible wastes. Disposal of such wastes shall comply with all applicable laws, rules and regulations. More frequent removal may be required by the City Manager where a facility or service involves the public health. All wastes shall be removed at sufficient frequency as to prevent health hazards, nuisances or pollution.

M. The owner of solid waste containers shall be responsible for keeping the containers clean. A licensee shall supply periodic maintenance to containers and boxes supplied by the licensee.

N. The owner of real property and any person in possession of real property shall keep the area around waste containers and drop boxes or other solid waste receptacles free of accumulated wastes and shall maintain such facilities in a manner to prevent or minimize odors, nuisances, rodents, fire hazards, dangers to the public and damage to the equipment.

O In cooperation with a licensee and the City, persons erecting buildings or structures requiring a building permit or persons utilizing land for a purpose requiring a permit or conditional use permit under the zoning regulations of the City, Title 10 of this Code, shall provide a location and system for safe and efficient removal of wastes and solid wastes. Due consideration shall be given to location; access; services available; whether the person is likely to take service from a licensee; public safety and safety of the service workers; and, applicable laws, regulations and special service requirements. Included in this section is the safety compliance with the Fire Marshal, such as propane tanks close to hazardous waste. This subsection shall not be the basis for a penalty, but until compliance is achieved, the City may withhold or restrict service.

P. Any owner of multiple family housing (5 or more units) shall provide, with assistance from licensees, the ability to recycle any appropriate materials, consistent with DEQ requirements.

Q. No person shall transport solid wastes over or upon the streets of the City in such a manner as to permit any part or portion thereof to drop, sift, leak or otherwise escape from the vehicle and to be deposited upon the streets of the City or public or private lands adjacent thereto.

R. No person shall deposit any solid wastes upon any street or other public property, or upon any private property with or without the consent of the owner of such property, or to allow solid wastes to be placed upon or to accumulate on property under such person's control.

S. No person shall deposit solid wastes which have been produced, generated or accumulated on such person's premises, or premises under such person's control, in, upon or adjacent to any litter receptacle placed or maintained by the City.

T No person shall deposit any dead animals, fish, shellfish, or organic material derived from any animal, fish, shellfish, nor any hazardous wastes, in, upon or adjacent to any litter receptacle placed or maintained by the City.

U. No person shall permit any solid wastes to accumulate upon or about premises owned or controlled by such person and shall dispose of such solid wastes by hauling or causing the same to be hauled to a solid waste disposal site or, where applicable, to resource recovery facility or market.

V. Residential containers may only be placed near the street for pickup purposes. Containers shall not be left near the street for a period of time in excess of 24 (twenty-four) hours. Except for containers specifically designed to be animal resistant. After receiving written notice from the City of Florence, customers who live in areas experiencing increased animal problems shall be prohibited from leaving trash containers out during non-daylight hours. All customers shall take reasonable steps to secure containers from animal access at all times. (Ord. No. 13, Series 2008)

W. Property Owners renting residential units shall provide their tenants garbage and recycling service for each dwelling rented as part of the lease. On or before January 1, 2017, all residentially leased properties shall comply with this Code.

**9-4-6-2: OWNERSHIP OF WASTES:** Unless placed out for collection by a person exempted under this Chapter or placed in a container clearly marked as the property of another, solid waste including, without limitation, source separated solid waste is the property of the licensee providing service to the premises.

**9-4-7: ADMINISTRATION AND ENFORCEMENT:**

**9-4-7-1: DENIAL OR REVOCATION OF LICENSE:**

A. The Committee may deny or revoke a license upon finding that:

1. The applicant or licensee fails to meet the requirements of this Code or is doing business in violation of this Code or applicable federal, state or county law, city ordinance, rule or regulation;

2. The applicant or licensee has provided false or misleading material information or has omitted disclosure of a material fact on the application, related materials or license;

3. The applicant's or licensee's past or present violation of law or ordinance, including a violation that does not lead to a conviction, presents a reasonable doubt concerning his/her ability to perform the licensed activity without endangering property or the public health and safety.

4. The information supplied for the review does not indicate that the applicant or licensee has or continues to have the special knowledge, skill or equipment required to perform the licensed activity.

5. The licensed activity or equipment would endanger property or the public health or safety.

B. The City Manager shall provide written notice to the applicant or licensee of his/her recommendation to the Committee that the application or license be denied or revoked. The notice shall state the reason for the recommendation and shall inform the applicant or licensee of the right to present evidence, testimony and arguments to the Committee before it renders a decision in the matter.

C. The City Manager's notice shall be given at least 15 days before the Committee considers the matter. When the City Manager is recommending revocation of a license because of a violation of this Chapter, if the licensee corrects the violation within the 15 days, the City Manager may withdraw his/her recommendation and the proceedings shall cease unless the Committee directs to the contrary.

D. The Committee shall consider the City Manager's recommendation by conducting a hearing at which it shall receive any relevant evidence testimony and argument the City Manager, the applicant, the licensee or others may wish to present. While proceedings before the Committee are not bound by the rules of evidence used by courts of law, the decision of the Committee shall be based on substantive evidence. The decision shall include the Committee's findings and shall be in writing. The Committee's decision shall be mailed or personally served upon the applicant or licensee.

E. A person whose application for any business license has been denied or whose license has been revoked may, after one year from date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and required attachments.

**9-4-7-2 SUMMARIAL SUSPENSION:**

A. Notwithstanding the notice requirements in subsection 9-4-7-1, upon determining that a licensed activity or equipment presents an immediate danger to person or property, the City Manager may summarily suspend the license for the activity or equipment.

B. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of its right to have the City Manager's decision reviewed by the Committee and the possibility that the Committee may revoke the license..

C. A copy of the City Manager's notice of summarial suspension shall be given to the Committee and considered at its next meeting. The suspended licensee may seek expedited Committee review of the City Manager's action by filing a request for review with the City Recorder. The suspended licensee's request for review shall contain the information required for an appeal in Paragraph A of Subsection 9-4-7-3 of this Section. The Committee shall consider the request within three days of its filing with the City Recorder. The Committee may affirm, modify or rescind the City Manager's summarial suspension. Based upon the evidence presented, the Committee may affirm, modify or rescind the City Manager's action and it may revoke the licensee's license. If the Committee is disposed to revoke the suspended license, it shall so advise the licensee. Upon the licensee's request the Committee may give the licensee up to an additional 15 days in which to present additional evidence to the Committee before it makes its decision regarding the revocation of the license. The decision of the Committee may be appealed as provided in Subsection 9-4-7-3 of this Section.

**9-4-7-3: APPEALS:**

A. An applicant whose application for a license has been denied, or a licensee whose license has been denied renewal, has been suspended or is revoked or a customer whose service has been discontinued by the licensee, may appeal the decision within ten days after the date of notice of the denial, suspension, revocation, or discontinuance. The appeal shall be in writing, filed with the City Recorder and shall state:

1. The name and address of the appellant;

2. The nature of the determination being appealed;

3. The reason the determination is incorrect; and

4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives his/her objections, and his/her appeal shall be dismissed. Within 10 (ten) days of the Committee's decision, the City Council on its own motion may initiate review of any Committee decision.

B. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal.

C. Unless all parties to the appeal and the City Manager agree to a longer period, an appeal shall be heard by the Council within 20 days of the receipt of the notice of appeal. At least ten days prior to the hearing, the City shall mail notice of the time and location thereof to the parties.

D. The Council shall hear and determine the appeal on the basis of the appellant's notice of appeal, the record of the Committee's consideration of the matter and any oral or written argument the parties may present. At the hearing the appellant may present oral argument personally or by counsel.

E. If the appeal is from the Committee's denial of the appellant's request, the appellant shall carry the burden of proving that he/she is entitled to the remedy sought.

F. The Council shall render its decision by resolution within 20 days of the hearing date. The decision of the Council shall be final.

**9-4-7-4: ADMINISTRATIVE RULES:** The City Manager may propose administrative rules to implement the administration of this Chapter. Such rules or amendments thereto shall be effective after review by the Committee and approval by the City Council.

**9-4-7-5: CITY ENFORCEMENT:**

A. The City shall enforce the provisions of this Chapter by administrative, civil or criminal action or any combination thereof as necessary to obtain compliance with this Chapter. (Ord. 637, 1-13-81)

B. Except as limited by paragraph C of this subsection, the penalty for violating any provision of this Chapter shall be that established in Chapter 1-4 of this Code.

C. The penalty for any violation of the Chapter, which is also a violation of state law or regulation, shall not exceed the penalty imposed by state law or regulation for the same conduct. (Ord No. 16, Series 1986, Amended by Ordinance No. 7, Series 1989).

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Amended by Ord. 7, Series 1989
Amended by Ord 2, Series 1999
Amended by Ord. 5, Series 2006 and renumbered
Amended by Ord. 13, Series 2008, effective July 16, 2008
Sections 9-4-3, 9-4-6-1B & C, and 9-4-7-5D Amended by Ord. 2, Series 2011, effective March 11, 2011
Sections 9-4-3, 9-4-4-5, 9-4-5-1, 9-4-5-2,and 9-4-6 amended by Ord. 5, Series 2016, effective May 4, 2016
Section 9-4-3 amended by Ord. 17, Series 2018, effective February 1, 2019

TITLE 9
CHAPTER 5

# STORMWATER MANAGEMENT UTILITY, USER FEE SYSTEM AND STORMWATER MANAGEMENT REQUIREMENTS

SECTION:


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## 9-5-1: GENERAL PROVISIONS

### 9-5-1-1: PURPOSE

The purpose of this Code is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of stormwater runoff associated with existing and future land development within the City. Proper management of stormwater runoff will minimize damage to public and private property, ensure a functional drainage system, reduce the negative effects of development on the existing stream channels, assist in the attainment of water quality standards, help protect the quantity and quality of the water in the aquifer, enhance and protect the natural environment associated with the drainage system, and facilitate orderly development while mitigating the associated impacts of development.

Further, the purpose is to establish a Stormwater Utility with a user fee system to fund stormwater management activities and facilities within the City.

This Code defines the minimum requirements for stormwater management facilities. Additional requirements may be required by the City if the minimum requirements will not satisfy the overall purpose of this Code.

**9-5-1-2: DEFINITIONS:**

For the purposes of this Chapter, the following words and phrases shall have the meanings indicated:

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| BACKWATER | Areas of water where the water surface elevation is raised as a result of down gradient activities or constrictions. |
| BASE RATE | Means the Stormwater Management Fee charges on a base unit. The annual (fiscal year) Stormwater Management Fee for a single family residential property in the City equals the base rate. |
| BASE UNIT | Means the median net surface area associated with a single-family residential property in the City. |
| BEST MANAGEMENT PRACTICES (BMPs) | BMPs to be used in Florence are described in the Stormwater Manual. |
| BUFFER ZONE | A physical setback from a sensitive area used to protect the water quality, the aquatic and riparian wildlife communities, and the habitat value within the sensitive area. The start of the buffer starts at the edge of the defined channel (bank full stage) for streams/rivers, delineated wetland boundary, delineated spring boundary, or average high water for lakes. |
| DETENTION FACILITY | A permanent stormwater management structure that temporarily stores runoff by controlling the release rate from the facility to prevent down gradient flooding and high velocities. |
| DEVELOPED PROPERTY | Real property which has been altered from its natural state. This includes but is not limited to the addition of any improvements such as buildings, structures, or other impervious area and for which the intended use relies upon the ability to access the property and/or to protect the property from surface flooding, and erosion, or to prevent the degradation of water quality. |
| DEVELOPMENT | The clearing, grubbing, stripping, grading, excavating, and filling of land, the construction of structures, facilities, utilities or other improvements, or the creation or improvement of an access to a public street. |
| DIVISION OF LAND | The creation of lots or parcels. |
| DRAINAGE FACILITY | Any of a number of types of stormwater conveyance detention, retention or other related facilities, including: pipes, culverts, ditches, natural drainageways, streams, catch basins, inlets, trash racks, and other types of open-channel systems. |
| DRAINAGE PLAN | The submittal requirement for all projects except those specifically exempt from the submittal process or subject to the modified requirements. The plan helps to identity the major impact of the proposed development on the quality and quantity of stormwater and the proposed activities to limit and address negative impacts. The submittal requirements for the Drainage Plan are specified in the Stormwater Manual. |
| EASEMENT | A grant or interest in land owned by another that entitles its holder a specific limited use. |

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| EQUIVALENT SERVICE UNIT | The average net area of single family residential properties within the city, and is utilized to establish the user charge rate for the non-single family residential properties. |
| FEE OR STORMWATER MANAGEMENT FEE | The charge established under this Chapter and levied on owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City. |
| FLOW CONTROL | The practice of limiting the release of peak flow rates and volumes from a site. Flow control is intended to protect downstream properties, infrastructure, and natural resources from the increased stormwater runoff peak flow rates and volumes resulting from development. The terms “flow control” and “flood control” are used interchangeably. |
| FLOW CONTROL FACILITY | Any structure or drainage device that is designed, constructed, and maintained to collect, retain, infiltrate, or detain surface water runoff during and after a storm event for the purpose of controlling post-development quantity leaving the site. |
| HEC-1 | The first in a series of models developed by the Hydrologic Engineering Center, which is a division of the U.S. Army Corps of Engineers. HEC-1 is a hydrologic model. It is available at: http://www.wrc-hec.usace.army.mil |
| HECRAS | Another model developed by the Hydrolic Engineering Center. RAS stands for River Analysis System. This is a hydraulic model and is an update to the older HEC-2 model. It is also available at: http://www.wrc-hec.usace.army.mil |
| HSPF | A Hydrological Simulation Program translated into Fortran. It is a hydrologic model. It is an EPA/USGS program and can be found at: http://water.usgs.gov/software/hspf.html |
| HYDRA | A commercial program from Pizer which is both hydrologic and hydraulic. More information can be found at: http://www.pizer.com/hydra.htrn. |
| IMPERVIOUS SURFACES | Buildings, roofs, sidewalks, streets, paved parking areas, gravel streets and parking areas, and other types of paved or hard surfaces that severely limit the infiltration of stormwater into the underlying soil. Surfaces with a Rational Method runoff coefficient of 0.8 or higher shall be considered impervious. |
| IMPROVED PROPERTY | Property which has been modified from its natural state for a human purpose. |
| LAND DISTURBING ACTIVITIES | Any use of the land by any person that results in a change in the natural cover or topography. |
| LOT | A unit of land that is created by a subdivision of land. |
| MAJOR PARTITION | A partition which includes the creation of a road or street and which does not result in the creation of more than two (2) or three (3) lots within a calendar year. |
| MINOR PARTITION | A partition which does not include the creation of a road or street, and which does not result in the creation of more than two (2) or three (3) lots within a calendar year. |
| MULTI-FAMILY DWELLING | A building with more than two dwelling units. |

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| NET SURFACE AREA | The total area of a lot or parcel of land less the area of adjacent public rights-of-way. |
| OTHER DEVELOPED PROPERTY | Developed property other than single-family residential property. Such property shall include, but not be limited to, multi-family dwellings, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches. |
| OWNER | An individual, association, partnership or corporation having legal or equitable title to land sought to be divided, other than legal title held for purposes of security only. |
| PARTITION LAND | Division of an area or tract of land in two (2) or three (3) parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. |
| POLLUTION GENERATING IMPERVIOUS SURFACE | Impervious surfaces that generate pollution, including but not limited to: impervious surfaces subject to regular vehicular use, such as roads, un-vegetated road shoulders, driveways, parking lots, diesel equipment storage yards, and airport runways; storage areas of erodible or leachable materials, wastes, or chemicals; and metal roofs that are not treated to prevent leaching. |
| POLLUTION GENERATING PERVIOUS SURFACE | Any non-impervious surface with vegetative ground cover subject to the use of pesticides and fertilizers, including: lawns and landscaping of commercial sites, golf courses, parks and sports fields. |
| PORTLAND EROSION AND SEDIMENT CONTROL MANUAL | The technical document that provides guidance for temporary and permanent erosion prevention, sediment control, and control of other development activities that can cause pollution during the construction process (before, during, and after clearing, grubbing, grading, and excavation). |
| POST-DEVELOPED CONDITIONS | The conditions that exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff. |
| PRE-DEVELOPED CONDITIONS | The conditions of the land prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of stormwater runoff. |
| PUBLIC STORMWATER FACILITY | Drainage and stormwater management facilities located within the public right-of-way or easements dedicated to the City and that are owned and maintained by the City. |
| RETENTION FACILITY | Similar to a detention facility, except the retention facility is designed with a permanent pool of water that may have a detention storage volume above the permanent pool. Many of these facilities use infiltration and evaporation to discharge the retained volume of water. |
| RIGHT-OF-WAY | The area between boundary lines of a street or other easement, whether improved or unimproved. |

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| SENSITIVE AREA | Significant wetlands greater than ½ acre and significant streams identified in the 2013 Florence Area Local Wetlands and Riparian Inventory, as amended, rivers, including the estuary, and lakes. Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon Department of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service, and Oregon Department of Transportation. |
| SINGLE FAMILY RESIDENTIAL PROPERTY | Means a developed property which serves the primary purpose of providing a permanent dwelling unit and which is classified as residential in the State assessment rolls. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition. |
| STORMWATER DESIGN MANUAL (CITY OF FLORENCE STORMWATER DESIGN MANUAL) | The City-recognized guide to designing and installing Best Management Practices (BMPs) in order to meet the requirements for stormwater facilities in this Title. The Stormwater Design Manual supersedes the 2008 Portland Stormwater Management Manual. |
| STORMWATER MANAGEMENT | The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to flood control, erosion prevention, conservation, and water quality utilizing the construction of facilities or structures to control the quantity and quality of stormwater. |
| STORMWATER MANAGEMENT FACILITIES | Facilities or structures that control the quality or quantity of stormwater, including: detention ponds, water quality ponds, vegetated swales, water quality manholes, treatment wetlands, infiltration systems, etc. |
| STORMWATER MANAGEMENT FUND OR FUND | The Fund created by this Chapter to operate, maintain, and improve the City's stormwater system. |
| STORMWATER MANAGEMENT PLAN OR SWMP | The City-recognized plan that was prepared with the input of a Stakeholder Advisory Committee that makes recommendations for addressing flooding problems, improving water quality, and protecting the quantity and quality of the aquifer and valuable natural resources (e.g. wildlife habitat). It is intended to guide upgrades and expansion of the public stormwater conveyance system and related public facilities to meet the area's needs over a 20 year period. |
| STORMWATER MANUAL | The term "Stormwater Manual" means the 2008 *City of Portland Stormwater Management Manual*, as superseded by the *City of Florence Stormwater Design Manual*, December 2010, and the 2008 *City of Portland Erosion and Sediment Control Manual*. The 2008 *City of Portland Stormwater Management Manual* is the technical document that outlines the City of Florence stormwater management requirements. The requirements defined in the manual apply to all development and redevelopment projects within the City of Florence on both private and public property, except as superseded by the *Florence Stormwater Design Manual,* as amended by the City of Florence. |
| STORMWATER SYSTEM | All of the structures and facilities that are designed for the collection, conveyance, storage, treatment, and disposal of stormwater runoff and surface water, including both man made and natural drainage systems. |
| SUBDIVIDE LAND | The division of an area or tract of land into four (4) or more lots within a calendar year when such area or tract of land exists as a unit or continuous units of land under single ownership at the beginning of such year. |
| SUBDIVISION | Either an act of subdividing land, or an area or tract of land subdivided as defined |

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| | in Title 11 Chapter 1 of the City Code. |
| SWMM | This is a hydrologic and hydraulic stormwater management model and it is an official EPA model. It was originally developed and maintained by Wayne Huber of Oregon State University. It is available at: http://www.ccee.orst.edu/swmm. |
| ZONE OF CONTRIBUTION | The up-gradient boundary of a wellhead protection area as defined by the 10-year time of travel. |

**9-5-1-3: FINDINGS:**

A. The City maintains a system of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways.

B. The stormwater system in the City needs regular maintenance and improvements.

C. Water quality is degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.

D. The public health, safety, and welfare is adversely affected by poor ambient water quality and flooding that results from inadequate management of both the quality and quantity of stormwater.

E. All real property in the City either uses or benefits from the improvement and maintenance of the stormwater system.

F. The extent of use of the stormwater system by each property is dependant on factors that influence runoff, and is proportional to the total net area of the property.

G. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the net areas of their property on the stormwater management system.

H. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it.

**9-5-1-4: ESTABLISHMENT OF STORMWATER UTILITY:**

A. A Surface Water Management Utility is hereby created.

B. Powers and Duties.

1. The Surface Water Management Utility shall plan, design, construct, maintain, administer and operate all City surface water conveyances and facilities, and the regulations for its control, as well as establish standards for design and construction.

2. The City Manager or his/her designee shall be the administrator of the Program.

3. Ownership of City Surface Water Facilities and Assets. The following assets are hereby vested in the Surface Water Management Utility: All properties, interests, and physical or intangible rights owned or held by the City insofar as they concern surface water or surface water management. These rights include all properties or interests in property acquired by adverse possession or prescription, directly or through another, in the drainage or storage

of surface waters via lands, watercourses, sloughs, streams, wetlands, ponds and lakes, all beginning at a point where surface waters first enter the system of the City and ending in each instance at a point where the surface waters exit from the system of the City, and in width to the full extent of inundation caused by storm or flood conditions.

**9-5-1-5: STORMWATER MANAGEMENT CHARGE:**

A. Except as otherwise provided by this Chapter, a stormwater utility user charge shall be applied to all persons who use developed property, as defined in 9-5-1-2 "Developed Property." Collection of said charge shall be through City water or sewer utility services or other mechanism adopted by the City Council.

B. The stormwater utility user charge shall be established by resolution of the City Council in an amount reasonable and necessary to fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of the City's utility systems.

C. The surface water management utility user charge shall be based upon the amount of net surface area used by a customer. The Methodology shall recognize the unique nature of stormwater runoff within the city of Florence due to the soil and groundwater characteristics.

D. Owners or occupants of undeveloped property shall not be charged. Each customer using a location for single family residential shall be charged a uniform rate based upon containing one equivalent service unit (ESU). The charge for all other parcels shall be proportional to the ESU charge, based upon the total amount of net surface area of the property divided by the area of one ESU.

E. The City utility user charge may be reviewed by the City Council periodically. The City Council may set the stormwater utility charge by resolution.

F. Stormwater utility users may appeal the calculation of impervious surface area used to calculate the Stormwater utility user charge. The City may use any method deemed necessary to measure the impervious surface area. If impervious surface area is reduced by the appeal, refunding of overcharges will be limited to one year prior to the date of the approval of the appeal.

**9-5-1-6: PUBLIC STORMWATER SYSTEM:**

A. Storm drainage and management facilities may or may not be publicly owned and maintained.

B. The City Manager or his/her designee may require that a stormwater facility that serves more than one property be a public facility provided the easement and maintenance requirements of this Code are satisfied.

C. Storm drainage and management facilities within a Planned Unit Development (PUD) may or may not have a publicly owned and maintained system. Generally, if the City owns and maintains the roads and there is free ingress and egress from the community (not gated), then the City may own and maintain the stormwater system provided the easement and maintenance requirements of this Code are satisfied. Ownership of the PUD stormwater system shall be established prior to the issuance of construction permits.

D. Natural streams and drainage ways may or may not be publicly owned and maintained.

E. The stormwater management facilities identified in the City of Florence Stormwater Management Plan shall be publicly owned.

F. The City may accept ownership of the major components of the existing stormwater system located outside of the current City boundary after the area is annexed into the City. In general, the stormwater system owned and maintained by Lane County (prior to annexation) will be accepted by the City. The City Manager or his/her designee shall consider the following factors prior to acceptance of any facilities into the public drainage system:

1. standards used in the design,

2. the location of the system relative to the public right-of-way,

3. functionality of the system,

4. associated flooding problems,

5. maintenance requirements,

6. ability to access facilities, and

7. any other factors pertinent to the decision.

**9-5-1-7: EXTENSION OF PUBLIC STORMWATER SYSTEM:**

A. If necessary or required, the public stormwater system shall be extended up to and through to the most distant up gradient and down gradient parcel boundary(ies) to accommodate current and future flows entering or exiting the property. Consideration and accommodation shall be made for all existing drainage routes. Except as otherwise provided, the extension of the public stormwater system to serve any parcel or tract of land shall be done by and at the expense of the property owner(s) or applicant. The City may require that a stormwater system that serves more than one property be a public system.

**9-5-1-8: STORMWATER MANUAL, ADOPTION BY REFERENCE:**

Except as noted below in Sections 9-5-1-8 A and B, the standards and requirements contained in the 2008 *City of Portland Stormwater Management Manual*, the 2008 *City of Portland Erosion and Sediment Control Manual*, and the *City of Florence Stormwater Design Manual*, December 2010, are adopted by reference into this Code.

A. The following Sections of the 2008 *City of Portland Stormwater Management Manual* are not adopted by the City of Florence:
- Appendix A: (City of Portland Code and Policy)
- Appendix B: (Vendor Submission)
- Appendix D: (Submittal Guides)
- Appendix E: (Storm Development Methodology)
- Other Sections that the Florence Public Works Director finds are not directly applicable to Florence or are partially applicable because they have been modified by the *Florence Stormwater Design Manual*, December 2010.

B. The *City of Florence Stormwater Design Manual,* December 2010, shall supersede the 2008 *City of Portland Stormwater Management Manual.*

**9-5-2: DRAINAGE PLAN SUBMITTAL REQUIREMENTS:**

**9-5-2-1: GENERAL:**

A. A Drainage Plan is required for all development, except as provided in FCC 9-5-2-4. Submittal requirements are tailored to the size and impacts of the development. The submittal requirements are specified in the Stormwater Manual.

B. A registered Professional Engineer licensed by the State of Oregon shall prepare, certify, and seal the Drainage Plan whenever a Professional Engineer is required in the Stormwater Manual or state law. Furthermore, prior to land disturbing activity, the developer for the land disturbing activity shall certify that the proposed activities will be accomplished pursuant to the approved plan.

C. If a land use approval is required, the Drainage Plan shall be submitted and approved as part of the land use approval process. If no land use approval is required, the Drainage Plan shall be submitted as part of the application for a construction or facility permit.

**9-5-2-4: EXEMPTION AND MODIFIED REQUIREMENTS:**

A. **Exemptions:** Projects exempt from the requirements of this Code include:

1. Projects with site development applications submitted for City review and approval prior to the effective date of this Code.

2. Emergency projects which if not performed immediately would substantially endanger life or property.

3. Public works and private utility projects completely within easements adjacent to the public right-of-way which do not add impervious surface (not to include trenching activities) or impact water quality, wetlands, streams, open space buffers, park and recreation lands, or natural resource lands.

4. Grading and working of land for agricultural purposes, provided the activity does not affect water quality, wetlands, streams, open space buffers, park and recreation lands, or natural resource lands.

5. Maintenance of public roads or utilities when performed by a public agency and the project has been reviewed and approved for compliance with applicable State, Federal and City regulations, and the work is in an existing right-of-way or easement dedicated to or on property owned by the City.

6. Public Works maintenance activities for routine repetitive activities, provided that erosion and sediment control measures are implemented as required.

7. All utility trenching and installation where said utility has filed a plan with the City that addresses sediment and erosion control methods to be implemented as part of the work.

B. **Modified Requirements:** Projects described below shall follow the requirements contained in the "Erosion Prevention and Sediment Control Practices for Single Family Residences and Small Projects" brochure available from the City:

1. Single family residential construction projects that are separate from the development (partitioning or subdividing) of the land.

2. Non-residential construction projects adding less than 500 square feet of impervious surface to the area.

3. Land clearing and grading activities disturbing less than 10,000 square feet of land and involving less than 50 cubic yards of excavated or fill material.

C. In accordance with Section 9-5-2-1 the City Manager or his/her designee will determine if a proposed project meets the criteria defined by Section 9-5-2-4 The City reserves the right to require additional protection measures if a project is deemed to present a risk to the community.

**9-5-3: STORMWATER DESIGN CRITERIA:**

**9-5-3-1: GENERAL:**

A. The criteria in Section 9-5-3 shall be used in the design of public and private stormwater drainage and management systems. Stormwater management facilities shall be constructed in accordance with the Stormwater Manual: the 2008 *Portland Stormwater Management Manual*, as superseded by the December 2010 *City of Florence Stormwater Design Manual;* and the 2008 *City of Portland Erosion and Sediment Control Manual.*

**9-5-3-2: STORMWATER QUANTITY (FLOW CONTROL):**

A. A 25-year, return period storm shall be used for the design of all private and public stormwater drainage systems.

B. Onsite stormwater management facilities shall be required to prevent the post-development runoff rates from a project site from exceeding the pre-development runoff rates from the site, based on a 2 through 25-year storm. Exemptions to this requirement may be approved by the City Manager or his/her designee if it is determined that a more effective solution is available and that downstream capacity will accommodate the increase in flow.

C. Each new development project is responsible for mitigating its impacts on the stormwater system. This mitigation requirement can be satisfied through the use of any of the following techniques, subject to the other limitations identified by this Code:

1. Construction of onsite facilities to limit the flow rate of stormwater runoff leaving the development site, in accordance with the Stormwater Manual.

2. Enlargement or improvement of the down gradient conveyance system in accordance with the requirements of this Code and the City of Florence Stormwater Management Plan.

D. The development of any land requiring a Drainage Plan shall address onsite and off-site drainage concerns, both up gradient and down gradient (a minimum of 1/4-mile) of the project, including:

1. Modifications to the existing onsite stormwater drainage and management facilities and drainage patterns shall not restrict or redirect flows creating backwater or direct discharge onto off-site property to levels greater than the existing condition unless approved by the affected off-site property owners and the City. Proof of off-site property owners approval shall be provided by having the affected property owner(s) sign an easement identifying the location of the backwater storage or impoundment area. This area shall be clearly shown on the submitted Drainage Plan site sheet(s). The easement shall be in a form approved by the City and recorded with the Lane County Deeds and Records Office.

2. Stormwater facilities shall be designed and constructed to accommodate all flows generated from the project property in accordance with the land use zoning as shown in the most recent approved City Code.

3. Capacity of the downstream drainage system to determine if increases in peak flow rates resulting from the proposed development can be accommodated.

E. The types of stormwater management controls presented in the Stormwater Manual are available for owners and developers to use in satisfying the pre-developed and post-development runoff requirement. More than one of these types of controls may be needed to satisfy the runoff requirement. In areas where the runoff requirement in Section 9-5-3-2-F are exempt or partially exempt, the City may require improvements to the down gradient conveyance system.

**9-5-3-3: STORMWATER QUALITY:**

A. Stormwater management facilities to treat stormwater are required for certain types of projects. These water quality facilities shall be designed and constructed for all projects requiring a Drainage Plan and for other projects as required by this section. Stormwater management facilities required for development shall be designed, installed and maintained in accordance with the Stormwater Manual, which is based on achieving at least 70% removal of the Total Suspended Solids (TSS) from the flow entering the facility for the design storm specified in the Stormwater Manual.

B. Water quality facilities shall be designed and constructed for all projects requiring a Drainage Plan.

C. Projects located in the Zones of Contribution must have pre-treatment facilities prior to infiltration facilities as prescribed in the Stormwater Manual. When a wellhead protection plan is developed and adopted by the City, this specific requirement may be rescinded or modified by the City.

D. The water quality design storm shall be based on an intensity of 0.25 inches per hour, or 0.83 inches for a 24-hour SCS Type 1A rainfall return event.

E. Water quality facilities must be designed to prevent damage to the facility for flows exceeding the water quality design storm and to ensure no re-suspension of pollutants, consistent with the Stormwater Manual.

F. Sensitive areas shall be protected by a buffer zone of native, undisturbed vegetation. The outer boundary of the buffer shall be determined by a minimum 50-feet setback from the edge of the sensitive area, or as required by other City Code provisions. (See additional standards and requirements for significant wetlands and significant riparian corridors in Florence City Code Title 10, Chapter 7; and for the Estuary, Coastal Shorelands, and Beaches and Dunes in Title 10 Chapter 19) The width and nature of protection required within the buffer may change as the Endangered Species Act and other state and federal regulations are promulgated. The City requires that the buffer width meet all state and federal requirements. No land disturbing activities, structures, development and construction activities, gardens, lawns, application of chemicals, pet wastes, dumping of any kind of materials shall be permitted within the buffer zone, except as noted below:

1. Roads, pedestrian, or bike paths crossing the buffer from one side to the other in order to provide access to or across the sensitive area.

2. A pedestrian or bike path constructed within a buffer and parallel to a sensitive area shall have the buffer widened by the width of the path if the path is constructed of impervious material.

3. Pedestrian or bike paths shall not exceed 10-feet in width.

4. Utility/service infrastructure construction (i.e., storm, sanitary sewer, water, phone, gas, cable, etc.) If approved by the City Manager or his/her designee.

5. Measures to remove or abate hazards, nuisance, or fire and life safety violations as approved by the City.

6. Enhancement of the riparian corridor for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.

7. Water quality facilities planted with appropriate native vegetation may encroach into the buffer area as approved by the City and other appropriate authorities.

G. The types of stormwater management facilities presented in the Stormwater Manual are available for owners and developers to use in satisfying the stormwater quality requirement. More than one of these types of facilities may be required to satisfy this requirement.

**9-5-4: MAINTENANCE RESPONSIBILITY:**

**9-5-4-1: PUBLIC FACILITIES:**

A. The City will maintain and operate Public Stormwater Facilities as set out in FCC 9-5-1-2 and FCC 9-5-1-6.

**9-5-4-2: PRIVATE FACILITIES:**

A. Private stormwater facilities must be maintained in accordance with the Operations and Maintenance Plan approved as part of the Drainage Plan. The Operations and Maintenance Agreement will be recorded with the Lane County Deeds and Records Office. The Stormwater Manual contains the Operations and Maintenance Agreement Form to be used. A log of all maintenance activity shall be kept by the owner and made available to the City upon request. The City may, at its option, inspect the facilities for compliance with the requirements. If a property owner fails to maintain their facilities, the City may issue a written notice specifying the required actions. If corrective actions are not completed in a timely manner, the City may pursue legal remedies to enforce the provisions of the Operations and Maintenance Plan. The City will only enter the property to perform the required

corrections if the public's health and public property are in imminent danger. In this situation, reasonable attempts will be made to contact the property owner(s), but a written notice may not be required. The property owner(s) will be billed for City incurred expense.

B. The Maintenance Agreement shall provide that upon notification by the City of any violation, deficiency or failure to comply with the agreement or this Code, corrections shall be completed within ten (10) days after notice thereof. Thereafter the City may pursue legal action to enforce the provisions of the agreement. In an emergency situation, the City may provide for all necessary work to place the facility in proper working conditions. The persons specified as responsible for maintenance in the Maintenance Agreement shall be charged the costs of the work performed by the City or its agents.

**9-5-4-3: CITY ACCEPTANCE OF NEW STORMWATER FACILITIES:**

A. The City may accept for maintenance new residential stormwater facilities constructed under approved permits when the following conditions are met:

1. Improvements in the residential subdivisions or Planned Unit Developments have been completed to the satisfaction of the city,

2. All drainage and stormwater management facilities have been inspected and have been in satisfactory operation for at least one (1) year, and

3. Any stormwater system improvements made during the one-year maintenance period have been inspected and approved by the City.

**9-5-5: EASEMENTS:**

**9-5-5-1: PUBLIC FACILITIES:**

A. Public facilities must have an easement, tract, or right-of-way granted to the City to provide for the inspection and maintenance of the drainage system and stormwater management facilities. A minimum of 7-1 /2 feet is required along each side of the centerline of stormwater pipes and culverts. A fifteen-(15) foot wide access is required around the perimeter of stormwater management facilities (ponds, wetlands, infiltration facilities, etc). A fifteen-(15) foot wide easement with a minimum 10’ wide access road located within the easement shall be provided when the public facility does not front a public road. Increased easements/improvements may be required on a case-by-case basis depending upon the unique drainage situation or facility maintenance requirements.

**9-5-5-2: PRIVATE FACILITIES:**

A. Private facilities must be placed in an easement, tract, or right-of-way that allows for the maintenance of these facilities in accordance with the Operations and Maintenance Agreement.

B. The City may determine that certain privately owned facilities are critical components of the overall stormwater system. In these situations, the City shall be granted perpetual, non-exclusive access that allows for public inspection. The access shall be defined in accordance with the requirements for a public easement, tract, or right-of-way.

**9-5-6: CONSTRUCTION AND INSPECTION:**

**9-5-6-1: CONSTRUCTION:**

A. Prior to the construction of, or modification to any public stormwater facility, a letter of commitment along with a performance bond or cash deposit in form and substance satisfactory to the City shall be submitted by the owner or his agent as a performance assurance for such work. The amount of the performance assurance shall be the sum necessary to construct the public stormwater facility improvements. The performance assurance shall remain in effect until released by the City. A final inspection shall be conducted by the City upon completion of the work included in the approved Site Stormwater Management Plan or Drainage Plan to determine if the completed work is constructed

in accordance with the plan(s). At a minimum, all of the following must be complete prior to release of the performance assurance:

1. Construction is completed on all public improvements required for the stormwater drainage and management system to operate. Each component of the stormwater system must have been inspected and accepted by the City, including all compaction, pipeline video inspections, and plastic pipe deflection testing.

2. The City has inspected and accepted the public improvements and the owner has submitted a maintenance assurance (letter of commitment, maintenance bond, or cash deposit, as approved by the City Manager or his/her designee). The amount of the maintenance assurance shall be for ten (10) percent of the cost of construction of the public improvements, excluding the cost of landscaping. The assurance shall be for a period of not less than one year from the date of completion of construction.

3. For projects with landscaping, the landscaping has been installed and accepted by the City. A two-year landscaping maintenance assurance has been submitted and accepted by the City. The amount of the assurance shall be fifty (50) percent of the cost of construction of the landscaping features.

4. All onsite and off-site easements as required by the City are granted to the City and recorded with the Lane County Deeds and Records Office.

5. The post construction erosion control is completed.

6. All required record drawings are submitted.

**9-5-6-2: INSPECTION:**

A. A City representative shall inspect the stormwater project as necessary and shall check materials, equipment, and the construction of the project to determine whether the work is proceeding in accordance with the approved plans and the requirements of this Code. The purpose of these inspections is to monitor compliance with City construction standards and the inspections are for the benefit of the City. The City does not provide the primary inspection for the project, and only provides a level of inspection necessary to monitor the quality of work being performed by others. The City's role in making inspections is not supervisory and the City has no responsibility, by virtue of such inspections, for any construction means or methods or compliance with safety requirements that remain the responsibility of the Contractor.

**9-5-7: MISCELLANEOUS PROVISIONS:**

**9-5-7-1: TECHNICAL EQUIVALENCY:**

A. The City may grant a technical deviation from the requirements of this Code if there are exceptional circumstances applicable to the project such that the provisions of the Code will result in unnecessary hardship and not fulfill the intent and objectives of the Code. The costs to comply with the requirements of this Code shall not be considered as justification for a technical equivalency.

B. To be approved, the proposed technical equivalency shall meet the following conditions:

1. The technical equivalency complies with the development conditions imposed on the project.

2. The granting of a technical equivalency will produce compensating or comparable results that are in the public interest.

3. The granting of a technical equivalency will meet the objectives of safety, function, appearance, environmental protection, and maintainability based on sound engineering judgment.

4. The City shall make written findings supporting the determination of technical equivalency.

C. A written request for a technical equivalency shall be required and shall state the specific equivalency sought and the reasons, with supporting data, for their granting. The request shall include descriptions, drawings, calculations and any other information that is necessary to evaluate the proposed equivalency. A technical equivalency shall only be granted when the applicant can show that an unnecessary hardship exists that is unique to the project or the property.

D. The City may have the technical equivalency proposal reviewed by an engineer licensed by the State of Oregon. The City reserves the right to select the engineer to perform the evaluation. The City will take the recommendation of the engineer under consideration as part of the technical equivalency review process. The applicant shall pay for the cost of the engineering review.

**9-5-7-2: PENALTIES:**

A. Upon determination that a violation of this Code has occurred the owner shall be given a written notice of the violations and the time in which to correct the deficiencies.

B. If construction violations of the approved plan are occurring, an immediate stop work order may be issued by the City. If the City issues a stop work order, the City must show cause within forty-eight (48) hours.

C. Any person violating this Code or any part thereof, including failing to stop work upon order, shall upon conviction thereof, be fined not more than one thousand dollars or imprisoned not more than thirty (30) days for each offense. Each separate interval of 24 hours, or every day, such violations shall be continued, committed or existing, shall constitute a new and separate offense and be punished for each separate period of violation.

D. The City Attorney shall institute appropriate actions or proceedings at law or equity for the enforcement of this Code or to correct violations of this Code.

**9-5-7-3: CONFLICT WITH OTHER LAWS:**

A. Whenever the provisions of this Code potentially conflict with any other Code, the requirements of the more restrictive Code shall prevail.

**9-5-7-4: SEVERABILITY:**

A. If any term, requirement or provision of this Code or the application of this Code to any person or circumstance shall, to any extent, be invalid or unenforceable, the reminder of this Code shall be valid and be enforced to the fullest extent permitted by law.

**9-5-7-5: LIABILITY:**

A. Neither the approval of a plan under the provisions of this Code nor the compliance with the provisions of this Code shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor shall it impose any liability upon the City for damage to any person or property.

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Adopted by Ord. No. 10, Series 2005
Corrections made 1/7/2008 to Code
Sections 9-5-2-2-B & C and 9-5-2-3-B-10 amended by Ordinance 9, 2009 (11-2-09)
Ord. No. 3, Series 2010 amended Section 9-5-1-5
Sections 9-5-1-2, 9-5-1-6, 9-5-1-7, 9-5-2, 9-5-2-4, 9-5-3-1, 9-5-3-2, 9-5-3-3, 9-5-4-1, 9-5-4-2, 9-5-5-1 and 9-5-5-2 amended, and Section 9-5-1-8 added, and Section 9-5-2-1, 9-5-2-3 deleted and Sections 9-5-2-2-B & 9-5-2-2-C moved to Section 9-5-2-1 by Ord. No. 18, Series 2011 effective September 19, 2011
Definitions and Section 9-5-3-3 amended by Ord. No. 2, Series 2013 effective October 5, 2013

TITLE 9
CHAPTER 6

# STREET MAINTENANCE FEE

SECTION:


9-6-1: Creation and Purpose
9-6-2: Definitions
9-6-3: Administrative Officers Designated
9-6-4: Street Maintenance Fees Allocated to the Street Maintenance Fee Fund
9-6-5: Determination of Street Maintenance Fee
9-6-6: Determination of Amount, Billing and Collection of Fee
9-6-7: Waiver of Fees in Case of Vacancy
9-6-8: Administrative Provisions and Appeals
9-6-9: Administrative Policies
9-6-10: Penalty
9-6-11: Severability


**9-6-1: CREATION AND PURPOSE:** A street maintenance fee is created and imposed for the purpose of maintenance of City Streets. The street maintenance fee shall be paid by the responsible party for each occupied unit of real property. The purposes of the street maintenance fee are to charge for the service the City provides in maintaining public streets and to ensure that maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

**9-6-2: DEFINITIONS:** As used in this chapter, the following shall mean:

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|---|---|
| PUBLIC WORKS DIRECTOR | The Public Works Director or the Public Works Director's designee |
| DEVELOPED PROPERTY OR DEVELOPED USE | A parcel or legal portion of real property, on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage. |
| FINANCE DIRECTOR | The Finance & Information Services Director or designee |
| RESIDENTIAL PROPERTY | Property that is used primarily for personal domestic accommodation, including single family, multi-family residential property and group homes, but not including hotels and motels. |
| NONRESIDENTIAL PROPERTY | Property that is not primarily used for personal domestic accommodation. Nonresidential property includes industrial, commercial, institutional, hotel and motel, and other nonresidential uses. |
| STREET FUNCTIONAL CLASSIFICATION | Street classifications as described in the Florence Transportation System Plan.<br>a. Arterials are intended to serve high volumes of traffic, particularly through traffic, at relatively high speeds. They also serve truck movements and typically emphasize traffic movement over local land access.<br>b. Collectors serve traffic from the local street system and distribute it to the arterial street system. These roadways provide a balance between traffic movement and land access, and are designed to facilitate traffic circulation throughout the City.<br>c. Local Streets provide land access and carry locally generated traffic at relatively low speeds to the collector street system. Local streets provide connectivity through neighborhoods. |
| PARKING SPACE REQUIREMENT | The minimum off-street vehicle parking requirement as stated in the Minimum and Maximum Off-Street Vehicle and Bicycle Parking Requirements in the Florence Community Development Code. |

| | |
|---|---|
| PAVEMENT MAINTENANCE PROGRAM (PMP) | An annual program of corrective and preventative maintenance on City of Florence streets funded by the street maintenance fee (SMF). The program helps to extend the life of the pavement structure by various means such as, pavement overlaying, slurry sealing, or complete removal and replacement of asphalt. |
| OCCUPIED UNIT | Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example, an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use is not considered an occupied unit. |
| RESPONSIBLE PARTY | The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the City's water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a City utility bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the City. |
| STREET MAINTENANCE | Any action to maintain City streets, including repair, renewal, resurfacing, replacement and reconstruction. Street maintenance does not include the construction of new streets or street lighting. Street maintenance shall include resurfacing of existing streets, repair or replacement of curb and gutter where they exist, repair or replacement of the entire existing street structural section, repair or replacement of existing street shoulders, pavement markers, striping and other street markings, repair or replacement of existing channelization devices, adjustment of existing utilities to match finish grades, and any other related work within the existing streets. |

**9-6-3: ADMINISTRATIVE OFFICERS DESIGNATED:**

A. Except as provided in subsections (B) and (C) of this section, the Pubic Works Director shall be responsible for the administration of this chapter. The Public Works Director shall be responsible for developing administrative procedures for this chapter, administration of fees, and for the purposes of establishing the fee for a specific occupied unit, the consideration and assignment of categories of use, and parking space requirements subject to appeal in accordance with this chapter.

B. The Public Works Director shall be responsible for developing and maintaining street maintenance programs for the maintenance of City streets and, subject to City Budget Committee review and City Council approval, allocation and expenditure of budget resources for street system maintenance in accordance with this chapter.

C. The Finance Director shall be responsible for the collection and calculation of fees and the appeals process under this chapter.

**9-6-4: STREET MAINTENANCE FEES ALLOCATED TO THE STREET MAINTENANCE FEE FUND:**

A. All street maintenance fees received shall be deposited to the street maintenance fee fund or other fund dedicated to the operation and maintenance of the City street system. The street maintenance fee fund shall be used for street maintenance. Other revenue sources may also be used for street maintenance. Amounts in the street maintenance fee fund may be invested by the Finance Director

in accordance with State law. Earnings from such investments shall be dedicated to the street maintenance fee fund.

B. The street maintenance fee fund shall not be used for other governmental or proprietary purposes of the City, except to pay for an equitable share of the City's overhead costs including accounting, management and other costs related to management and operation of the street maintenance program. Engineering design, pavement evaluation, construction management, and other related costs, including project advertisements for bid, in the implementation of the street maintenance projects shall also be considered as being used for street maintenance.

**9-6-5: DETERMINATION OF STREET MAINTENANCE FEE:**

A. The street maintenance fee shall be established based on the following:

1. The City's five-year maintenance and reconstruction plan for corrective and preventative maintenance of the City's street infrastructure.

2. For residential property, the fee shall be charged on a per unit basis.

3. For nonresidential property, the fee shall be charges on a per unit basis.

B. The street maintenance fee rates shall be established by Council resolution.

C. The street maintenance fee will be adjusted, as necessary, according to the Engineering News Record 20-City Construction Cost index ("Index") average based on a two-year rolling average of the indices.

D. The program shall be reviewed annually as part of the City's budget process.

E. Following each review of the program, the Finance Director shall review the revenue received from the new rates after a full year of collection to determine if the annual revenues meet the annual funding level set from the updated five-year street maintenance plan. The Finance Director shall report the findings of that review to City Council and may make recommendations on any potential fee increases or decreases based on that review. Any unspent funds will be placed in a reserve fund.

**9-6-6: DETERMINATION OF AMOUNT, BILLING AND COLLECTION OF FEE:**

A. For the purpose of establishing the fee, the minimum required number of parking spaces or the number of fueling positions for each occupied unit of nonresidential property shall be determined by the Public Works Director. For uses not explicitly listed in the Florence Municipal Code as to required parking, the Public Works Director shall assign the use to the similar category with the most similar impact on the transportation system, considering relevant information such as:

1. The size of the site and the building;

2. The number of employees;

3. Other developed sites with similar use.

B. The Public Works Director shall establish the amount of street maintenance fee payable for each unit of nonresidential property and shall inform the Finance Director of the amount. The amount payable shall be re-determined if there is a change in use or development. All redeterminations based on a change in use or development shall be prospective only. The Finance Director shall charge the per-unit street maintenance fee to the responsible party for each occupied unit of residential property.

C. The street maintenance fee shall be billed to and collected from the responsible party for each occupied unit. Billings shall be included as part of the water and sewer bill for occupied units utilizing City water and/or sewer. All such bills shall be rendered regularly by the Finance Director and shall become due and payable upon receipt.

D. Collections from utility customers will be applied first to interest and penalties, then proportionately among the various charges for utility services and street maintenance.

E. An account is delinquent if the street maintenance fee is not paid by the due date shown on the utility bill. The City may follow the procedures for collection of delinquent accounts, including termination of water and/or sanitary sewer service.

**9-6-7: WAIVER OF FEES IN CASE OF VACANCY:**

A. When any developed property within the City becomes vacant as described in subsection (F) of this section, upon written application and approval by the Finance Director, the street maintenance fee shall thereafter not be billed and shall not be a charge against the property until such time as the property is no longer vacant.

B. The Finance Director is authorized to cause an investigation of any property for which an application for determination of vacancy is submitted to verify any of the information contained in the application. The Finance Director is further authorized to develop and use a standard form of application, provided it shall contain a space for verification of the information and the person signing such form affirms under penalty for false swearing the accuracy of the information provided therein.

C. When any developed property within the City has the utilities shut-off due to vacancy, the street maintenance fee shall be waived for the duration of the vacancy as described in subsection (F) of this section.

D. When any multi-occupied developed property within the City has one or more vacancies as described in subsection (F) of this section, the responsible party may request, in writing, a waiver of a portion of the street maintenance fee applicable to the vacant units.

E. When a change of use occurs, a vacancy has been filled, or a property is developed, it is the responsible party's responsibility to inform the City of any change so the proper street maintenance fees may be assessed. If the responsible party does not inform the City of any change, the City shall cancel the vacancy waiver and charge the responsible party as per subsection (F) of this section.

F. For purposes of this section, a unit of property is vacant when it has been continuously unoccupied and unused for at least 30 days. Fees shall be waived in accordance with this section only while the property remains vacant. The waiver duration is for six months. After six months, the responsible party must re-apply for the waiver if the property continues to be unoccupied and unused. The responsible party has 30 days to re-apply for the vacancy waiver after the expiration of the six month waiver. Any occupancy or use of the property terminates the waiver. As a penalty for not reporting a change in property vacancy, the City may charge any property two times the appropriate street maintenance fee, that would have been due without the vacancy waiver for prior billing periods, upon determining by whatever means that the property did not qualify for waiver of charges during the relevant time. The decision of the Finance Director under subsections (A), (B), and (F) of this section shall be final.

**9-6-8: ADMINISTRATIVE PROVISIONS AND APPEALS:**

A. The Public Works Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this chapter and to determine the appropriate charges thereunder. The responsible party for an occupied unit may request reconsideration of the Public Works Director's determination of the amount of the fee by submission of a written application to the Public Works Director. The application shall be submitted in sufficient detail to enable the Public Works Director to render a decision.

B. Within 30 days of the submission of a complete application requesting reconsideration of the amount of the street maintenance fee to be charged to an occupied unit, the Public Works Director shall render a decision on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria, which may include a land use decision that modifies the minimum required vehicle parking for an occupied unit. A copy of the decision shall be mailed to the person submitting the request. The Public Works

Director shall maintain a collection of such decisions. Decisions of the Public Works Director, which affect the amount of fee to be charged to a property, shall be forwarded to the Finance Director. Except as provided under subsection (D) of this section, the decision of the Public Works Director is final.

C. For the purpose of reviewing the fee, the Public Works Director may determine that the land use category is proper and that the fee charged is appropriate. However, if the decision of the Public Works Director results in a change in the category of land use, the Public Works Director shall, for the purpose of establishing the fee, assign a new use category, determine the appropriate fee for the category, and notify the Finance Director so that the appropriate change may be made in the applicable fee to be charged in the future. No back charges or refunds are required. The decision of the Public Works Director, under this subsection (C) only, may be appealed.

D. Any customer has the right to appeal the determination of the Public Works Director to the City Manager. The notice of appeal must be filed in writing within ten days of the date notice of change of category of land use and determination of fee is sent and must be filed with the office of the City Manager in writing stating:

1. The name and address of the appellant.

2. The address of the affected premises.

3. The nature of the determination being appealed.

4. The reason the determination is incorrect.

5. What the correct determination of the appeal should be.

An applicant who fails to file such a statement within the time permitted waives his or her objections and the appeal shall be dismissed. If notice of appeal is properly filed, except in an emergency, service shall not be discontinued or disconnected until there is a final determination of the appeal.

The City Manager shall proceed to hear and determine the appeal on the basis of the written statement and such additional evidence as the City Manager deems appropriate. The appellant shall be allowed at least ten (10) days' written notice of the hearing on appeal. At the hearing the appellant may present testimony and oral argument personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply. The decision of the City Manager shall be in writing and shall contain findings of fact that substantiate his/her decision. The decision shall be mailed to the appellant within 10 days of the completion of the appeal hearing. The decision of the City Manager shall be final.

**9-6-9: ADMINISTRATIVE POLICIES:**

A. The following policies shall apply to the operation and scope of this chapter:

1. Street maintenance fees imposed under this chapter shall apply to all occupied units, occupied units owned and/or occupied by local, state and federal governments, as well as property which may be entitled to exemption from or deferral of ad valorem property taxation.

2. Publicly owned park land, open spaces, and greenways shall not be subject to the street maintenance fee unless public off-street parking designed to accommodate the use of such areas is provided.

3. For newly developed properties, the fees imposed under this chapter shall become due and payable from and after the date when the developed property is occupied and connected to the public water or sanitary sewer system.

B. The Public Works Director is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative policies for adoption of the City Council by resolution. Administrative policies are intended to provide guidance to property

owners, subject to this chapter, as to its meaning or operation, consistent with policies expressed herein. Policies adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this chapter shall apply uniformly throughout the City.

C. If an occupied unit of nonresidential property is used for more than one use with different minimum parking requirements, the street maintenance fee shall be based on the required parking for the total of the various uses.

D. The determination or assignment of a use category and minimum number of parking spaces under the provisions of this chapter are strictly for the purpose of establishing a fee and are not statutory land use decisions.

**9-6-10: PENALTY:** In addition to any other remedy, violation of any provision of this chapter shall be a Class A Civil infraction. Each day of delinquency in paying the street maintenance fee constitutes a separate violation.

**9-6-11: SEVERABILITY:**

A. In the event any section, subsection, paragraph, sentence or phrase of this chapter or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected parties, then as to those certain properties, an exception or exceptions from the imposition of the street maintenance fee shall thereby be created and the remainder of the chapter and the fees imposed thereunder shall continue to apply to the remaining properties without interruption.

B. Nothing contained herein shall be construed as limiting the City's authority to levy special assessments in connection with public improvements pursuant to applicable law.

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Created by Ord. 2, Series 2012 - Effective July 4, 2012

**TITLE 10**

**ZONING REGULATIONS**


| SUBJECT | CHAPTER |
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# City of Florence, Oregon
# Zoning Map

City of Florence
Community Development
Department

City Limits
Urban Growth Boundary

## Zoning Districts

### Residential
- Low Density
- Medium Density
- Mobile Home/ Manufactured Home
- High Density
- Coast Village

### Commercial
- Neighborhood
- Mainstreet Area A
- Mainstreet Area B
- North Commercial
- Commercial
- Highway

### Mixed Use
- Old Town Area A
- Old Town Area B
- Old Town Area C
- Waterfront Marine
- Professional Office/ Institutional

### Industrial
- Marine
- Pacific View Business Park
- Limited Industrial
- Service Industrial

### Other
- Open Space
- Public Use Airport

### Estuaries
- Development Estuary
- Conservation Estuary
- Natural Estuary

### Other Overlays (See Separate Maps)
Coastal Overlay Zoning Map,
Drinking Water Protection,
Professional Office Sub-Areas
Residential,
Public Use Airport Safety
& Compatability

N
W E
S

*Map Date: 9/8/2020*

Feet
0 600 1,200 2,400


City of Florence
A City in Motion

250 Hwy 101 N.
Florence, OR 97439
(541) 997-8237


Property lines shown on this map have been gathered from various sources and generally reflect tax lot lines. These lines do not necessarily correspond to legal, buildable lots. Prior to making any decisions about a property, it is advised that you check with the City regarding the status of the

TITLE 10
CHAPTER 1

# ZONING ADMINISTRATION

SECTION:


10-1-1: Administrative Regulations
10-1-1-1: Short Title
10-1-1-2 Scope
10-1-1-3: Purpose
10-1-1-4: Application
10-1-1: Table: Summary of Approvals by Review Procedure
10-1-1-5: General Provisions
10-1-1-6: Types of Review Procedures
10-1-1-6-1: Type I Reviews
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10-1-1-8: Enforcement
10-1-2: Use Districts and Boundaries
10-1-2-1: Districts Established
10-1-2-2: Change of Boundaries on Zoning Map
10-1-2-3: Zoning of Annexed Areas
10-1-3: Amendments and Changes


## 10-1-1: ADMINISTRATIVE REGULATIONS:

**10-1-1-1: SHORT TITLE:** This Title shall be known as the "Zoning Ordinance of the City of Florence", and the map herein referred to shall be known as the "Zoning Map of the City of Florence". Said Map and all explanatory matter thereon are hereby adopted and made a part of this Title.

**10-1-1-2: SCOPE:** No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located, except as otherwise provided herein. No permit for the construction or alteration of any building shall be issued unless the plan, specifications and intended uses of such building conform in all respects with the provisions of this Title. The zoning regulations are not intended to abrogate, annul or impair easement, covenant or other agreements between parties, except that where the zoning regulations impose a greater restriction or higher standard than that required by such agreement, the zoning regulations shall control.

## 10-1-1-3: PURPOSE

A. **PURPOSE OF THIS TITLE:** The purpose of this Title is to establish for the City a Comprehensive Zoning Plan designed to protect and promote the public health, safety and welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

1. To fulfill the goals of Florence's Comprehensive Plan.

2. To advance the position of Florence as a regional center of commerce, industry, recreation and culture.

3. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open space.

4. Protect residential, commercial, industrial and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.

5. To insure preservation of adequate space for commercial, industrial and other activities necessary for a healthy economy.

6. To promote safe, fast and efficient movement of people and goods without sacrifice to the quality of Florence's environment, and to provide adequate off-street parking.

7. To achieve excellence and originality of design in future developments and to preserve the natural beauty of Florence's setting.

8. To stabilize expectations regarding future development of Florence, thereby providing a basis for wise decisions with respect to such development.

B. **PURPOSE OF THIS CHAPTER:** The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 10-1-1 provides a tool for determining the review procedure and the decision-making body for particular approvals.

**10-1-1-4: APPLICATION:**

A. Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City and include the information requested on the application form.

B. Applicability of Review Procedures**:** All land use and development permit applications, petitions, and approvals shall be decided by using the procedures contained in this chapter. The procedure type assigned to each application governs the decision making process for that permit or approval. There are four types of approval procedures as described in subsections 1-4 below. Table 10-1-1 lists some of the City's land use and development approvals and corresponding review procedures. Others are listed within their corresponding procedure sections.

1. **Type I (Ministerial) Procedure (Staff Review – Zoning Checklist)**. Type I decisions are made by the City Planning Director, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., clear and objective standards);

2. **Type II (Administrative) Review Procedure (Administrative/Staff Review with Notice).** Administrative decisions are made by the City Planning Director, with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Planning Director may refer an Administrative application to the Planning Commission for its review and decision in a public meeting;

3. **Type III (Quasi-Judicial) Procedure (Public Hearing).** Quasi-Judicial decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council; or in the case of a Quasi-Judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan), a Quasi-Judicial decision is made by the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve discretion but implement established policy.

4. **Type IV (Legislative) Procedure (Legislative Review).** Type IV procedures apply to legislative matters. The Legislative procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Legislative reviews are considered by the Planning Commission, who makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

C. Except when this Code provides to the contrary, an application or petition regulated by Titles 10 and 11 of this Code:

1. Shall be reviewed by the Planning Director within thirty (30) days to determine if the application is complete, including required drawings, plans, forms, and statements.

2. Shall identify the public facilities and access which may be needed to support the development, including but not limited to utilities and transportation infrastructure, and how they will be financed.

3. Shall identify off-site conditions including property lines, utility locations and sizes, existing and future streets, land uses, significant grade changes and natural features such as streams, wetlands and sand dunes for an area not less than three hundred (300) feet from the proposed application site that is one (1) acre or larger and within 100 feet from the proposed application site that is less than one (1) acre in size. (Amd. By Ord. No. 4, Series 2011)

4. Shall be accompanied by a digital copy or two hard copies of required plans of dimensions measuring 11 inches by 17 inches or less. Costs of document reduction may be passed onto the applicant.

5. Shall be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Additional information may be required under the specific application requirements for each approval.

6. Shall be accompanied by any other information deemed necessary by the City Planning Department.

7. Shall be accompanied by the required, non-refundable fee.

D. Evidence Submittal: Except when this Code expressly provides different time limitations, all documents and evidence relied upon by the applicant shall be submitted at least thirty (30) days prior to the hearing as provided in Subsection 10-1-1-6. (Amd. by Ord. No. 30 Series 1990)

E. Traffic Impact Studies:

1. Purpose of Traffic Impact Study: The purpose of a Traffic Impact Study is to determine:

a. The capacity and safety impacts a particular development will have on the City's transportation system;

b. Whether the development will meet the City's minimum transportation standards for roadway capacity and safety;

c. Mitigating measures necessary to alleviate the capacity and safety impacts so that minimum transportation standards are met; and

d. To implement section 660-012-0045(2)(e) of the State Transportation Planning Rule.

2. Criteria for Warranting a Traffic Impact Study: All traffic impact studies shall be prepared by a professional engineer in accordance with the requirements of the road authority. The City shall require a Traffic Impact Study (TIS) as part of an application for development; a proposed amendment to the Comprehensive Plan, zoning map, or zoning regulations; a change in use, or a change in access, if any of the following conditions are met:

   a. A change in zoning or plan amendment designation where there is an increase in traffic or a change in peak-hour traffic impact.

   b. Any proposed development or land use action that may have operational or safety concerns along its facility(s), as determined by the Planning Director in written findings.

   c. The addition of twenty-five (25) or more single family dwellings, or an intensification or change in land use that is estimated to increase traffic volume by 250 Average Daily Trips (ADT) or more, per the ITE Trip Generation Manual.

   d. A change in land use that may cause an increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicle trips or more per day

.

   e. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard.

   f. A change in internal traffic patterns that may cause safety problems, such as backed up onto a street or greater potential for traffic accidents.

   g. The Planning Director, based on written findings, determines that a TIS is necessary where traffic safety, street capacity, future planned facility, or multimodal concerns may be associated with the proposed development. The City will consider the following criteria when determining the need for a TIS:

      i. If there exists any current traffic problems, such as high accident location, poor roadway alignment, or capacity deficiency that are likely to be compounded as a result of the proposed development.

      ii. If it is anticipated the current or projected level of service of the roadway system in the vicinity of the development will exceed minimum standards.

      iii. If it is anticipated that adjacent neighborhoods or other areas will be adversely impacted by the proposed development.

   h. A road authority with jurisdiction within the City may also require a TIS under their own regulations and requirements.

3. Traffic Study Requirements: In the event the City determines a TIS is necessary, the information contained shall be in conformance with FCC 10-35-2-5, Traffic Study Requirements.

F. Initiation of applications:

1. Applications for approval under this Chapter may be initiated by:

   a. Order of City Council

   b. Resolution of the Planning Commission

   c. The City Planning Official or designee

   d. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

2. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

G. Changes in the law: Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

| **Table 10-1-1 – Summary of Approvals by Review Procedure*** <br> ***Not a comprehensive list of City procedures** | | |
|---|---|---|
| **Approvals**** | **Review Procedures** | **Applicable Regulations** |
| Zoning Checklist Review | Type I | Applicants are required to complete a Zoning Checklist before applying for any other permit or approval. See FCC 10-1-1-6. |
| Access to a Street | Type I | FCC 10-35 and the standards of the applicable roadway authority (City/County/ODOT) |
| Adjustment | Type II | See FCC 10-1-1-6 |
| Annexation | Type IV | See Oregon Revised Statute 222 & FCC 10-1-3 |
| Code Interpretation | Type I or II | See FCC 10-1-1-6. Routine interpretations that do not involve discretion & do not require a permit. |
| Code Text Amendment | Type IV | See FCC 10-1-1-6 and 10-1-3 |
| Comprehensive Plan Amendment | Type IV | See FCC 10-1-1-6 and 10-1-3 |
| Conditional Use Permit | Type III | See FCC 10-1-1-6 and 10-4 |
| Agency Review Form | Type I | See FCC 10-1-4 and FCC 10-1-1-6 |
| Flood Plain Permit | Type I | See FCC 10-1-4 and FCC 10-1-1-6 |
| Home Occupation | Type I | See FCC 10-1-4 and FCC 10-1-1-6 |
| Legal Lot Determination | Type I | See FCC 10-1-1-6 |
| Planned Unit Development <br> Preliminary Plan <br> Final Plan | Type III | See FCC 10-1-1-6 |
| Modification to Approval or Condition of Approval | Type I, II, or III | See FCC 10-1-1-6 |
| Non-Conforming Use or Structure, Expansion of | Type II or III | See FCC 10-1-1-6 |
| Partition or Re-plat of 2-3 lots <br> Tentative Plan <br> Final Plat | <br> Type II <br> Type I | <br> See FCC Title 11 <br> See FCC Title 11, FCC 10-1-1-6 |
| Property Line Adjustments, including Lot Consolidations | Type I | See FCC Title 11 |
| Site Design Review | Type II or III | See FCC 10-1-1-6 and FCC 10-6 |
| Subdivision or Replat of >3 lots <br> Tentative Plan <br> Final Plat | <br> Type II <br> Type I or III | <br> See FCC Title 11 <br> See FCC Title 11 and FCC 10-1-1-6 |
| Variance <br> Zoning District Map Change | Type III <br> Type III or IV | See FCC 10-5 <br> See FCC 10-1-1-6 and 10-1-3 |

** The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

## 10-1-1-5: GENERAL PROVISIONS

A. 120-Day Rule: The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – plan and code amendments – without an applicant under ORS 227.178.)

1. The City shall take final action on housing applications meeting the criteria of ORS 197.311 within 100 days.

B. Consolidation of proceedings: When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

1. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Planning Official or designee.

2. When proceedings are consolidated:

a. The notice shall identify each application to be decided.

b. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions.

c. When appropriate, separate findings shall be prepared for each application. Separate decisions shall be made on each application.

C. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

1. Acceptance. When an application is received by the City, the City Planning Official or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant.

a. The required forms.

b. The required, non-refundable fee.

c. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

2. Completeness.

a. Review and notification. After the application is accepted, the City Planning Official or designee shall review the application for completeness. If the application is incomplete, the City Planning Official or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days from the date that the application was submitted to submit the missing information. Applications which have been deemed incomplete and for which the applicant has not submitted required information or formally

refused to submit additional information shall be deemed void on the 181st day after original submittal.

b. Application deemed complete for review. In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete upon the receipt by the City Planning Official or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Planning Official or designee in section 10-1-1-5-C-2-a, above.

c. Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.

d. Coordinated review. The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.

D. City Planning Official's Duties. The City Planning Official (Director) or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions.

2. Accept all development applications that comply with the requirements of this Chapter.

3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report and findings may also provide a recommended decision of: approval, denial; or approval with specific conditions that ensure conformance with the approval criteria.

4. Prepare a notice of the proposal decision:

a. In the case of an application subject to a Type I or II review process, the City Planning Official or designee shall make the staff report and all case-file materials available at the time that the notice of decision is issued.

b. In the case of an application subject to a hearing (Type III or IV process), the City Planning Official or designee shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 10-1-1-6-1 (Type I), 10-1-1-6-2 (Type II), 10-1-1-6-3 (Type III), or 10-1-1-6-4 (Type IV).

5. Administer the hearings process.

6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law.

7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and condition, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information, or documentation that was considered by the decision-maker(s) on the application.

8. Administer the appeals and review process.

E. Amended Decision Process.

1. The purpose of an amended decision process is to allow the City Planning Official or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The City Planning Official or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications to approved plans or conditions of approval requested by the application shall follow the procedures outlined in section 10-1-1-6. All other changes to decisions that are not modifications under 10-1-1-6 follow the appeal process.

F. Re-submittal of Application Following Denial. An application that has been denied, or an application that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 6 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Planning Official or designee.

**10-1-1-6: TYPES OF REVIEW PROCEDURES:**

**10-1-1-6-1 TYPE I REVIEWS - MINISTERIAL/STAFF REVIEW AND ZONING CHECKLIST:**

A. Type I (Ministerial/Staff Review): The City Planning Director or designee, without public notice and without a public hearing, makes Type I decisions through the staff review (over-the-counter) procedure. Type I decisions are those where City standards and criteria do not require the exercise of discretion (i.e., clear and objective standards). Decisions which require the exercise of discretion must be reviewed as part of procedure which includes public notice. Type I decisions include:

1. Access to a Street

2. Parking Lot Improvements, such as initial surfacing, striping, or changes to accesses or stormwater facilities, but not including parking lot resurfacing or restriping which meets current code requirements.

3. Building fascia changes to include but not limited to additions, substitutions, changes of windows, doors, fascia material, building, roof, and trim colors, awnings,

4. Property Line Adjustments, including lot consolidations

5. Final Plat (Partition or Subdivision)

6. Modification to an Approval or Condition of Approval

7. Legal Lot Determination

8. Home Occupations

9. Hazard Tree Removal

10. A change in the type and/or location of access-ways, drives or parking areas not affecting off-site traffic.

11. Landscape Plan Modifications that exclusively include one or more of the following:

    a. Plant or tree substitutions (e.g. shrub for shrub, tree for tree),

    b. Ground cover substitutions,

    c. Trading plant locations if planting beds remain the same, or

    d. Change in the location of planting beds (site plan) up to a maximum of 10% of the landscaping area. (Amended Ord. No. 9, Series 2009)

12. Change of use from a less intensive use to a greater intensive use, which does not increase the building's square footage and does not require more than five additional parking spaces.

13. Modification to an approved Design Review of a conforming use or structure up to and including 1,500 square feet or up to and including 25% of the building square footage, whichever is less.

14. Within the Limited Industrial District and Pacific View Business Park District: A change in setbacks or lot coverage by less than 10 percent provided the resulting setback or lot coverage does not exceed that allowed by the land use district.

15. A change in the type and/or location of access-ways, drives or parking areas not affecting off-site traffic.

16. Changes to or the addition of on-site stormwater facilities not reviewed as part of another process.

17. Cluster Housing in the High Density Residential District.

18. Other proposals that do not require the exercise of discretion.

B. Zoning Checklist: The City Planning Official reviews proposals requiring a staff review using a Zoning Checklist. The Zoning Checklist is a preliminary review that is intended to ensure a project proposal meets the basic requirements of Title 10 (Zoning) before more detailed plans are prepared and before the City authorizes the Building Official to issue a building permit.

C. Application Requirements: Approvals requiring Type I review, including Zoning Checklists, shall be made on forms provided by the City.

D. Requirements: The City shall not act upon an application for land use approval and a building permit shall not be issued until the City Planning Official has approved a Zoning Checklist for the proposed project.

E. Criteria and Decision: The City Planning Official's review of a Zoning Checklist is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit.

F. Effective Date. A Zoning Checklist decision is final on the date it is signed by the City Planning Director. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the State Land Use Board of Appeals. A Type I decision is the final decision of the City. It cannot be appealed to City officials through a Type I process.

**10-1-1-6-2: TYPE II REVIEWS – ADMINISTRATIVE REVIEWS:**

A. The Planning Director, or designated planning staff may make administrative decisions (limited land use). The Type II procedure is used when there are clear and objective approval criteria and applying City standards requires limited use of discretion.

B. Type II (Administrative) Decisions are based upon clear compliance with specific standards. Such decisions include, but are not limited to the following:

1. Vegetation clearing permits.

2. Change of use from a less intensive use to a greater intensive use, which does not increase the building's square footage and does not require more than five additional parking spaces.

3. Modification of a non-conforming use or structure up to and including 1,500 square feet or up to and including 25% of the building square footage, whichever is less.

4. An increase in residential density by less than 10 percent, provided the resulting density does not exceed that allowed by the land use district.

5. A change in setbacks or lot coverage by less than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district.

6. Type II review is required for modifications to an approved landscaping plan except those changes permitted under the ministerial process, provided the proposed landscaping plan is consistent with the intent and character of the original approval.

7. Special Use Permit

8. Type II Review is required for all new construction, expansions, change of use and remodels within the Limited Industrial District and Pacific View Business Park District, except certain changes may be approved as indicated under the ministerial process.

9. Adjustments as permitted in Title 10 Chapter 5.

10. Design Review for the following residential development types:

    a. Single-family attached dwellings in Medium Density Residential and Manufactured Home Park Districts.

    b. Multi-family residential development in the High Density Residential District.

    c. Second-floor residential development in the Old Town, Mainstreet, Commercial and North Commercial Districts.

11. Partitions, tentative plans, not utilizing Title 11 Chapter 7.

12. Subdivisions, tentative plans, not utilizing Title 11 Chapter 7.

13. Replats of recorded partition or subdivision plats, not utilizing Title 11 Chapter 7.

C. The Director may refer a request for administrative review to the Planning Commission/for decision. If such a referral is made, the request shall be scheduled on the next available Planning Commission agenda, providing that time allows and subject to proper notice requirements.

D. Notice - Information:

1. Type II Decisions: The City will post a notice on the subject property and provide Notice of Application to owners of property within 100 feet of the entire contiguous site for which the application is made. The list of property owners will be compiled from the most recent property tax assessment roll.

   a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the application shall be sent to the Oregon Department of Transportation.

2. Property Owner Notice shall:

   a. Provide a 14 day period of submission of written comments prior to the decision;

   b. List applicable criteria for the decision;

   c. Set forth the street address or other easily understood geographical reference to the subject property;

   d. State the place, date and time that comments are due, and the person to whom the comments should be addressed;

   e. State that copies of all evidence relied upon by the applicant are available for review at no cost, and that copies can be obtained at a reasonable cost;

   f. Include the name and phone number of local government representative to contact and the telephone number where additional information may be obtained.

E. Request for referral by the Planning Commission Chair: The Chair of the Planning Commission may, within the 14 days notice period, request that staff refer any application to the Planning Commission for review and decision.

F. Type II decision requirements: The Director's decision shall address all of the relevant approval criteria. Based on the criteria and the facts contained within the record, the Director shall approve with or without conditions or deny the request, permit or action.

G. Notice of Decision: A notice of the action or decision and right of appeal shall be given in writing to the applicant. Any party who submitted written testimony must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

H. Appeal process: As set forth in 10-1-1-7 or appealed by the Planning Commission.

I. Fee: A fee shall be established to cover at least direct costs of the application. (Ord. No. 15, 2002)

**10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:**

A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:

1. Limited land use decisions for non-residential uses made by staff, for which a request for referral to Planning Commission by the Planning Commission Chairperson or Planning Director has been made.

2. Change of use from a less intensive use to a greater intensive use, which does not increase the building's square footage, but requires more than five additional parking spaces.

3. Modification of greater than 1,500 square feet or greater than 25% of the building square footage, whichever is less.

4. An increase in residential density by more than 10 percent, or where the resulting density exceeds that allowed by the land use district.

5. New construction requiring Design Review by the Planning Commission.

6. Planned Unit Developments, preliminary and final plans.

7. Conditional Use Permits.

8. Variances.

9. Quasi-Judicial Zone Changes.

10. Other applications similar to those above which require notice to surrounding property owners and a public hearing.

B. Notification of Hearing:

1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

   a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.

   b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.

   c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).

   d. Notice shall be mailed to any person who submits a written request to receive notice.

   e. For appeals, the appellant and all persons who provided testimony in the original decision.

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:

a. Explain the nature of the application and the proposed use or uses which could be authorized;

b. List the applicable criteria from the ordinance and the plan that apply to the application at issue;

c. Set forth the street address or other easily understood geographical reference to the subject property;

d. State the date, time and location of the hearing;

e. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;

f. State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

g. State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;

h. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

i. Include the name of a local government representative to contact and the telephone number where additional information may be obtained.

D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.

E. Action by the Planning Commission:

1. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.

2. Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.

3. In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.

4. There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant. Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

G. Limitations on Refiling of Applications: Where an application has been denied, no new application for the same purpose shall be filed within six (6) months of the date the previous denial became final unless the Planning Commission can show good cause for granting permission to do so.

H. Consolidated Procedures: Whenever possible an application for development such as a Conditional Use, Variance, or other action requiring Planning Commission approvals be consolidated to provide faster service to the applicant. (ORS 227.175(2)), (Amd. by Ord. No. 4, Series 2011)

**10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)**

A. A legislative change in zoning district boundaries, in the text of this Title, (Title 10), Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.

B. Pre-Application Conference: A pre-application conference is required for all Type IV applications initiated by a party other than the City of Florence.

C. Timing of Requests: The City Council may establish a calendar for the purpose of accepting Type IV requests only at designated times. The City Council may initiate its own legislative proposals at any time.

D. Notice of Hearing:

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).

2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:

a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and mailed to:

1. Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment.

2. Any affected government agency.

3. Any person who requests notice in writing.

4. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

5. Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.

b. At least 10 days before the scheduled Planning Commission hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.

c. The City Planning Official or designee shall:

1. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection.

2. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and zoning code amendments at least 35 days before the first evidentiary hearing.

3. Content of notices. The mailed and published notices shall include the following information:

a. The number and title of the file containing the application, and the address and telephone number of the City Planning Official or designee's office where additional information about the application can be obtained.

b. The proposed site location, if any.

c. A description of the proposed site and the proposal and the place where all relevant materials and information may be obtained or reviewed.

d. The time(s), place(s), and date(s) of the public hearing(s).

e. A statement that public oral or written testimony is invited.

f. Each mailed notice required by this section shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Florence Zoning Code requires that if you receive this notice that it shall be promptly forwarded to the purchaser.

4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:

a. Personal notice is deemed given where the notice is deposited with the United States Postal Service.

b. Published notice is deemed given on the date it is published.

5. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development. The City shall also provide notice to all persons as required by other applicable laws. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

E. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

**10-1-1-7: APPEALS:** Under this Title, any limited land use or quasi-judicial decision may be appealed in accordance with the procedure listed below. Administrative decisions may be appealed to the Planning Commission. Planning Commission decisions may be appealed to the City Council.

A. A notice of intent to appeal must be filed by an affected party, which includes persons testifying orally or in written form at the hearing held on the matter.

B. Such appeal shall be initiated within twelve (12) calendar days of the date of the mailing of the decision by filing written notice of appeal with the City of Florence Community Development Department. The person filing the notice of intent to appeal shall also certify the date that a copy of the notice was delivered or mailed by first class mail postage prepaid to all other affected parties. If an appeal is not received by the city no later than 4:00 pm of the 12th day after the notice of decision is mailed, the decision shall be final.

C. If the applicant has signed an "Agreement of Acceptance" and there is no other party who could appeal the decision, the appeal period is waived.

D. The written petition on appeal shall include:

1. A statement of the interest of the petitioner to determine standing as an affected party.

2. The date of the decision of the initial action.

3. The specific errors, if any, made in the decision of the initial action and the grounds therefore.

4. The action requested of the Planning Commission or Council and the grounds therefore.

5. A certification of the date that a copy of the written petition on appeal was delivered or mailed by first class mail postage prepaid to all affected parties.

E. The review of the initial action shall be confined to the issues raised upon appeal and be based on the record of the proceeding below, which shall include:

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

2. All materials submitted by the City staff with respect to the application.

3. The minutes of the hearing (if applicable).

4. The Findings on which the decision is based.

5. The notice of intent to appeal or the requests for review and the written petitions on appeal.

6. Argument by the parties or their legal representatives.

F. The Body hearing the appeal may affirm, reverse or amend the decision and may reasonably grant approval subject to conditions necessary to carry out the Comprehensive Plan and ordinances. The Council may also refer the matter back to the Planning Commission for additional information. When rendering its decision, the Body hearing the appeal shall make findings based on the record before it and any testimony or other evidence received by it.

G. Whenever two members of the City Council submit to the Community Development Department a written request for review within twelve (12) days of the date of the mailing of the Planning Commission decision, the Council shall review the decision of the Planning Commission. Each request for review shall identify the issues that the affected parties are to address. The Community Development Department shall deliver or mail by first class mail a copy of the requests for review to all affected parties and to the other members of the Council. Such requests for review shall be considered an appeal, with all affected parties allowed an opportunity to submit written petitions on appeal within the time specified in paragraph A of this subsection. Each person filing a written petition on appeal shall be heard by the Council. The Council shall review the record to determine whether there is sufficient evidence to support the findings, whether the finds are sufficient to support the Planning Commission decision, and where appropriate, whether the decision of the Commission is a proper interpretation of the applicable ordinances.

H. Any action or decision by the City Council arising from an appeal, except a referral back to the Planning Commission, shall be final and conclusive.

I. The Council, by resolution shall establish a schedule of filing fees for all appeals from final decisions of the Planning Commission. Council shall use the following criteria in establishing such a fee schedule; that the fee charged bear some relation to the City's cost in processing the appeal; and that the fee or fees charged be consistent in amount with fees charged by similar municipalities or agencies. (Amd. by Ord. No. 30, Series 1990).

**10-1-1-8: ENFORCEMENT:**

A. Enforcement Responsibility: It shall be the duty of the City Manager and/or Building Official to see that this Title is enforced through the proper legal channels. There shall be no permit issued for the construction or alteration of any building, or part thereof, unless the plans, specifications and intended use of such building conforms in all respects to the provisions of this Title.

B. Abatement: Any use which is established, operated, erected, moved, altered, enlarged or maintained contrary to the zoning regulations shall be, and is hereby declared to be unlawful and a public nuisance and may be abated as such. (Ord. 625, 6-30-80).

C. Final Action on Permits: Final action on permit applications and zone changes shall take place within 120 days of filing a complete application, except where the applicant requests a longer time, in compliance with ORS 227.178. (Amd. by Ord. No. 30, Series 1990).

**10-1-2: USE DISTRICTS AND BOUNDARIES:**

**10-1-2-1: DISTRICTS ESTABLISHED:** For the purpose of this Title, the City is hereby divided into the zoning districts, as established within this Title 10.

**10-1-2-2: CHANGE OF BOUNDARIES ON ZONING MAP:** The basic purpose of this Title is to indicate the zoning districts into which the City is divided and to set forth the uses permitted in each zone. The zoning districts are shown on the Zoning Map which is an integral part of this Title. The map shall be prepared from base maps which clearly indicate property lines as well as lot, block and street lines. Once adopted, one copy of the Zoning Map shall be filed with the City Recorder and never destroyed or altered in any way. Amendments to the map (zone boundary changes) shall be indicated on subsequent maps, dated and filed with the map originally adopted. Each map shall bear the signature of the Planning Commission chairman who shall testify to their authenticity. (Amd. by Ord. 30, 1990).

**10-1-2-3: ZONING OF ANNEXED AREAS:** The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

**10-1-3: AMENDMENTS AND CHANGES:**

A. Purpose: As the Comprehensive Plan for the City is periodically reviewed and revised, there will be a need for changes of the zoning district boundaries and the various regulations of this Title. Such changes or amendments shall be made in accordance with the procedures in this Section.

B. Type III (Quasi-Judicial) Changes:

1. Initiation: A quasi-judicial zoning change and related Comprehensive Plan changes may be initiated by application of a property owner within the affected area, by a person having substantial ownership interest in the property, by resolution of the Planning Commission or motion of the City Council, and also by individual citizens or citizen groups during Plan update as provided in The Comprehensive Plan.

2. Application Fees: When proceedings are initiated by a property owner, filing fees shall be collected. The schedule of application fees shall be established by the City Council by resolution. The fee charged shall be no more than the average cost of providing service.

3. Notice and Public Hearing: Notice and public hearing for quasi-judicial changes to this Code and the Comprehensive Plan shall be in accordance with Code Section 10-1-1-6.

4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.

C. Type IV (Legislative) Changes:

1. Initiation: A legislative change in zoning district boundaries, in the text of this Title, (Title 10), Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.

2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect. (Amd. by Ord. 30, Series 1990).

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Amended by Ord. No. 15, Series 1988
Amended by Ord. No. 18, Series 1990
Amended by Ord. No. 30, Series 1990
Amended by Ord. No. 7, Series 1994
Amended by Ord. No. 13, Series 2002
Amended by Ord. No. 15, Series 2002
Amended by Ord. No. 26, Series 2008 – See Exhibit B
Amended by Ord. No. 10, Series 2009 – See Exhibit C
Amended by Ord. No. 9, Series 2009 – See Exhibit G
Amended by Ord. No. 4, Series 2010 – See Exhibit C (effective 4-5-10)
Amended by Ord. No. 2, Series 2011 (effective 3-11-11)
Sections 10-1-1-4, 10-1-1-5, and 10-1-4 Amended by Ord. No. 4, Series 2011 – See Exhibit 4E (effective 4-22-11)
Section 10-1-4 “Dwelling” & “Recreational Vehicle” Amended by Ord. No. 21, Series 2011 – See Exhibit C (effective 1-5-12)
Section 10-1-1-4-D, 10-1-1-5-B-1-a and 10-1-1-6-D-1-a Amended by Ord. No. 5, Series 2012 – See Exhibit C (effective 1-16-13)
Section 10-1-1-6, 10-1-1-7, and 10-1-5 Amended by Ord. No. 3, Series 2013 – See Exhibit B (effective 7-31-13)
Section 10-1-4 “Lighting” added by Ord. No. 12, Series 2014
Section 10-1-4 amended by Ord. No. 1, Series 2015 (effective 3-17-15)
Sections 10-1-1-3, -1-1-4, -1-1-5, -1-1-6, and 10-1-3 amended, and Sections 10-1-4 and 10-1-5 deleted by Ord. 11, Series 2016 (effective 11-16-16)
Section 10-1-1-5 amended by Ord. No. 4, Series 2018 (effective 6-21-18)
Table 10-1-1 and Sections 10-1-1-6-1, 10-1-1-6-2-B, 10-1-1-6-3-A and 10-1-1-4-B amended by Ord. No. 7, series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 2

# GENERAL ZONING PROVISIONS

SECTION:


10-2-1: Conformance and Permits
10-2-2: Similar Uses
10-2-3: Building Setback Requirements
10-2-4: Height
10-2-5: Completion of Buildings
10-2-6: Who May Apply
10-2-7: Contract Purchasers Deemed Owners
10-2-8: Guarantee of Performance
10-2-9: Siting Emergency Housing
10-2-10: Public Uses
10-2-11: Exemption From Partitioning Requirements
10-2-12: Uses and Activities Permitted in All Zones
10-2-13: Definitions
10-2-14: Land Use Category Definitions


**10-2-1: CONFORMANCE AND PERMITS:** No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the district in which such building, structure or land is located and there only after applying for and securing all permits and licenses required by all laws and ordinances of the City.

**10-2-2: SIMILAR USES:** When the term "other uses similar to the above" is mentioned, it shall be deemed to mean other uses which, in the judgment of the Planning Commission, are similar to and not more objectionable to the general welfare than the uses listed in the same section.

**10-2-3: BUILDING SETBACK REQUIREMENTS:** When the Master Road Plan or Zoning Plan indicate that a right of way will be widened, the setbacks required (front, side and rear yards) shall be measured from the proposed expanded right of way.

A. Front Yard: Where front yards are required, no buildings or structures shall be hereafter erected or altered so that any portion thereof shall extend into the required front yard; except that eaves, cornices, steps, terraces, platforms and porches having no roof covering and being not over three and one-half feet (3 1/2') high may be built within a front yard.

B. Side Yards:

1. No building or structure shall be hereafter erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated under the district or zone classification, except that eaves or cornices may extend over the required side yard for a distance of not more than two feet (2').

2. The Planning Commission may, upon the joint request of the owners of the adjoining property, permit the erection of private garages, or other buildings, except buildings housing animals, upon or immediately adjacent to the division line between the two (2) properties after an examination of the location and findings have revealed that the granting of such permission will not be unduly detrimental to adjacent and surrounding property nor the district in which such permission is granted. The foregoing provision shall be limited to the life of the structure or structures for which the permit is issued.

**10-2-4: HEIGHT:** Roof structures such as housing for elevators, tanks, ventilating fans, towers, steeples, flagpoles, chimneys, smokestacks, wireless masts or similar structures may exceed the height limit herein prescribed.

**10-2-5: COMPLETION OF BUILDINGS:** Nothing in this Title shall require any change of plans, construction, alteration or designated use of a building upon which construction has actually begun any time previous to the effective date hereof and the ground story framework of which, including the second tier of beams, shall have been completed. However, such entire building must be completed in accordance with the original plans within one year from the date of commencing construction, to be in compliance with this Title.

**10-2-6: WHO MAY APPLY:** In general, only the owner of a subject property may apply for action by the Planning Commission under the provisions of this Title. Others may also apply for action as long as the owner has indicated consent with the application by either signing the application or by submitting a letter or lease to that effect. An individual who has entered into an earnest money agreement to buy a property is considered to have an ownership interest for the purposes of this Title.

**10-2-7: CONTRACT PURCHASERS DEEMED OWNERS:** A person or persons purchasing property under contract, for the purpose of this Title, shall be deemed to be the owner or owners of the property covered by the contract. The City may require satisfactory evidence of such contract of purchase.

**10-2-8: GUARANTEE OF PERFORMANCE:** The City may require that a cash deposit, surety bond or other such guarantee be posted to insure that full and faithful performance by the parties involved.

**10-2-9: SITING EMERGENCY HOUSING:**

A. In the event of a disaster situation, the City Council may designate sites or allow the siting of RVs, motorhomes, park models, and similar self-contained mobile structures in areas in which these uses were previously excluded, to provide housing on a temporary basis for disaster victims and relief workers until said conditions have been alleviated as determined by the City Manager.

B. The City Council may allow emergency shelter by any nonprofit organization or religious institution entity when low temperatures and adverse weather conditions endanger human life.

**10-2-10: PUBLIC USES:** Land within any zoning district which is designated public in the Florence Comprehensive Plan shall be limited to uses which are consistent with that land use designation. Where public uses are designated in the plan and are implemented as a conditional use, such uses shall be permitted with the requirement of development standards by the City as provided for in the conditional use section of this Title.[3] (Ord. 669, 5-17-82)

**10-2-11: EXEMPTION FROM PARTITIONING REQUIREMENTS:** Public road and highway right-of-way acquisitions are exempt from the minor land partition regulations of this ordinance, providing the remainder of the property meets minimum lot size and setback requirements.*

**10-2-12: USES AND ACTIVITIES PERMITTED IN ALL ZONES:** The following uses and activities are permitted in all zones without review unless specifically required otherwise:

A. Operation, maintenance, repair or preservation of public roads and highway facilities, including, but not limited to sewer, water line, electrical power, or telephone or television cable system;

B. Operation, maintenance, and repair of existing transportation facilities identified in the Transportation System Plan, such as bicycle, pedestrian, port, airport and rail facilities, and major regional pipelines and terminals;

C. Authorization of construction and the construction of facilities and improvements identified in the Transportation System Plan or other Public Facilities Plan, where the improvements are consistent with clear and objective dimensional standards; and

D. Changes to the frequency of transit or airport service.

E. Exceptions: The following uses and activities require land use approval:

1. Reconstruction or modification of an historic building or other historic structure.

2. Development that requires acquisition of additional property other than the following widening of a public road or highway right-of-way.

   (a) Right-of-way identified for acquisition on an official map or that is consistent with an established special setback.

   * Oregon Attorney General OP-5715, August 23, 1984 states that a county may exempt highway right-of-way acquisitions from the county's land partition regulations except those that partition land located in "exclusive farm use zones" established under ORS 215.203 to 215.263.

   (b) A minor right-of-way acquisition to permit public road or highway safety improvement or modernization that complies with Section 10-2-12.

3. Temporary location of industrial activities, such as sand and gravel extraction or processing and asphalt or concrete batch plants in, or adjacent to, residential development or sensitive resource areas.

4. Development or activities involving reconstruction or modernization in a location identified as environmentally or culturally sensitive, such as floodplains, estuarine areas, wetlands, and archeological sites.

**10-2-13: DEFINITIONS:** For the purpose of this Title, certain words, terms and phrases are defined below. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this Title" is used herewith it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted. Definition contained in the Florence Comprehensive Plan shall also be used to define terms used in this Title of the Florence City Code, and, where conflicts exist, the terms used in this Code shall apply to the respective Code requirements. Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

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| ABUT | Contiguous to; for example, two (2) lots with a common property line are considered to be abutting. |
| ACCESS | The place, means or way by which pedestrians or vehicles shall have safe, adequate and useable ingress and egress to a property, use or parking space. |
| ACCESS EASEMENT | An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access cross property under separate ownership from the parcel being provided access. **Cross access** is a service drive providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites. |
| ACCESSORY BUILDING | Any detached subordinate building the use of which is incidental, appropriate and subordinate to that of the main building. |

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| ACCESSORY DWELLING | An accessory building specifically designed and permitted as an additional dwelling, which is incidental, appropriate, and subordinate to a primary dwelling on a property. Accessory dwelling units or ADUs may be part of the same structure as the primary dwelling as an interior dwelling unit, attached dwelling unit, or a detached dwelling unit on the same lot. Also known as a secondary dwelling unit, granny-flat, or in-law suite. |
| ACCESSWAYS | A walkway or multi-use pathway providing a through connection for pedestrians between two streets, between two lots, or between a development and adjoining public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walk way on public or private property (i.e., with a public access easement). |
| AFFORDABLE HOUSING | Dwellings available for rent or purchase, with or without government assistance, by households who meet applicable maximum income limits, not to exceed 80 percent of the Lane County median income, adjusted for family size, as determined based on data from the United States Department of Housing and Urban Development or its successor agency, and in a manner so that no more than 40 percent of the household's gross income will be spent on rent and utilities or on home loan or mortgage payments, amortized interest, property taxes, insurance, and condominium or association fees, if any. |
| AFFORDABLE HOUSING UNIT | A dwelling that meets the definition of affordable housing. |
| AGED PERSON | An individual 65 years of age or older. (Ord. 711, 1-24-84) |
| ALLEY | A narrow passage through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street. |
| ALTER | Any change, addition or modification of construction or occupancy of a building or structure. |
| ALTER THE ESTUARY | Actions which would potentially alter the estuarine ecosystem include dredging, fill, in-water structures, riprap, log storage, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-land disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. |
| ALTERATION | For the purpose of administering Chapters 7, 18, 19, and 24, alteration shall mean any human-caused change in the environment, including physical, topographic, hydraulic, biological, or other similar environmental changes, or changes which affect water quality. |
| ALTERED SHORELANDS | Include shorelines with bulkheads, seawalls, riprap, or other physical structures, but do not include earthen, vegetated dikes. |
| AMENDMENT | A change in the wording, context or substance of this Title, or a change in the zone boundaries or area district boundaries upon the zoning map. |
| APARTMENT | See "Dwelling, Multiple" |

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| ARTERIAL STREET | The highest order classification of streets; includes highways and other major streets with limited or no direct access from adjoining properties. |
| AREAS MANAGED FOR WATER DEPENDENT ACTIVITIES | The Federal Navigation channel, the north jetty, and the estuary where it is adjacent to Water Dependent Sites. |
| AWNING | Any stationary structure, permanent or demountable, other than a window awning, for the purpose of providing shelter from the sun and rain and having a roof with supports and not more than one wall or storage cabinet substituting for a wall. |
| BASE ZONING DISTRICT | The zoning district applied to individual properties as depicted on the City of Florence Zoning Map. The base zoning district may underlie an Overlay Zoning District, as described in the definition for Overlay District. "Single-family Residential" is an example of a base zoning district. |
| BASEMENT | A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half (1/2) its height is above the average level of the adjoining ground. |
| BED AND BREAKFAST | A Bed and Breakfast facility means a single-family dwelling containing rooms for rent in accordance with Title 10, Chapter 4 (Conditional Uses). |
| BICYCLE FACILITY | There are different types of bicycle facilities: In general, a bicycle facility is a public or private way designed for and dedicated to bicycle use. It may consist of a road, a lane within or on the shoulder of a road, a path, multi-use path, or other way that is specifically designated for bicycle travel or shared bicycle/pedestrian travel. |
| BOARD | The Florence Planning Commission or "Florence Design Review Board". |
| BOARDING HOUSE | A building with a single kitchen where lodging, with or without meals, is provided for compensation for 10 or fewer occupants, not open to transient and/or overnight guests, in contradistinction to hotels and motels open to transients and/or overnight guests, but, a Boarding House / Dormitory is not occupied as a single-family unit and it shall not include assisted living facilities, or senior housing, group care homes, homes for the aged or nursing homes. |
| BRIDGE CROSSINGS | The portion of a bridge spanning a waterway not including supporting structures or fill located in the waterway or adjacent wetlands. |
| BRIDGE CROSSING SUPPORT STRUCTURES | Piers, piling, and similar structures necessary to support a bridge span but not including fill for causeways or approaches. |
| BUFFER ZONE | A physical setback from a sensitive area used to protect the water quality, the aquatic and riparian wildlife communities, and the habitat value within the sensitive area. The start of the buffer starts at the edge of the defined channel (bank full stage) for streams/rivers, delineated wetland boundary, delineated spring boundary, or average high water for lakes. |

BUILDABLE AREA — The portion of a development site not required by this Title or specific conditions, as a yard, open space or easement.

BUILDING — Any temporary or permanent structure constructed and maintained for the support, shelter, or enclosure of people, motor vehicles, animals, chattels or personal or real property of any kind. The words “building” and “structure” shall be synonymous.

BUILDING HEIGHT — The vertical distance from the average finished grade at the front of a building to the highest point of the coping of a flat roof or to the deck line of a mansard roof or the peak height of the highest gable of a pitch, shed, or hip roof.

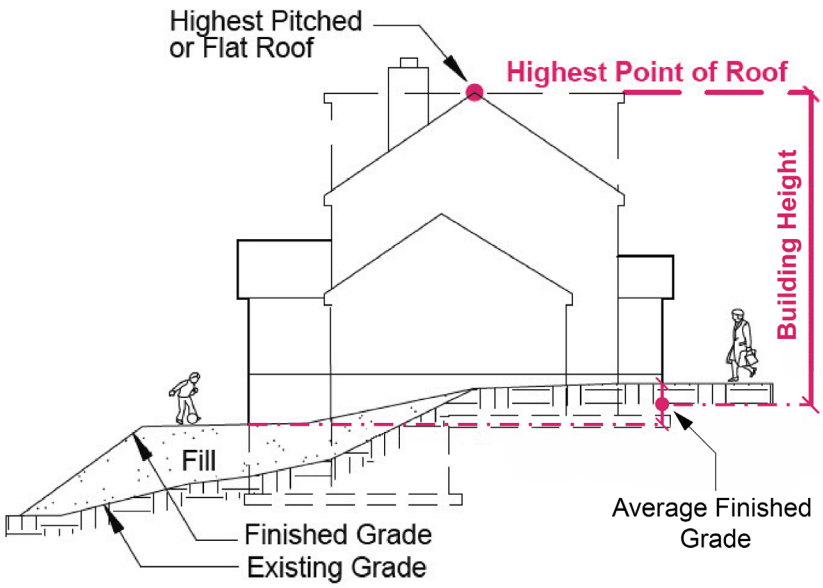


Figure 10-2-13-1: An illustration depicting building height.
Image courtesy of the City of Bellevue, WA.

BULKHEAD — A structure or partition to retain or prevent sliding of the land. A secondary purpose is to protect the upland against damage from wave action.

BURN TO LEARN — A training burn exercise that allows firefighters to practice tactics and strategies under controlled conditions.

CALIPER — Diameter of the trunk of a tree measured 6 inches above the ground (up to and including 4 inch caliper size).

CARPORT — A stationary structure consisting of a roof, its supports, not more than one wall, or storage cabinets substituting for a wall, used to shelter motor vehicles, recreation vehicles or boats.

CARRYING CAPACITY — Level of use which can be accommodated and continued without irreversible impairment of natural resources productivity, the ecosystem and the quality of air, land, and water resources.

CEMETERY — Land uses or intended to be used for the burial of the dead or dedicated for such purposes, including columbarium, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

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| CHURCH | A building together with its accessory buildings and uses, where persons regularly assemble for worship and which is maintained and controlled by a religious body organized to sustain public worship. |
| CITY | The City of Florence, Oregon, and its officials or authorized agents. |
| CITY RECORDER | As used in this Title and Title 11, the person so designated by the City Manager. |
| CLINIC | Single or multiple offices of physicians, surgeons, dentists, chiropractors, osteopaths, optometrists, ophthalmologists and other members of the healing arts, including a dispensary in each such building to handle merchandise of a nature customarily prescribed by the occupants in connection with their practices. |
| CLINIC, SMALL ANIMAL | A business establishment in which veterinary services are rendered to small domestic pets on an outpatient basis with overnight boarding allowed. |
| CLUB | Any organization, group or association supported by the members thereof, the purpose of which is to render a service but not carried on as a business. |
| COASTAL LAKES | Lakes in the coastal zone that are bordered by a dune formation or that have a direct hydrologic surface or subsurface connection with saltwater. |
| COASTAL SHORELANDS | Those areas immediately adjacent to the ocean, all estuaries and associated wetlands, and all coastal lakes. |
| COASTAL STREAM | Any stream within the coastal zone. |
| COLLECTOR | A type of street that serves traffic within commercial, industrial, and residential neighborhood areas, connecting local neighborhood or district streets to the arterial network and is part of the street grid system. |
| COMMISSION | The Florence Planning Commission |
| COMPREHENSIVE PLAN | The current adopted Comprehensive Plan for the City of Florence. |
| CONSERVE | To manage in a manner which avoids wasteful or destructive uses and provides for future availability. |
| CORNER LOT | See “Lot Types” |
| COTTAGE | A small, detached dwelling clustered around a central outdoor common space. |
| CLUSTER HOUSING | A cluster of dwellings on a lot. Cluster housing provides common outdoor spaces and common community facilities. |
| COURT OR COURTYARD | An open unoccupied space, other than a yard, on the same lot with a building. |

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| CROSSWALK | A path marked off on a street to indicate where pedestrians should cross. |
| CUTBANKS | River terraces possessing steep slopes and subject to erosion and sloughing. Very active erosion usually occurs where the active flow of the main channel is directed toward the bank. |
| DEDICATE / DEDICATION | The gift of land or an easement by a private person or entity to the City as part of, and a condition of, a real estate development. The City must accept the dedication before it is complete. The owner of the land does not retain any rights that are inconsistent with the complete exercise and enjoyment of the public uses to which the property has been committed. (Ord. 2, Series 2011) |
| DAY NURSERY | An institution, establishment or place in which are commonly received at one time three (3) or more children not of common parentage, under the age of six (6) years, for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward. |
| DEFLATION PLAIN | The broad interdune area which is wind-scoured to the level of the summer water table. |
| DENSITY | Density, Gross: The number of dwelling units per each acre of land, including areas devoted to dedicated streets, neighborhood parks, sidewalks, and other public facilities.<br><br>Density, Net: The number of dwelling units per each acre of land, excluding from the acreage dedicated streets, neighborhood parks, sidewalks, and other public facilities. |
| DEVELOP | To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access. “Develop” also includes, but is not limited to, new building, building alterations or additions, site improvements, or a change in use. |
| DEVELOPMENT | The act, process or result of developing. |
| DIAMETER BREAST HEIGHT (DBH) | Diameter of the trunk of a tree measured at 4.5 feet above the ground |
| DIVERSITY | The variety of natural, environmental, economic, and social resources, values, benefits, and activities. |
| DOCK | A deck, whether floating or on pilings, that serves as a landing place, recreational facility, etc. |
| DOLPHIN | A cluster of piles. |
| DORMITORY | One or more buildings used principally for sleeping purposes by occupants for more than 30 continuous days where such building is, related to an educational or pubic institution. One common kitchen and some common gathering rooms for social purposes may also be provided. |

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| DRAINAGEWAY | The bed and banks of a waterway used to discharge surface waters from a given area. It also includes adjacent areas necessary to preserve and maintain the drainage channel. |
| DRIVEWAY | Unless otherwise specified in this Title, driveway means the area that provides vehicle access to a site from a street or that provides vehicular circulation between two or more noncontiguous parking areas. |
| DUNE | A hill or ridge of sand built up by the wind along sandy coasts. |
| DUNE, ACTIVE | A dune that migrates, grows and diminishes from the effect of wind and supply of sand. Active dunes include all open sand dunes, active hummocks, and active foredunes. |
| DUNE, CONDITIONALLY STABLE | A dune presently in a stable condition, but vulnerable to becoming active due to fragile vegetative cover. |
| DUNE, OLDER STABILIZED | A dune that is stable from wind erosion, and that has significant soil development and that may include diverse forest cover. They include older foredunes. |
| DUNE, OPEN SAND | A collective term for active, un-vegetated dune landforms. |
| DUNE, RECENTLY STABILIZED | A dune with sufficient vegetation to be stabilized from wind erosion, but with little, if any development of soil or cohesion of the sand under the vegetation. Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes, and younger stabilized dunes. |
| DUNES, YOUNGER STABLIZED | A wind-stable dune with weakly developed soils and vegetation. |
| DUNE COMPLEX | Various patterns of small dunes with partially stabilized intervening areas. |
| DUET | A Duplex as defined under ‘DWELLING, DUPLEX’ in which each unit is on a separate lot and can be owned separately. |
| DWELLING | A building or portion thereof which is occupied in whole or in part as a residence, either permanently or temporarily by one or more families; but excluding Coast Village, hotels, motels, and tourist courts; with permanent provision for living, sleeping, eating, food preparation, and sanitation. Dwellings include both buildings constructed on-site and manufactured homes. |
| DWELLING, ATTACHED | A dwelling that shares a common wall or walls, roof, or foundation with adjacent dwellings. Attached dwellings may be on a common lot or with each dwelling on its own lot. |
| DWELLING, DUPLEX | A building designated or used exclusively for the occupancy of two (2) families on a single lot living independently from each other and having separate facilities for each family as defined under “DWELLING” above. |

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| DWELLING, FOUR-PLEX / QUAD-PLEX | A building designed and used for occupancy by four (4) families on a single lot, all living independently of each other and having certain separate facilities for each family as defined under 'DWELLING' above. |
| DWELLING, MULTIPLE MULTI-FAMILY | A building designed and used for occupancy by five (5) or more families on a single lot, all living independently of each other and having certain separate facilities for each family as defined under "DWELLING" above and certain shared facilities such as laundry, open space and other amenities. |
| DWELLING, SECONDARY | See ACCESSORY DWELLING. |
| DWELLING, SINGLE-FAMILY DETACHED | A. A dwelling on a single lot either constructed on-site or a modular constructed in accordance with Oregon Building Codes and assembled on site, and designed or used exclusively for the occupancy of one family and having separate facilities for only one family as defined under "DWELLING" above; or<br><br>B. A manufactured home designed and used exclusively for the occupancy of one family as defined under "DWELLING" above and which is located and maintained in compliance with Section 10-12 of this Title.<br><br>C. Except as authorized in A and B of this definition, in determining compliance with the provisions and uses of this Code, a mobile home, manufactured home, or a modular resembling a mobile home or manufactured home, is not considered a single-family dwelling. (Ord. No. 7, Series 1994) |
| DWELLING, SINGLE-FAMILY ATTACHED | A dwelling constructed in a row of two or more attached dwellings, where each dwelling is located on its own lot and shares a common wall or walls, roof, or foundation with adjacent dwellings. Commonly referred to as a townhouse or row house. |
| DWELLING, TRI-PLEX | A building designed and used for occupancy by three (3) families on a single lot, all living independently of each other and having certain separate facilities for each family as defined under 'DWELLING' above. |
| EASEMENT, PUBLIC | A right of use of a property given by the owner to the City for public use, and accepted for such use by or on behalf of the public. (Ord. No. 2, Series 2011) |
| ECOSYSTEM | The living and non-living components of the environment which interact or function together, including plant and animal organisms, the physical environment, and the energy systems in which they exist. All the components of an ecosystem are inter-related. |
| ENCOURAGE | Stimulate; give help to; foster. |
| ENHANCEMENT | An action which results in a long-term improvement of existing functional characteristics and processes that is not the results of a creation or restoration action. |

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| ESSENTIAL FACILITIES | Buildings and facilities necessary for the provision of basic services to the community and immediate response in the event of emergencies. These facilities typically include (per ORS 455.446):<br>A. Hospitals and other medical facilities having surgery and emergency treatment areas;<br>B. Fire and police stations;<br>C. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;<br>D. Emergency vehicle shelters and garages;<br>E. Structures and equipment in emergency preparedness centers; and<br>F. Standby power generating equipment for essential facilities. |
| ESTUARY | The portion of the Siuslaw River that is semi-enclosed by land, connected with the open ocean, and within which salt water is usually diluted by freshwater derived from the land. The estuary includes: (a) estuarine water; (b) tidelands; (c) tidal marshes; and (d) submerged lands. The Siuslaw River's estuary extends upstream to the head of tidewater. |
| ESTUARINE IMPACT ASSESSMENT | An evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. The Estuarine Impact Assessment is required for Special Use Permits and Conditional Use Permits in the Natural Estuary and Conservation Estuary Zoning Districts, in place of a Resource Capabilities Assessment, when an Environmental Impact Statement (EIS) is required through the Corps of Engineers Section 10/404 permit process. |
| FAMILY | A person living alone or any of the following groups living together as a single non-profit unit and sharing common living area:<br>A. Any number of persons related by blood, marriage, adoption, guardianship or other duly-authorized custodial relations.<br>B. A maximum of 5 unrelated persons. |
| FILL | For the purposes of this Code and the Comprehensive Plan, the definition of fill shall be the definition used in the Statewide Planning Goals: The placement by man of sand, sediment, or other material, usually in submerged lands or wetlands, to create new uplands or raise the elevation of land.[a] |
| FINANCE OFFICER | As used in this Title and Title 11, the person so designated by the City Manager. |
| FLOODFRINGE | The area of the floodplain lying outside of the floodway, but subject to periodic inundation from flooding. |

[a] Note that the Army Corps of Engineers' (ACOE) and the Department of State Lands' (DSL) definitions are different from this Statewide Planning Goals definition and the definitions of this federal and other state agency have been interpreted to include pilings and riprap in the estuary.

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| FLOODPLAIN | The area adjoining a stream, tidal estuary or coast that is subject to regional flooding. |
| FLOOD, REGIONAL (100 YEAR) | A standard statistical calculation used by engineers to determine the probability of server flooding. It represents the largest flood which has a one-percent chance of occurring in any one year in an area as a result of periods of higher-than-normal rainfall or streamflows, extremely high tides, high winds, rapid snowmelt, natural stream blockages, tsunamis, or combinations thereof. |
| FLOODWAY | The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as “Regulatory Floodway.” |
| FOREDUNE, ACTIVE | An unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion, and growth from new sand deposits. Active foredunes may include areas with beach grass, and occur in sand spits and at river mouths as well as elsewhere. |
| FOREDUNE, CONDITIONALLY STABLE | An active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion. |
| FOREDUNE, OLDER | A conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development. |
| FOREST LANDS | See definition of commercial forest lands and uses in the Oregon Forest Practices Act and the Forest Lands Goal. |
| GARAGE, PRIVATE | A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles for the tenants, employees or owners of the property for which the parking spaces contained in or on said garage are required by this Title and are not open for use by the general public. |
| GARAGE, PUBLIC PARKING | A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons or clients as required by this Title, provided said parking spaces are clearly identified as free parking spaces for the building or use required to provide said spaces. |
| GARAGE, REPAIR | A building used for the storage, parking, care and repair of motor vehicles, or where such vehicles are kept for remuneration, hire or sale, provided the selling of motor fuel and oil for motor vehicles, shall not be conducted. |
| GEOLOGIC | Relating to the occurrence and properties of earth. Geologic hazards include faults, land and mudslides, and earthquakes. |
| GRADE (ADJOINING GROUND LEVEL) | The average of the finished ground level at the center of all walls of a building. If walls are parallel to and within five feet (5’) of a sidewalk, alley or other public way, the above ground level shall be measured at the elevation of the sidewalk, alley or public way. |
| GROIN | A small structure extending from a shore to protect a beach against erosion or to trap shifting sands. |

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| GROUNDWATER | Water in the zone of saturation beneath the surface of the earth. |
| GROUP CARE HOME | Any home or institution maintained and operated for the care of more than five (5) physically or mentally handicapped persons or aged persons and attendants residing at this address. (Ord. 711, 1-24-84) |
| HALF STORY | That part of any building wholly or partly within the roof frame and not occupying more than two-thirds (2/3) of the floor area immediately below it. |
| HARDPAN | A layer of hard soil usually formed by clay particles cemented by iron oxide or calcium carbonate. |
| HAZARDOUS FACILITY | Structures housing, supporting or containing sufficient quantities of toxic or explosive substances to be of danger to the safety of the public if released (per ORS 455.446). |
| HEADLANDS | Bluffs, promontories or points of high shoreland jutting out into the ocean, generally sloping abruptly into the water. Oregon headlands are generally identified in the report on Visual Resource Analysis of the Oregon Coastal Zone, OCCDC, 1974. |
| HISTORICAL RESOURCES | Those districts, sites, buildings, structures, and artifacts which have a relationship to events or conditions of the human past. (See Archaeological Resources definition). |
| HOME OCCUPATION | Any use customarily conducted entirely within a dwelling or accessory building and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which does not change the character thereof or does not adversely affect the uses permitted in the district of which it is a part. Home occupations are permitted by this Title, provided they conform with the following criteria: |

A. No employment of help other than the members of the resident family.

B. No use of material of mechanical equipment that is inconsistent with the residential character of the neighborhood.

C. No sales of products or services not produced on the premises.

D. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.

E. It shall not involve the use of commercial vehicles for delivery of materials to or from the premises.

F. No storage of materials/supplies outdoors.

G. It shall not involve the use of signs and/or structures other than those permitted in the district of which it is a part.

H. In no way shall the appearance of the structure be so altered or the conduct of the occupation within the structure be such that the structure may be reasonably recognized as serving a nonresidential use (either by Home Occupations color, materials, construction, lighting, signs, sounds, noises or vibrations).

I. There shall be no use of utilities or community facilities beyond that normal to residential purposes.

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| HOSPITAL | Any building or institution providing healing, curing and nursing care, and which maintains and operates facilities for the diagnoses, treatment and care of two (2) or more non-related individuals suffering from illness, injury or deformity or where obstetrical or other healing, curing and nursing care is rendered over a period exceeding twenty-four (24) hours. |
| HOSTEL | A building with dormitory accommodation and shared facilities used for transient residential purposes permitting up to twenty (20) occupants to live for not more than 30 continuous days. Hostels shall meet the requirements of the Oregon Building Code for maximum occupancy. |
| HOTEL | Any building or group of buildings used for transient residential purposes containing four (4) or more guest units with or without housekeeping facilities. |
| HUMMOCK, ACTIVE | Partially vegetated (usually with beach grass), circular, and elevated mounds of sand which are actively growing in size. |
| HYDRAULIC | Related to the movement or pressure of water. Hydraulic hazards are those associated with erosion or sedimentation caused by the action of water flowing in a river or streambed, or oceanic currents and waves. |
| HYDRAULIC PROCESSES | Actions resulting from the effect of moving water or water pressure on the bed, banks, and shorelands of water bodies (oceans, estuaries, streams, lakes, and rivers). |
| HYDROGRAPHY | The study, description and mapping of oceans, estuaries, rivers and lakes. |
| HYDROLOGIC | Relating to the occurrence and properties of water. Hydrologic hazards include flooding (the rise of water) as well as hydraulic hazards associated with the movement of water. |
| IMPACT | The consequences of a course of action; effect of a goal, guideline, plan or decision. |
| INSURE | Guarantee; make sure or certain something will happen. |
| INTEGRITY | The quality or state of being complete and functionally unimpaired; the wholeness or entirety of a body or system, including its parts, materials, and processes. The integrity of an ecosystem emphasizes the interrelatedness of all parts and the unity of its whole. |
| INTERDUNE AREA | Low-lying areas between higher sand landforms and which are generally under water during part of the year. (See also Deflation Plain.) |

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| INTERTIDAL | Between the levels of mean lower low tide (MLLT) and mean higher high tide (MHHT). |
| JETTY | A structure extending seaward from the mouth of a river designed to stabilize the rivermouth by preventing the buildup of material at the river's mouth, and to direct or confine the stream or tidal flow |
| KEY FACILITIES | Basic facilities that are primarily planned for by local government but which also may be provided by private enterprise and are essential to the support of more intensive development, including public schools, transportation, water supply, sewage and solid waste disposal. |
| LCDC | The Land Conservation and Development Commission of the State of Oregon. The members appointed by the Governor and confirmed by the Oregon Senate in accordance with the requirements of ORS 197.030. |
| LEVEL OF SERVICE | A quantitative standard for transportation facilities describing operational ("LOS") conditions. Level of Service may be described for intersections (signalized or unsignalized) or street segments (between signalized intersections). |
| LIGHTING | Refer to Chapter 37 of this Title for all definitions relating to lighting regulations. |
| LITTORAL DRIFT | The material moved, such as sand or gravel, in the littoral (shallow water nearshore) zone under the influence of waves and currents. |
| LOADING SPACE | An off-street space or berth on the same lot with a main building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which has access on a street or alley, or other appropriate means of access. |
| LOCAL STREET | A street primarily for access of abutting properties. |
| LOT | Land occupied or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Title and having frontage upon a street. |
| LOT AREA | The total area within the lot lines of a lot measured on a horizontal plane. |
| LOT COVERAGE | That portion of a lot which, when viewed directly from above, would be covered by buildings, access ways, parking spaces and surfaced areas. |
| LOT LINE | A. Front: The lot or parcel line abutting a street. For corner lots or parcels the lot or parcel front line is that with the narrowest street frontage except that, in the case of a lot or parcel which adjoins the point of intersections of two streets as defined in “Lot Type, Corner,” both lot or parcel lines are the front line. For double frontage lots or parcels the lot or parcel front line is that having frontage on a street which is so designated by the land divider and approved as part of a subdivision or partition as provided for in this Code. |

B. Rear: The property line which is opposite to and most distant from the front lot or parcel line. In the case of triangular shaped lot, the rear lot line for building purposes shall be assumed to be a line ten feet (10') in length within the lot, parallel to and at the maximum distance from the front lot line.

C. Side: Any property line which is not a front of rear lot line.

LOT MEASUREMENTS

A. Depth: The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

B. Width: The horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOT TYPES

A. Corner: A lot or development site bounded entirely by streets, or a lot having only one side not bounded by a street, or a lot which adjoins the point of intersections of two (2) or more streets and in which the interior angle formed by the extensions of the street lines in the direction which they take at their intersections with side lot lines forms an angle of one hundred thirty five degrees (135) or less. In the event that any street line is a curve at its point of intersection with a side lot line, the tangent to the curve at the point of intersection shall be considered the direction of the street line.

B. Double Frontage or Through: A lot development site other than a corner lot with frontage on more than one street. A lot or parcel having frontage on two (2) parallel or approximately parallel streets other than alleys.

C. Interior Lot: A lot or development site other than a corner having frontage only on one street. A lot or parcel having frontage only on one street.

D. Flag Lot: A lot or parcel that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

E. Butt Lot: A lot or parcel, the lot or parcel side line of which abuts the lot or parcel rear line of two (2) or more adjoining lots or parcels.

F. Key Lot: A lot or parcel the rear line of which abuts the lot side line of two (2) or more adjoining lots or parcels.

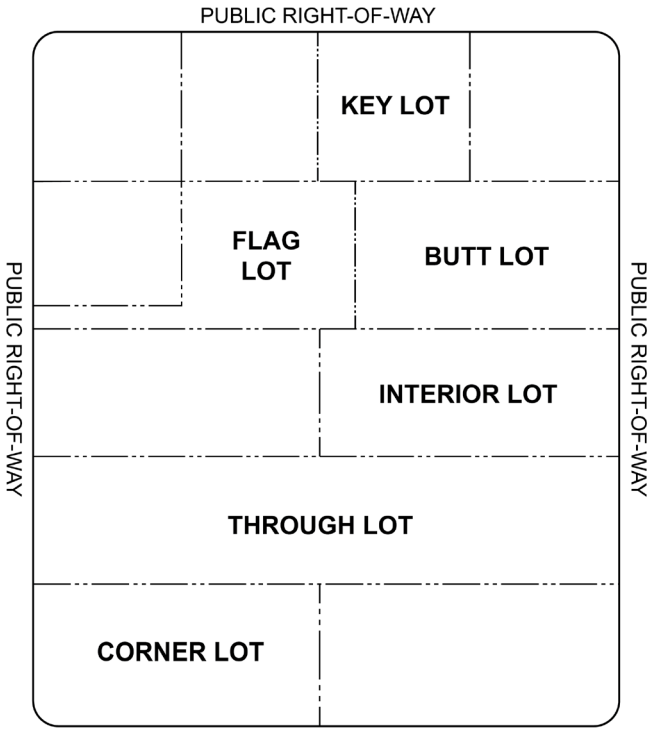


Figure 10-2-13-2: An illustration depicting lot types.

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| MAIN BUILDING | A building within which is conducted the principal use permitted on the lot, as provided by this Title. |
| MAIN CHANNEL | That part of a waterway which extends upstream from the entrance channel into the estuary proper (also called "inner channel"). All or segments of the main channel may be maintained by dredging. The main channel does not include auxiliary channels or waterways. |
| MAINTAIN | Support, keep, and continue in an existing state or condition without decline. |
| MANAGEMENT UNIT | A discrete geographic area, defined by biophysical characteristics and features, within which particular uses and activities are promoted, encouraged, protected, or enhanced, and others are discouraged, restricted, or prohibited. |
| MANUFACTURED HOME | A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty or more body feet in length, or when erected on site is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning and electrical systems herein. A manufactured home is a home built on or after June 15, 1976, to the standards and requirements of the National Manufactured Home Construction and Safety Standards Act of 1974 |
| MARKET RATE HOUSING UNIT | A single-family unit, or single space in a manufactured dwelling park, that does not qualify as affordable housing. |
| MEDICAL MARIJUANA FACILITY | A medical marijuana dispensary business required to register with the Oregon Health Authority under ORS 475.314. |

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| MINING | All or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. The term does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, onsite road construction or other onsite construction or non-surface impacts of underground mines. |
| MINOR NAVIGATIONAL IMPROVEMENTS | Alterations necessary to provide water access to existing or permitted uses in Conservation Management units, including dredging for access channels and for maintaining existing navigation but excluding fill and in-water navigational structures other than floating breakwaters or similar permeable wave barriers. |
| MITIGATION | The creation, restoration, or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats, and species diversity, unique features and water quality. |
| MOBILE HOME | A vehicle or structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, is intended for human occupancy and is being used for residential purposes which was built prior to June 15, 1976 under the State Mobile Home Code in effect at the time of construction. |
| MOBILE HOME/ MANUFACTURED HOME PARK | A place where four (4) or more mobile homes/manufactured homes are located within five hundred feet (500') of one another on a lot, tract or parcel of land under the same ownership. |
| MOBILE HOME SPACE | A plot of ground within a mobile home park that is designed for the accommodation of one mobile home |
| MODULAR BUILDING | A building constructed off-site which does not have axles or a frame, but which conforms to all local building codes. |
| MOTEL | See "Hotel". |
| MULTI-USE PATH | A paved 10 to 12-foot wide way that is physically separated from motorized vehicular traffic; shared with pedestrians, skaters, and other non-motorized users. (Ord. No. 2, Series 2011) |
| MULTI-USE PATHWAY | A transportation facility serving pedestrians, bicycles and, where allowed, equestrian usage. |
| MULTI-USE TRAIL | An unpaved path that accommodates pedestrians; shared with other non-motorized users. (Ord. No. 2, Series 2011) |
| NATURAL AREAS | Includes land and water that has substantially retained its natural character, which is an important habitat for plant, animal, or marine life. Such areas are not necessarily completely natural or undisturbed, but can be significant for the study of natural, historical, scientific, or paleontological features, or for the appreciation of natural features. |

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| NATURAL HAZARDS | Natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, groundwater, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas. |
| NATURAL RESOURCES | Air, land and water and the elements thereof which are valued for their existing and potential usefulness to humans. |
| NEIGHBORHOOD COMMERCIAL | The following uses are defined as neighborhood commercial: grocery stores or markets, banks, drugstores, restaurants (except drive-ins or walk-ups), variety stores, small specialty stores such as florist or bicycle shops, barber and beauty shops, laundromats, and day nurseries. In general, neighborhood commercial is intended to be a small scale, neighborhood shopping center with more than one business, although a single multi-purpose convenience store would also qualify. Neighborhood commercial is not intended to be combined with a residence or to be located in a converted residence or garage. A minimum lot size of twelve thousand (12,000) square feet is required. |
| NONCONFORMIN G USE | A building, structure or land use which lawfully existed at the time this Title became effective, but does not conform to the use regulations, setbacks, maximum lot coverage, or other provisions herein established for the district or zone in which it is located. |
| NON-STRUCTURAL EROSION CONTROL SOLUTIONS | Alternatives to erosion control structures, including, but not limited to, a combination of soils, sands, gravels and stone in conjunction with biodegradable protective materials and live plant materials. |
| OCCDC | Oregon Coastal Conservation and Development Commission created by ORS 191; existed from 1971 to 1975. Its work is continued by LCDC. |
| OCEAN FLOODING | The flooding of lowland areas by salt water owing to tidal action, storm surge, or tsunamis (seismic sea waves). Land forms subject to ocean flooding include beaches, marshes, coastal lowlands, and low-lying interdune areas. Areas of ocean flooding are mapped by the Federal Emergency Management Agency (FEMA). Ocean flooding includes areas of velocity flooding and associated shallow marine flooding. Ocean flooding is more specifically defined in the individual Chapters of this Plan as it pertains to the policies and objectives in the respective chapters. |
| OPEN SPACE | Any publicly or privately owned land that is retained in a substantially natural condition and incorporates an adjacent parkland improved for recreational uses such as, picnicking, nature interpretive trails or multi-use paths. Open spaces may also include seasonal lakes, lands protected as important natural resources such as wetlands or riverine areas, and lands used as buffers when such lands incorporate areas for the design features mentioned above. Open space does not include residential lots or yards, streets or parking areas. (Ord. No. 2, 2011) |
| OVERLAY ZONING DISTRICT | A zoning district that applies to property in addition to a “Base Zoning District.” In Title 10 of the Florence City Code, “Natural Resources Conservation Overlay District” is an example of an overlay zoning district and “Single-family Residential” is an example of a base zoning district. |

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| PARKING AREA PRIVATE | Private or publicly-owned property, other than streets or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, either free or for remuneration. Public parking areas may include parking lots which may be required by this Title for retail customers, patrons and clients. (Ord. 625, 6-30-80). |
| PARKING SPACE | A permanently maintained space with proper access for one automobile. (Ord. 669, 5-17- 82). |
| PARKLANDS | Provide for human development and enrichment, and include, but are not limited to: open space and scenic landscapes that provide a place for people to exercise and interact; active recreational lands; historical, archaeology and natural science resources that incorporate a combination of interpretive signage, trails, picnicking and seated areas, and viewing areas; sports and cultural facility areas; picnicking; trails; waterway use facilities; active and passive activities. (Ord. No. 2, Series 2011) |
| PIER | A structure, usually of open construction, extending out into the water from the shore, to serve as a landing place, recreational facility, etc., rather than to afford coastal protection. |
| PILE | A long, heavy timber or section of concrete or metal to be driven or jetted into the earth or seabed to serve as a support or protection. |
| PILING | A group of piles |
| PLANNING DIRECTOR OR DIRECTOR | As used in this Title and Title 11, the person so designated by the City Manager. |
| PUBLIC ACCESS EASEMENT | A public access easement is an easement granted to the public for all the purposes for which a public sidewalk may be used, including but not limited to, pedestrian and bicycle travel. |
| POLLUTION | The introduction of contaminants into an environment that causes instability, disorder, harm or discomfort to the ecosystem, i.e., physical systems or living organisms. |
| PRESERVE | To save from change or loss and reserve for a special purpose. |
| PROTECT | Save or shield from loss, destruction, or injury or for future intended use. |
| PROVIDE | Prepare, plan for, and supply what is needed. |
| PUBLIC FACILITIES AND SERVICES | Projects, activities and facilities which the City of Florence determines to be necessary for the public health, safety and welfare. |
| PUBLIC GAIN | The net gain from combined economic, social, and environmental effects which accrue to the public because of a use or activity and its subsequent resulting effects. |
| QUALITY | The degree of excellence or relative goodness. |

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| RECREATION | Any experience voluntarily engaged in largely during leisure (discretionary time) from which the individual derives satisfaction.<br><br>Coastal Recreation occurs in offshore ocean waters, estuaries, and streams, along beaches and bluffs, and in adjacent shorelands. It includes a variety of activities, from swimming, scuba diving, boating, fishing, hunting, and use of dune buggies, shell collecting, painting, wildlife observation, and sightseeing, to coastal resorts and water-oriented restaurants.<br><br>Low-Intensity Recreation does not require developed facilities and can be accommodated without change to the area or resource. For example, boating, hunting, hiking, wildlife photography, and beach or shore activities can be low-intensity recreation.<br><br>High-Intensity Recreation uses specially built facilities, or occurs in such density or form that it requires or results in a modification of the area or resource. Campgrounds, golf courses, public beaches, and marinas are examples of high-intensity recreation. |
| RECREATIONAL VEHICLE (RV) | A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes (except as permitted in Coast Village District) and has floor space of less than 400 square feet in setup mode, excluding built-in equipment, such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. |
| RECREATION NEEDS | Existing and future demand by citizens and visitors for recreation areas, facilities, and opportunities which can contribute to human health, development, and enrichment. (Ord. No. 2, Series 2011) |
| RELIGIOUS INSTITUTION | A building together with its accessory buildings and uses, where persons regularly assemble for worship and which is maintained and controlled by a religious body organized to sustain public worship or support religious activities or organizations. Accessory uses may include dwelling(s) for employees of the institution such as a parsonage or rectory. |
| RESIDENTIAL CARE HOME / ADULT FOSTER CARE | A residential facility registered under ORS 443.480 to 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. Staff persons required to meet state licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents. These homes are regulated the same as other residential uses. |
| RESIDENTIAL CARE FACILITY / NURSING HOME | A residential facility registered under ORS 443.480 to 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) or more individuals who need not be related. Staff persons required to meet licensing requirements are not counted in the number of facility residents and need not be related to each other or the residents. |

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| RESOURCE CAPABILITIES ASSESSMENT | An assessment used to determine if a use or activity is consistent with the resource capabilities of an area. The assessment is required for Special Use Permits and Conditional Use Permits in the Natural Estuary and Conservation Estuary Zoning Districts, except where an Estuarine Impact Assessment if required instead. In the Natural Estuary District, a use or activity is consistent with the resource capabilities when the resources of the area are able to assimilate the use or activity and its effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education. In the Conservation Estuary District, a use or activity is consistent with the resource capabilities when the resources of the area are able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture. |
| RESTING AND PASSING SPACE | A turnout from a trail or path, wheelchair rest spots, trash containers, landscape and/or shelter facilities or interpretive displays. (Ord. No. 2, Series 2011) |
| RESTORE | Revitalizing, returning, or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities, or catastrophic events. For the purposes of Goal 16, estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work began. The following are more specific definitions of active and passive restoration:<br><br><u>Active Restoration</u> involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, planting vegetation, or rebuilding deteriorated urban waterfront areas.<br><br><u>Passive Restoration</u> is the use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action. |
| RIGHT OF WAY | A public use area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency. |
| RIPARIAN | Of, pertaining to, or situated on the edge of the bank of a river or other body of water. |
| RIPRAP | A layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. In local usage, the similar use of other hard material, such as concrete rubble, is also frequently included as riprap. |
| ROOMING HOUSE | See "Boarding House". |

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| ROOT GUARDS | Tree root barriers commonly used in street tree applications to prevent mature tree roots from damaging surrounding walkways, streets and landscapes. |
| SALT MARSH | A tidal wetland supporting salt-tolerant vegetation. |
| SEAWALL | A structure separating land and water areas, primarily designed to prevent erosion and other damage due to wave action. See also BULKHEAD. |
| SEDENTARY | Attached firmly to the bottom, generally incapable of movement. |
| SEDIMENT | Any particulate matter that can be transported by fluid flow and which eventually is deposited. Sediments are most often transported by water (fluvial processes), transported by wind (aeolian processes), and glaciers. Beach sands and river channel deposits are examples of fluvial transport and deposition, though sediment also often settles out of slow-moving or standing water in lakes and oceans. Sand dunes are examples of aeolian transport and deposition. |
| SEDIMENTATION | The process of forming sediment in liquid: the process by which particles in suspension in a liquid form sediment. |
| SENSITIVE AREA | Natural streams (perennial or intermittent), rivers, including the estuary, lakes, or wetlands hydraulically connected by surface water to streams, rivers, or lakes and areas defined by the City of Florence's Local Wetlands and Riparian Inventory. Also, includes all areas that are protected for species as per areas designated by Oregon Department of Fish and Wildlife, Oregon Division of State Lands, National Marine Fisheries Service, United States Fish and Wildlife Service and Oregon Department of Transportation. |
| SERVICE STATION | A place or station selling petroleum products, motor fuel and oil for motor vehicles; servicing batteries; furnishing emergency or minor repairs and service, excluding painting, body work, steam cleaning, tire recapping and mechanical car washing; and at which accessory sales or incidental services are conducted. |
| SHOAL | A sandbank or reef creating shallow water, especially where it forms a hazard to shipping A shoal or sandbar (also called sandbank) is a somewhat linear landform within or extending into a body of water, typically composed of sand, silt, or small pebbles. A bar is characteristically long and narrow (linear) and develops where a stream or ocean current promotes deposition of granular material, resulting in localized shallowing (shoaling) of the water. |
| SHOALING | A decrease in water depth, especially near a shoreline. |
| SHORELINE | The boundary line between a body of water and the land, measured on tidal waters at mean higher high water, and on non-tidal waterways at the ordinary high-water mark. |
| SIGNIFICANT HABITAT AREAS | A land or water area where sustaining the natural resource characteristics is important or essential to the production and maintenance of aquatic life or wildlife populations. |
| SOCIAL CONSEQUENCES | The tangible and intangible effects upon people and their relationships with the community in which they live resulting from a particular action or decision. |

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| SPECIAL OCCUPANCY STRUCTURES | A class of structures particularly vulnerable to earthquakes and tsunamis due to the nature of their use or occupancy. These structures typically include (per ORS 455.446):<br>A. Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;<br>B. Buildings with a capacity of greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;<br>C. Buildings for colleges or adult education schools with a capacity of greater than 500 persons;<br>D. Medical facilities with 50 or more resident, incapacitated persons not included in subsection (a) through (c) of this paragraph;<br>E. Jails and detention facilities; and<br>F. All structures and occupancies with a capacity of greater than 5,000 persons. |
| SPECIAL USE PERMIT | The administrative approval of a use or activity based on criteria and standards set forth in the Florence City Code (as differentiated from a Conditional Use Permit, which requires public hearings and Planning Commission approval). |
| STORY | That portion of a building included between the upper surface of any floor and the upper surface of the floor next above or, for the topmost story, the ceiling above. |
| STREET | A public or private way, other than an alley, that is created to provide ingress or egress for vehicular traffic to one or more lots, parcels, areas or tracts of land; excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. A "road" or "street" includes the land between right-of-way lines, whether improved or unimproved. |
| STRUCTURE | See “Building.” For the purposes of administering Code Chapters 7, 18, 19, and 24, the definition shall also mean anything constructed, installed, or portable, the use of which requires a location on the ground, either above or below water. |
| SUBSTANCIAL IMPROVEMENT | Any repair, reconstruction, or improvement of a structure which exceeds 50 percent of the real market value of the structure. |
| SUBSTRATE | The medium upon which an organism lives and grows. The surface of the land or bottom of a water body. |
| SUBTIDAL | Below the level of mean lower low tide (MLLT). |

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| TEMPORARY ESTUARY ALTERATION | Dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by the Florence Comprehensive Plan. Temporary alterations may not be for more than three years and the affected area must be restored to its previous condition. Temporary alterations include: (1) alterations necessary for federally authorized navigation projects (e.g., access to dredged material disposal sites by barge or pipeline and staging areas or dredging for jetting maintenance), (2) alterations to establish mitigation sites, alterations for bridge construction or repair and for drilling or other exploratory operations, and (3) minor structures (such as blinds) necessary for research and educational observation. |
| TERRITORIAL SEA | The ocean and seafloor area from mean low water seaward three nautical miles. |
| TIDAL MARSH | Wetlands from lower high water (LHW) inland to the line of non-aquatic vegetation. |
| TOURIST COURT | See "Hotel". |
| TRADITIONAL CULTURAL PROPERTY | A place which is culturally significant because of its association with cultural practices or beliefs of a living community that are rooted in that community's history and that are important in maintaining the continuing cultural identity of the community. |
| TRANSITIONAL HOUSING | A congregate facility designed to provide housing to shelter families and individuals offered on a short-term basis. The facility may offer meals, lodging and associated services on site, aimed at helping people move towards self-sufficiency. Transitional facilities are not considered bed and breakfast inns / boarding houses, hotels or motels. |
| TSUNAMI INUNDATION MAPS (TIMs) | The map, or maps in the DOGAMI Tsunami Inundation Map (TIM) Series, published by the Oregon Department of Geology and Mineral Industries, which cover(s) the area within the City of Florence. |
| TSUNAMI VERTICAL EVACUATION STRUCTURE | A building or constructed earthen mound that is accessible to evacuees, has sufficient height to place evacuees above the level of tsunami inundation, and is designed and constructed with the strength and resiliency needed to withstand the effects of tsunami waves. |
| TYPE III BARRICADE | A portable or fixed device having three rails with appropriate markings that is used to control road users by closing, restricting, or delineating all or a portion of the right-of-way. The reflective sheeting shall be a minimum of High Intensity Prismatic or Diamond grade with a base color of orange. Design specifications for a Type III Barricade is provided in the Manual on Uniform Traffic Control Devices (MUTCD) by the Federal Highway Administration (FHWA). |
| USE | The habitual or customary activity occurring on the land or in a building thereon. |
| VISION CLEARANCE | A triangular area at an intersection; the space being defined by a line across the corner, the ends of which are on street lines or alley lines, an equal and specified distance from the corner and containing no planting, walls, structures or temporary or permanent obstruction from two and one-half feet (2 1/2') above the street grade to a height of eight feet (8'). |

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| WALKWAYS | A sidewalk or pathway, including accessways, providing a pedestrian connection that is improved to City standards, or to other roadway authority standards, as applicable. |
| WATER DEPENDENT SITES | Sites designated in the Florence Comprehensive Plan and zoned to provide for navigation and other identified needs for public, commercial, and industrial water-dependent uses, consistent with the level of development or alteration allowed by the Shallow Draft Development Oregon Estuary Classification. Two sites in the Florence UGB have been designated Water Dependent: the site zoned Marine along the estuary near the west edge of the UGB and the site zoned Waterfront Marine in Old Town. |
| WATER-DEPENDENT USE | A use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production, or source of water, where:<br><br>"Access" means physical contact with or use of the water;<br><br>"Requires" means the use either by its intrinsic nature (e.g., fishing navigation, boat moorage) or at the current level of technology cannot exist without water access;<br><br>"Water-borne transportation" means use of water access:<br><br>1) Which are themselves transportation (e.g., navigation);<br><br>2) Which require the receipt of shipment of goods by water; or<br><br>3) Which are necessary to support water-borne transportation (e.g. moorage fueling, servicing of watercraft, ships boats, etc. terminal and transfer facilities;<br><br>"Recreation" means water access for fishing, swimming, boating, etc. Recreation uses are water dependent only if use of the water is an integral part of the activity.<br><br>"Energy production" means uses which need quantities of water to produce energy directly (e.g. hydroelectric facilities, ocean thermal energy conversion);<br><br>"Source of water" means facilities for the appropriation of quantities of water for cooling, processing or other integral functions.<br>Typical examples of "water dependent uses" include the following:<br><br>1) "Industrial" – e.g. manufacturing to include boat building and repair; water-borne transportation, terminals, and support; energy production which needs quantities of water to produce energy directly; water intake structures for facilities needing quantities of water for cooling, processing, or more integral functions.<br><br>2) "Commercial" e.g., commercial fishing marinas and support; fish processing and sales; boat sales, rentals, and supplies.<br><br>3) "Recreational", e.g., recreational marinas, boat ramps and support.<br><br>4) Aquaculture |

5) Certain scientific and educational activities which, by their nature, require access to coastal waters – estuarine research activities and equipment mooring and support.

Examples of uses that are not "water dependent uses" include restaurants, hotels, motels, bed and breakfasts, residences, parking lots not associated with water dependent uses; and boardwalks

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| WATER ORIENTED | A use whose attraction to the public is enhanced by a view of or access to coastal waters. |
| WATER-RELATED | Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water-dependent or water-related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs. |
| WETLANDS | Land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semi-aquatic plant life. In marine and estuarine areas, wetlands are bounded at the lower extreme by extreme low water; in freshwater areas, by a depth of six feet. The areas below wetlands are submerged lands." |
| WRECKING YARD, MOTOR VEHICLES BUILDING MATERIALS | Any premises used for the storage, and dismantling or sale of either used motor vehicles, trailers, machinery or building materials or parts thereof. |
| YARD | An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein. |
| YARD, FRONT | An area lying between side lot lines, the depth of which is a specified horizontal distance between the street line and a line parallel thereto on the lot. |
| YARD, REAR | An area lying between side lot lines, the depth of which is a specified horizontal distance between the rear property line and a line parallel thereto on the lot. |
| YARD, SIDE | An area adjacent to any side lot line the depth of which is a specified horizontal distance measured at right angles to the side lot line and being parallel with said lot line. (Ord. 625, 6-30-80) (Amended Ord. No. 9, Series 2009) |

**10-2-14: LAND USE CATEGORY DEFINITIONS:** The following are land uses and activities grouped into use categories on the basis of common functional, product, or physical characteristics and defined as follows.

**Industrial Use Categories**

| | |
|---|---|
| INDUSTRIAL SERVICE | Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. |
| MANUFACTURING AND PRODUCTION | Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. |
| WAREHOUSE, FREIGHT MOVEMENT, AND DISTRIBUTION | Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. |
| WATER-RELATED INDUSTRIAL USE | Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Municipal waste-related industrial uses are those solely owned by, or in partnership with the City of Florence. |
| WHOLESALE SALES | Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer. |

**Commercial Use Categories**

| | |
|---|---|
| EDUCATIONAL SERVICES | Commercial Educational Service uses are characterized by activities conducted in an office setting and generally focusing on serving students with supplemental training, education, and/or tutoring. Some examples are nursing and medical training centers accessory to a hospital or college or an after school math and reading center. Educational service uses are distinct from college and school land use categories. |
| OFFICE | Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. |

| | |
|---|---|
| PARKING FACILITY | Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility may be a surface parking lot or structured parking garage. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Parking facility. |
| QUICK VEHICLE SERVICING | Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. The development will include a drive-through facility, the area where the service is performed (different than Vehicle Repair). Some examples are car washes, quick lubrication services and gas stations. |
| RETAIL SALES | Retail Sales firms are involved in the sale, lease or rent of new or used products to the general public. |
| RETAIL ENTERTAINMENT | Retail Entertainment firms provide consumer-oriented entertainment, activities or games to the general public. Some examples are game arcades, theaters and health clubs. |
| RETAIL SERVICE AND REPAIR | Retail Service firms provide personal services and/or provide product repair for consumer and business goods. Some examples are photographic studios, dance classes, locksmith and upholsterer (different than Quick Vehicle Servicing and Vehicle Repair). |
| VEHICLE REPAIR | Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed (different than Quick Vehicle Servicing). Some examples are auto repair or body shop, auto detailing and auto tire sales and mounting. |

**Institutional and Civic Use Categories**

| | |
|---|---|
| BASIC UTILITIES | Basic Utilities are infrastructure services that need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. Some examples are electrical substations, water storage facilities, sewer pump stations and bus stops. |
| COMMUNITY SERVICES | Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions but are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature. Some examples are libraries, museums and social service facilities. |

| | |
|---|---|
| DAYCARE | Daycare use includes day or evening care of two or more children outside of the children's homes, for a fee. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision. |
| PARKS AND OPEN AREAS | Parks and Open Areas are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. |

**Other Use Categories**

| | |
|---|---|
| OUTDOOR DISPLAY | The keeping, in an outdoor area, of merchandise or goods for purposes of sale or exhibit. |
| OUTDOOR STORAGE | The keeping, in an outdoor area, of material, supplies, or vehicles for purposes of storing or holding. |
| RADIO FREQUENCY TRANSMISSION FACILITIES | Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self-supporting, guyed, or mounted on poles or buildings. |
| REGIONAL UTILITY CORRIDORS AND RAIL LINES | This category includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, oil, water, sewage, communication signals, or other similar services on a regional level; utilities and easements for on-site infrastructure to serve development is not considered regional utility corridors. This category also includes railroad tracks and lines for the movement of trains. The land may be owned or leased by the railroad. |

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Amended by Ordinance No. 15, Series 1988
Amended by Ordinance No. 2, Series 2000
Amended by Ordinance No. 12, Series 2002
Sections 10-2-14 and 10-2-15 removed by Ordinance No. 9, Series 2009
Section 10-2-8 deleted and all subsequent sections renumbered by Ord. No. 4, Series 2011 (Exhibit 4E) effective 4-22-11
Section 10-2-9 amended by Ordinance No. 21, Series 2011 (exhibit D) – effective 1-5-12
Section 10-2-12 amended by Ordinance No. 5, Series 2012 (exhibit C) – effective 1-16-13
Section 10-2-6 Amended by Ord. No. 3, Series 2013 – See Exhibit B (effective 7-31-13)
Sections 10-2-13 and 10-2-14 amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Section 10-2-13 amended by Ord. No. 4, Series 2018 (effective 6-21-18)
Section 10-2-13 amended by Ord. No. 13, Series 2018 (effective 11-21-18)
Section 10-2-4, 10-2-9, 10-2-13 amended by Ord. 7, Series 2019 (effective 12-18-19)
Section 10-2-13 amended by Ord. No. 2, Series 2020 (effective 5-20-20)

TITLE 10
CHAPTER 3

# OFF-STREET PARKING AND LOADING

SECTION:

10-3-1: Purpose
10-3-2: General Provisions
10-3-3: Minimum Standards by Use
10-3-4: Minimum Required Parking by Use
Table: Minimum Required Parking By Use (Table 10-3-1)
10-3-5: Vehicle Parking - Minimum Accessible Parking
Table: Minimum Number of Accessible Parking Spaces (Table 10-3-2)
10-3-6: Common Facilities for Mixed Uses
10-3-7: Off-site parking
10-3-8: Parking Area Improvement Standards
10-3-9: Parking Stall Design and Minimum Dimensions
Table: Parking Area Layout (Table 10-3-3)
10-3-10: Bicycle Parking Requirements
10-3-11: Loading Areas

**10-3-1: PURPOSE:** The purpose of Chapter 3 is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the economic viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Because vehicle parking facilities occupy large amounts of land, they must be planned and designed carefully to use the land efficiently, minimize stormwater runoff, and maintain the visual character of the community. This Chapter recognizes that each development has unique parking needs and provides a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This Chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children as well as adults need safe and adequate spaces to park their bicycles throughout the community.

**10-3-2: GENERAL PROVISIONS:**

A. The provision for and maintenance of off-street parking and loading spaces are continuing obligations of the property owners. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.

B. At the time of new construction or enlargement or change in use of an existing structure within any district in the City, off-street parking spaces shall be provided as outlined in this Chapter, unless requirements are otherwise established by special review or City Council action. Additional parking spaces shall meet current code.

C. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Chapter.

D. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees, and shall not be used for storage of materials of any type.

E. Ingress and egress for parking and loading shall not endanger or impede the flow of traffic.

F. The required off-street parking for nonresidential uses shall not be used for loading and unloading operations during regular business hours.

G. Parking and Loading standards that are listed under specific zoning districts supersede the general requirements of this chapter.

H. Provisions of this Chapter shall not apply to any parking located in an organized parking district.

I. The provisions of this Chapter shall be in addition to the provisions for parking design and construction in FCC Title 9 Chapter 5 and, where there are conflicts, Title 9 Chapter 5 shall prevail.

**10-3-3: MINIMUM STANDARDS BY USE:** The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10-3-1. Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described below:

A. Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, and shared parking. Parking in driveways does not count toward required minimum parking. For single family dwellings, duets and duplexes, one parking space per unit may be provided on a driveway if the criteria in FCC 10-3-8 are met.

B. For non-residential uses where parking is available on-street, this parking shall count towards the minimum number of required parking spaces along all street frontages of the building where parking is available. Only useable spaces (i.e. those not blocking fire hydrants, mailboxes, etc.) shall count towards the minimum required number of parking spaces.

C. The minimum number of parking spaces may also be determined through a parking demand analysis prepared by the applicant and approved by the Planning Commission. This parking demand analysis may include an acceptable proposal for alternate modes of transportation, including a description of existing and proposed facilities and assurances that the use of the alternate modes of transportation will continue to reduce the need for on-site parking on an on-going basis. Examples of alternate modes include but are not limited to:

1. Transit-related parking reduction. The number of minimum parking spaces may be reduced by up to 10% if:

a. The proposal is located within a ¼ mile of an existing or planned transit route, and;

b. Transit-related amenities such as transit stops, pull-outs, shelters, park-and-ride lots, transit-oriented development, and transit service on an adjacent street are present or will be provided by the applicant.

**10-3-4: MINIMUM REQUIRED PARKING BY USE:** During the largest shift at peak season, fractional space requirements shall be counted as the next lower whole space (rounded down). Square footages will be taken from the gross floor area (measurements taken from exterior of building). Applicants may ask the Planning Commission for a reduction for parking spaces as part of their land use application. The applicant will have to provide the burden of evidence to justify the reduction proposed. The Planning Commission and/or staff may require the information be prepared by a registered traffic engineer. Table 10-3-1 lists the minimum parking spaces required by use, with a minimum no less than two (2) spaces for non-residential uses, plus additional space(s) as needed to meet the minimum accessible parking requirement.

**Table 10-3-1, Minimum Required Parking By Use:**

**A. Residential and Commercial Dwelling Types:**

| | |
|---|---|
| Single Family Dwelling<br>including attached and detached dwellings and manufactured homes | 2 spaces per dwelling unit on a single lot |
| Accessory Dwelling Units | 1 space per unit, see FCC 10-3-8 for additional standards |

| | |
|---|---|
| Duplex / Duet | 2 spaces per dwelling unit |
| Tri-plex of Quad-plex<br>Cluster Housing<br>Multiple-family dwelling<br>Studio & one bedroom units<br>Two-bedroom units<br>Three-bedroom units or larger | <br><br><br>1 space per unit<br>1 1/2 spaces per unit<br>2 spaces per unit |
| Mobile home / Manufactured home parks | 2 spaces per each mobile home, plus 1 space per each 4 mobile homes |
| Lodging: Motels, hotels<br>(see also Bed and Breakfast Inns) | 1 space per rental unit, hotels, etc. plus additional spaces as required for restaurants, gift shops, bars, public assembly rooms and other activities. |
| Hostels | 1 space per 4 occupancies provided and 1 bicycle space per 2 occupancies provided |
| Bed and Breakfast Inns | 1 space per Bedroom |
| Boarding houses and dormitories | 1 space per each 2 occupants at capacity. |
| Residential Care Facility / Nursing Home | 1 space per 2 beds |

**B. Institutions and Public Assembly Types:**

| | |
|---|---|
| Elementary, middle school and other children's day schools<br>Daycare, adult or child day care<br>(does not include Family Daycare (12 or fewer children under ORS 657A.250) | 1 space per classroom, or as determined by the Planning Commission<br><br>1 space per 500 sq. ft. of floor area |
| High schools<br>Colleges and universities | 7 per classroom, or as determined by the Planning Commission |
| Educational Services, not a school<br>(e.g., tutoring or similar services) | 1 space per 500 sq. ft. floor area |
| Libraries, reading rooms, museums, art galleries and Community Service Facilities | 1 space per 200 sq. ft. of floor area |
| Churches and other places of worship | 1 space per 50 sq. ft. of main assembly area; or as determined by the Planning Commission, as applicable |
| Stadiums, grandstands, coliseums, auditoriums | 1 space for each 4 persons of seating capacity, except that on-street parking in non- residential and theaters areas, within 1,000 feet of the main assembly area may be used toward fulfilling this requirement. |

| | |
|---|---|
| Parks and Open Space | Determined as determined by the Planning Commission for active recreation areas, or no standard |
| Meeting rooms, private clubs and lodges | 10 spaces plus 1 space per each 200 square feet of floor area over 1,000 square feet, except that on-street parking in non-residential areas within 800 feet of the main assembly room or building may be used toward fulfilling this requirement. |
| Commercial outdoor recreation, golf courses | as determined by the Planning Commission |
| Swimming pools, for pool only | 10 spaces plus 1 space per each 150 square feet of pool surface area. |
| Public and semi-public buildings | 1 for every 400 square feet of floor area.<br>Special review may be given by the Planning Commission. |
| Hospitals | 1 space per each 2 beds plus 1 space for each staff doctor plus 1 space for each 2 full- time employees. |
| Medical and dental clinics | 1 space per each 200 square feet of floor area. |
| Animal hospitals and clinics | 1 space per each 400 square feet of floor area. |
| Radio and television stations and studios | 1 space for each 2 employees, plus 1 space per each 300 square feet over 2,000 square feet of floor area. |
| Radio Frequency Transmission Facilities | None |
| Airports | Special review by the Planning Commission. |
| Rail and bus passenger terminals | 5 spaces plus 1 space per each 100 square feet of waiting area. |
| Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are allowed. | None |

**C. Commercial and Retail Trade Types:**

| | |
|---|---|
| Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities) | None |
| Offices<br>Call centers, data centers, and other similar telecommunications or internet businesses | 1 space per 400 sq. ft. floor area |
| Parking Lot (when not an accessory use) | as determined by the Planning Commission |

| | |
|---|---|
| Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses) | 2 spaces, or as determined by the Planning Commission |
| Retail Sales and Service<br>(See also Drive-Up Uses) | Retail: 1 spaces per 333 sq. ft., except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 500 sq. ft. |
| | Restaurants and Bars: 1 spaces per 125 sq. ft. floor area |
| | Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys): 1 space per 333 sq. ft. |
| | Theaters and Cinemas: 1 per 6 seats |
| Self-Service Storage | None |

**D. Manufacturing, Storage and Wholesale Types:**

| | |
|---|---|
| Industrial Service (See also Drive-Up Uses) | 1 space per 1,000 sq. ft. of floor area |
| Manufacturing and Production | 1 space per 1,000 sq. ft. of floor area |
| Warehouse and Freight Movement | 1 space per 2,000 sq. ft. of floor area |
| Wholesale Sales<br>-fully enclosed<br>-not enclosed | <br>1 space per 1,000 sq. ft.<br>as determined by the Planning Commission |

**10-3-5: VEHICLE PARKING - MINIMUM ACCESSIBLE PARKING:**

A. Accessible parking shall be provided for all uses in accordance the standards in Table 10-3-2; parking spaces used to meet the standards in Table 10-3-2 shall be counted toward meeting off-street parking requirements in Table 10-3-1;

B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;

C. Accessible spaces shall be grouped in pairs where possible;

D. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;

E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

| Table 10-3-2 - Minimum Number of Accessible Parking Spaces<br>Source: ADA Standards for Accessible Design 4.1.2(5) | | | |
|---|---|---|---|
| Total Number of Parking Spaces Provided (per lot) | Total Minimum Number of Accessible Parking Spaces (with 60” access aisle, or 96” aisle for vans*) | Van Accessible Parking Spaces with min. 96” wide access aisle | Accessible Parking Spaces with min. 60” wide access aisle |
| | *Column A* | | |
| 1 to 25 | 1 | 1 | 0 |
| 26 to 50 | 2 | 1 | 1 |
| 51 to 75 | 3 | 1 | 2 |
| 76 to 100 | 4 | 1 | 3 |
| 101 to 150 | 5 | 1 | 4 |
| 151 to 200 | 6 | 1 | 5 |
| 201 to 300 | 7 | 1 | 6 |
| 301 to 400 | 8 | 1 | 7 |
| 401 to 500 | 9 | 2 | 7 |
| 501 to 1000 | 2% of total parking provided in each lot | 1/8 of Column A** | 7/8 of Column A*** |
| 1001 | 20 plus 1 for each 100 over 1000 | 1/8 of Column A** | 7/8 of Column A*** |
| *vans and cars may share access aisles<br>**one out of every 8 accessible spaces<br>***7 out of every 8 accessible parking spaces | | | |

**10-3-6: COMMON FACILITIES FOR MIXED USES:**

A. In the case of mixed uses, the total requirement of off- street parking space shall be the sum of the requirements for the various uses. Reductions from the minimum parking requirements for individual uses may be granted by the Planning Commission where circumstances indicate that joint use of parking or other factors will mitigate peak parking demand.

Requests for parking reductions shall be made to the Planning Commission by filing an application for Design Review. The applicant(s) shall provide the information that is outlined below based upon the document "Shared Parking" authored by the Urban Land Institute. The Planning Commission and/or staff may require the information be prepared by a registered traffic engineer.

1. **Step One**: Initial Project Review.
Document and quantify the proposed land uses and anticipated functional interrelationships between differing uses. The initial phase also must include data gathered regarding general location of parking facilities, surrounding land uses, land use mix and other variables which affect parking.

2 **Step Two**: Adjustment for Peak Parking Factor.
Calculate the number of off-street parking spaces required for each land use within the study area.

3. **Step Three**: Analysis of Hourly Accumulation.
Estimate the hourly parking accumulations for each land use during a typical weekday and weekend day.

4. **Step Four:** Estimate of Shared Parking.
Combine the hourly parking demand for each land use to determine the overall parking to be required within the planning area.

B. In granting parking reductions, the Planning Commission shall make one or more of the following findings:

1. The traffic report justifies the requested parking reduction based upon the presence of two or more adjacent land uses which, because of substantially different operating hours or different peak parking characteristics, will allow joint use of the same parking facilities.

2. The traffic report indicates the presence of public transportation facilities and/or pedestrian circulation opportunities which justify the requested reduction of parking.

3. The traffic report finds that the clustering of different land uses is such that a reduced number of parking spaces can serve multiple trip purposes to the area in questions.

C. As a condition of approval to the granting of a parking reduction, the City may require the recording of reciprocal access and parking agreements between affected property owners.

D. The parking facility for which shared parking or off-site parking is proposed shall meet the criteria listed in 10-3-7.

E. Decisions may be appealed in accordance with the procedures specified in Code Section 10-1-1-7.

**10-3-7: OFF-SITE PARKING:** Except parking for residential uses, the vehicle parking spaces required by this Chapter may be located on another parcel of land, provided the parcel is within 500 feet of the use it serves and the City has approved the off-site parking through Design Review. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed or easement. The Planning Commission may grant approval for off-site parking only if affirmative findings can be made to the criteria listed in 10-3-7.

A. The location of the parking facility will not be detrimental to the safety and welfare of residents in the area; and,

B. Reasonably safe pedestrian access will be provided from the parking facility to the building or use requiring the parking; and,

C. The property owner of land for which a building or use requires off-site parking has recorded a covenant agreeing to require any occupant or tenant to maintain such parking facilities; and,

D. The applicant requesting off-site parking has furnished a copy of a deed showing ownership of the property or a recorded exclusive, perpetual easement granted by the property owner of the land for which the off-site parking is to be located, use of the off-site property for parking purposes in perpetuity.

**10-3-8: PARKING AREA IMPROVEMENT STANDARDS:** All public or private parking areas, loading areas and outdoor vehicle sales areas shall be improved according to the following: All required parking areas shall have a durable, dust free surfacing of asphaltic concrete, cement concrete , porous concrete, porous asphalt, permeable pavers such as turf, concrete, brick pavers or other materials approved by the City. Driveways aprons shall be paved for the first fifty feet (50') from the street.

A. Parking for new single family attached and detached dwellings, duets and duplexes shall be provided as follows:

1. A carport or garage, unless the majority of existing dwellings within 100 feet of the property boundary of the proposed development do not have such covered parking facilities. The number of required covered parking spaces shall be based on the predominant number of covered spaces on the majority of lots within the 100 foot radius. Parking spaces shall measure nine (9) feet and six (6) inches wide by nineteen (19) feet long. No encroachments (such as water heaters, steps, door swings) are allowed into the required parking spaces.

2. One parking space per unit may be provided on a driveway if the following criteria are met:

    a. Driveway spaces shall measure at least nine (9) feet and six (6) inches wide by nineteen (19) feet long. No encroachments are allowed into the required parking spaces.

    b. Driveway spaces shall not extend into the public right-of-way.

    c. The number of parking spaces provided as a carport or garage shall not fall below one (1) space per unit.

3. Off-street parking for single-family attached dwellings on the front of the building and driveway accesses in front of a dwelling are permitted in compliance with the following standards:

    a. Outdoor on-site parking and maneuvering areas shall not exceed twelve feet (12') wide on any lot.

    b. The garage width shall not exceed twelve feet (12'). Garage width shall be measured based on the foremost four feet of the interior garage walls.

4. Off-street parking for single-family attached dwellings not on the front of the building are permitted in compliance with the following standards:

    a. Development abutting a rear alley shall take access from the alley.

    b. Development that includes a corner lot without a rear alley shall take access from a single driveway on the side of the corner lot. Street classifications, access spacing, or other provisions may require adjustment or variance process. See Figure 10-3-8-A.2.b.

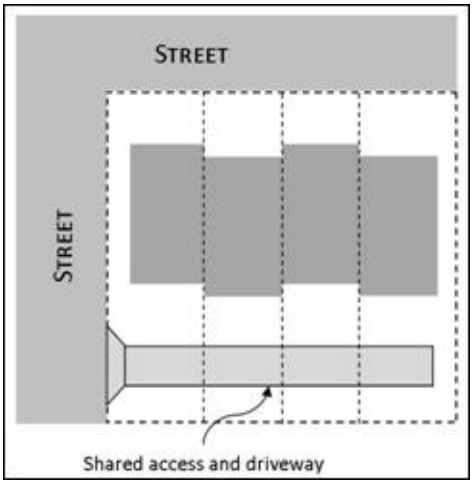


Figure 10-3-8-A.3.b – Single-family attached development with corner lot access.
Image courtesy of the City of Milwaukie, OR.

c. Development that does not include a corner lot and does not abut a rear alley shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front of the building and the front lot line of any of the single-family attached dwellings. See Figure 10-3-8-A.2.c.

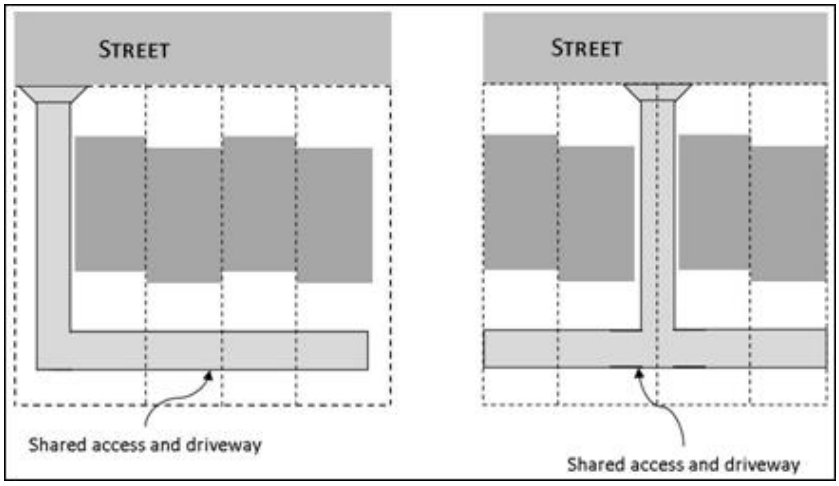


Figure 10-3-8-A.2.c – Single-family attached development with consolidated access.
Image courtesy of the City of Milwaukie, OR.

B. Parking for tri-plexes, quad-plexes or cluster housing may be provided either as a carport or garage or as a parking lot meeting the standards listed in FCC 10-3-9. Spaces shall be located on the rear of the lot and meet the following requirements:

1. Outdoor on-site maneuvering areas shall not exceed a total of forty feet wide or fifty percent of the lot frontage, whichever is less.

2. Parking spaces shall measure nine (9) feet and six (60) inches wide by nineteen (19) feet long.

3. No encroachments (such as water heaters, steps, door swings) are allowed into the required parking spaces.

4. Residential uses of three (3) or more units must provide long-term bicycle parking, see FCC 10-3-10.

C. All parking areas except those required in conjunction with a single-family, duet or duplex dwelling shall be graded so as not to drain storm water over public sidewalks. Parking lot surfacing shall not encroach upon a public right of way except where it abuts a concrete public sidewalk, or has been otherwise approved by the City.

D. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses.

E. Except for parking areas required in conjunction with a single-family attached or detached, duet, duplex dwelling; or tri-plex, quad-plex, or cluster housing development that provides off-street parking through a carport or garage, all parking areas shall provide:

1. A curb of not less than six inches (6") in height near abutting streets and interior lot lines. This curb shall be placed to prevent a motor vehicle from encroaching on adjacent private property, public walkways or sidewalks or the minimum landscaped area required in paragraph E2 of this subsection.

2. Except for places of ingress and egress, a five foot (5') wide landscaped area wherever it abuts street right-of-way. In areas of extensive pedestrian traffic or when design of an existing parking lot makes the requirements of this paragraph unfeasible, the Planning Commission may approve other landscaped areas on the property in lieu of the required five foot (5') landscaped area. See also FCC 10-34-3-6 and -7 for parking lot landscaping standards.

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F. No parking area shall extend into the public way except by agreement with the City.

G. Except for parking in connection with dwellings, parking and loading areas adjacent to a dwelling shall be designed to minimize disturbance by the placement of a sight obscuring fence or evergreen hedge of not less than three feet (3') nor more than six feet (6') in height, except where vision clearance is required. Any fence, or evergreen hedge must be well kept and maintained.

H. Lighting: Refer to Section 10-37 of this Title for requirements.

I. Except for single-family, duet and duplex dwellings, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right of way other than an alley.

J. Unless otherwise provided, required parking and loading spaces shall not be located in a required front or side yard.

K. Planning review is required for all parking lot construction or resurfacing.

L. A plan, drawn to a suitable scale, indicating how the off- street parking and loading requirements are to be met shall accompany an application for a building permit. The plan shall indicate in detail all of the following:

1. Individual parking and loading spaces.

2. Circulation area.

3. Access to streets and property to be served.

4. Curb cut dimensions.

5. Dimensions, continuity and substance of screening, if any.

6. Grading, drainage, surfacing and subgrading details.

7. Obstacles, if any, to parking and traffic circulation in finished parking areas.

8. Specifications for signs, bumper guards and curbs.

9. Landscaping and lighting.

M. In addition to other penalties and remedies, the failure to provide, maintain and care for a parking area as required by this Section:

1. Is declared a public nuisance which may be abated under subsection 6-1-8-5 of this Code.

2. May be the basis for denying any business license required or permit issued by the City. (Ord. 625, 6-30-80; re-lettered by Ord. 669, 5-17-82; Ord. 4, Series 1985, 4-23- 85)

N. Parking provided for Accessory Dwelling Units:

1. Parking for Accessory Dwelling Units may be covered or uncovered.

2. Provided parking shall be hard-surfaced with asphaltic concrete or cement concrete.

3. Parking for Accessory Dwelling Units may be provided on-street where on-street parking is available along the lot frontage and the street meets the minimum width for local streets with parking available on both sides (greater than 34 feet curb to curb). Site conditions may prevent the use of this specific area for that purpose, but shall not restrict the ability to count on-street parking towards the reduction of parking requirements off-street.

**10-3-9: PARKING STALL DESIGN AND MINIMUM DIMENSIONS:** All off-street parking spaces (except those provided for a single-family; duet, duplex dwelling; or tri-plex, quad-plex, or cluster housing development that provides off-street parking through a carport or garage) shall be improved to conform to City standards for surfacing, stormwater management, and striping and where provisions conflict, the provisions of FCC Title 9 Chapter 5 shall prevail. Standard parking spaces shall conform to minimum dimensions specified in the following standards and Figures 10-3(1) and Table 10-3-3:

A. Motor vehicle parking spaces shall measure nine (9) feet and six (6) inches wide by nineteen (19) feet long.

B. Each space shall have double line striping with two feet (2') wide on center.

C. The width of any striping line used in an approved parking area shall be a minimum of 4" wide.

D. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;

E. Parking area layout shall conform to the dimensions in Figure 10-3(1), and Table 10-3-3, below;

F. Parking areas shall conform to Americans With Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines.

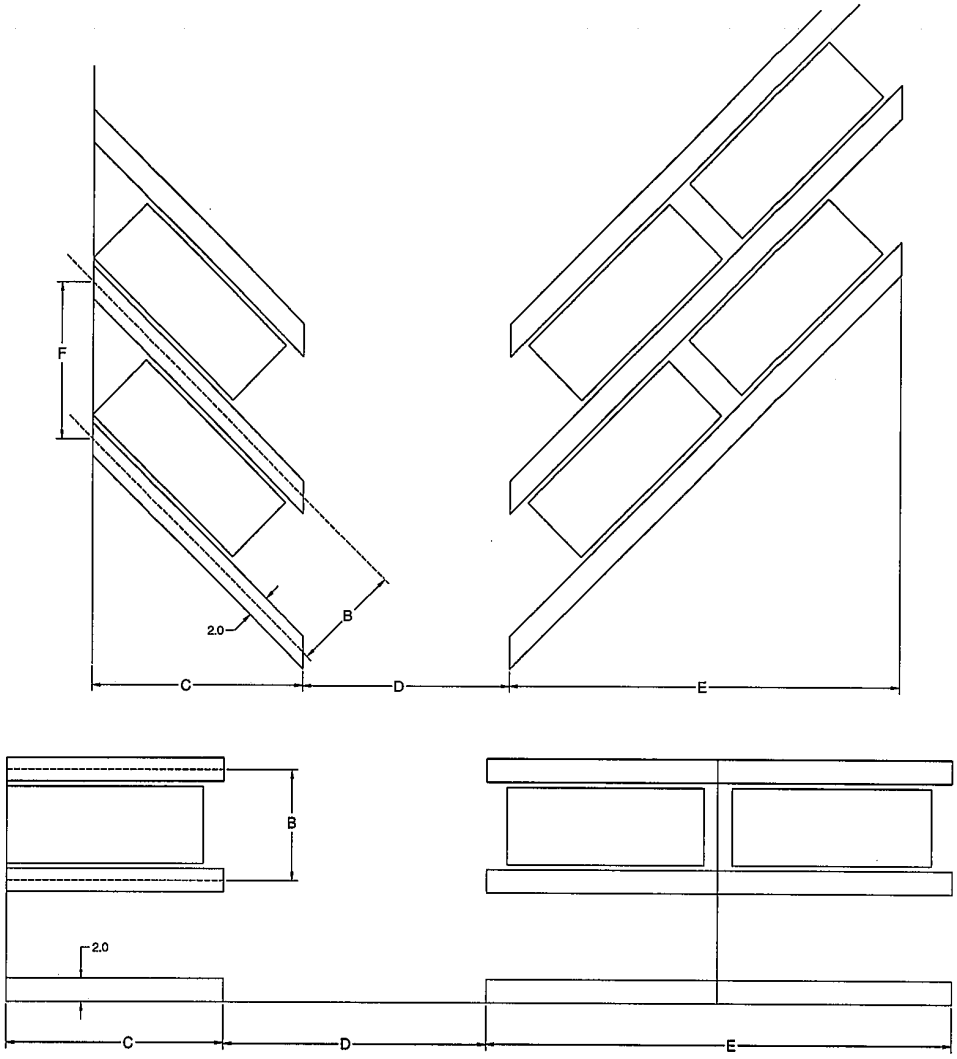


**FIGURE 10-3 (1)**

| Table 10-3-3 – Parking Area Layout | | | | | | | |
|---|---|---|---|---|---|---|---|
| | Parking Angle <° | Stall Depth | | Aisle Width | | Stall width (B) | Curb Length (F) |
| | | Single (C) | Double (E) | One Way (D) | Two Way (D) | | |
| Space Dimensions in feet | 30° | 15.6 | 26.7 | 12 | 18 | 9.5 | 19.0 |
| | 45° | 18.4 | 334 | 13 | 18 | 9.5 | 13.4 |
| | 60° | 20 | 38.8 | 17 | 18 | 9.5 | 11.0 |
| | 70° | 20.3 | 40.6 | 18 | 19 | 9.5 | 10.1 |
| | 80° | 20 | 41.2 | 22 | 22 | 9.5 | 9.6 |
| | 90° | 19 | 40.5 | 23 | 23 | 9.5 | 9.5 |

**10-3-10: BICYCLE PARKING REQUIREMENTS:** All new development that is subject to Site Design Review, shall provide bicycle parking, in conformance with the standards and subsections A-H, below.

A. **Minimum Size Space:** Bicycle parking shall be on a two (2) feet by six (6) feet minimum.

B. **Minimum Required Bicycle Parking Spaces.** Short term bicycle parking spaces shall be provided for all non-residential uses at a ratio of one bicycle space for every ten vehicle parking spaces. In calculating the number of required spaces, fractions shall be rounded up to the nearest whole number, with a minimum of two spaces.

C. **Long Term Parking.** Long term bicycle parking requirements are only for new development of group living and residential uses of three or more units. The long term parking spaces shall be covered and secured and can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building; Tri-plex, Quad-plex, Cluster Housing or Multi-Family = 1 per 3 units/ Group Living = 1 per 20 bedrooms/ Dormitory = 1 per 8 bedrooms.

1. For residential developments that provide parking through a garage, bicycle parking may be provided as a wall-mounted rack located inside the garage. The minimum clearance distance from the wall to the automobile parking space shall be four feet (4').

D. **Location and Design.** Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space other than handicap parking, or fifty (50) feet, whichever is less and shall be easily accessible to bicyclists entering the property from the public street or multi-use path.

E. **Visibility and Security.** Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage;

F. **Lighting.** For security, bicycle parking shall be at least as well lit as vehicle parking. Refer to Section 10-37 of this Title for requirements.

G. **Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

H. **Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards. If bicycle parking cannot be provided safely, the Planning Commission or Community Development Director may waive or modify the bicycle parking requirements.

**10-3-11: LOADING AREAS:**

A. **Purpose.** The purpose of this section of the Code is to provide standards (1) for a minimum number of off-street loading spaces that will ensure adequate loading areas for large uses and developments, and (2) to ensure that the appearance of loading areas is consistent with that of parking areas.

B. **Applicability.** This section applies to residential projects with fifty (50) or more dwelling units, and non-residential and mixed-use buildings with 20,000 square feet or more total floor area.

C. **Location.**

2. All necessary loading spaces for commercial and industrial buildings and uses shall be off the street and shall be provided in addition to the required parking spaces.

3. Vehicles in the berth shall not protrude into a public right of way or sidewalk. When possible, loading berths shall be located so that vehicles are not required to back or maneuver in a public street.

4. A school having a capacity greater than twenty five (25) students shall have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children.

D. **Number of Loading Spaces.**

5. **Residential buildings.** Buildings where all of the floor area is in residential use shall meet the following standards:

    a. Fewer than fifty (50) dwelling units on a site that abuts a local street: No loading spaces are required.

    b. All other buildings: One (1) space.

6. **Non-residential and mixed-use buildings.** Buildings where any floor area is in non-residential uses shall meet the following standards:

    a. Less than 20,000 square feet total floor area: No loading spaces required.

    b. 20,000 to 50,000 square feet of total floor area: One (1) loading space.

    c. More than 50,000 square feet of total floor area: Two (2) loading spaces.

E. **Size of Spaces.** Required loading spaces shall be at least thirty-five (35) feet long and ten (10) feet wide, and shall have a height clearance of at least thirteen (13) feet.

F. **Placement, setbacks, and landscaping.** Loading areas shall conform to the setback and perimeter landscaping standards of FCC 10-34 Landscaping. Where parking areas are prohibited between a building and the street, loading areas are also prohibited. The decision body may approve a loading area adjacent to or within the street right-of-way through Site Design Review or Conditional Use Permit review, as applicable, where it finds that loading and unloading operations are short in duration (i.e., less than one hour), not obstruct traffic during peak traffic hours, or interfere with emergency response services.

The following ordinances were repealed and replaced by:
Ord. No. 7, Series 2008 – effective 4/3/2008
Ord. No. 9, Series 2008 – effective 5/9/2008 - lighting

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Amended by Ordinance No. 15, Series 1988
Amended by Ordinance No. 12, Series 1994
Amended by Ordinance No. 19, Series 1994
Amended by Ordinance No. 14, Series 1995
Amended by Ordinance No. 2, Series 2000
Section 10-3-8 amended by Ordinance No. 9, Series 2009
Sections 10-3-4-C, and 10-3-11-F amended by Ordinance No. 4, Series 2011 effective 4-22-11
Section 10-3-2-I added, and Section 10-3-9 amended by Ordinance No. 18, Series 2011 effective 9-16-11
Section 10-3-3 and 10-3-10 amended by Ordinance No. 5, Series 2012 effective 1-16-13
Section 10-3-8 and 10-3-9 amended by Ordinance No. 3, Series 2013 effective 7-31-13
Section 10-3-8-G and 10-3-10-F amended by Ord. No. 12, Series 2014, effective 12-31-14
Section 10-3-4 amended by Ord. No. 12, Series 2015, effective 1-1-15
Section 10-3-6 amended by Ord. No. 11, Series 2016, effective 11-16-16
Section 10-3-3-B, 10-3-4, 10-3-8-A & M, amended by Ord. 4, Series 2018, effective 6-21-18
Table 10-3-1 and Sections 10-3-8, 9 & 10 amended by Ord. 7, Series 2019, effective 12-18-19

TITLE 10
CHAPTER 4

# CONDITIONAL USES

SECTION:

10-4-1: Description and Purpose
10-4-2: General Applicability
10-4-3: Use Permit Prerequisite to Construction
10-4-4: Applications
10-4-5: Public Hearing and Notice
10-4-6: Action
10-4-7: Effective Date
10-4-8: Expiration of Conditional Use Permit
10-4-9: Revocation
10-4-10: General Criteria
10-4-11: General Conditions
10-4-12: Additional Conditions

**10-4-1: DESCRIPTION AND PURPOSE:** Certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special considerations involve, among other things:

A. The size of the area required for development of such uses;

B. The effect such uses have on the public utility systems;

C. The nature of traffic problems incidental to operation of the use;

D. The effect such uses have on any adjoining land uses; and

E. The effect such uses have on the growth and development of the community as a whole.

All uses permitted conditionally are declared to be in possession of such unique and special characteristics as to make impractical their being included as outright uses in any of the various districts created by this Title. The authority for the location and operation of certain uses shall be subject to Type III review by the Planning Commission and issuance of a conditional use permit. The purpose of review shall be to determine the type of uses permitted in surrounding areas and for the further purpose of stipulating such conditions as may be reasonable, so that the basic purposes of this Title shall be served.

**10-4-2: GENERAL APPLICABILITY:** Remodels and expansions of up to 25% of the floor area are allowed without a new conditional use permit as long as the remodel or expansion is consistent with the original approval.

**10-4-3: USE PERMIT PREREQUISITE TO CONSTRUCTION:** When a conditional use permit is required by the terms of this Title, no building permit shall be issued until the conditional use permit has been granted by the Planning Commission, and then only in accordance with the terms and conditions of the conditional use permit. Conditional use permits may be temporary or permanent.

**10-4-4: APPLICATIONS:** The application for a conditional use permit shall be made in writing to the Planning Commission by the owner of the land in consideration or his agent, duly authorized in writing. The application shall include the following information:

A. Site and building plans and elevations.

B. Existing conditions on the site and within three hundred feet (300') of a site that is one (1) acre or larger and within one hundred feet (100’) from a site that is less than one (1) acres in size.

C. Existing and proposed utility lines and easements.

D. Operational data explaining how the buildings and uses will function.

E. Any other pertinent information requested by the Planning Commission such as architectural renderings of the buildings and structures involved in the proposed development.

F. Other information and format as required by FCC 10-1-1-4.

**10-4-5: PUBLIC HEARING AND NOTICE:** The Planning Commission shall hold at least one public hearing on each conditional use permit application.

**10-4-6: ACTION:** The Planning Commission shall make specific findings for granting or denying a conditional use permit in accordance with the general criteria and/or conditions of Section 10-4-9 of this Title.

**10-4-7: EFFECTIVE DATE:** A conditional use permit shall become effective at the close of the appeal period.

**10-4-8: EXPIRATION OF CONDITIONAL USE PERMIT**:

A. Authorization of a conditional use permit shall be void one (1) year after the date of approval of a conditional use application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation.

The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

1. The request for an extension is made in writing prior to expiration of the original approval.

2. There are special or unusual circumstances that exist which warrant an extension.

3. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a conditional use if new land use regulations have been adopted that affect the applicant's proposal. (Ord. 26, 2008)

B. The discontinuance of a conditional use for twelve (12) consecutive months shall constitute expiration of that conditional use. The use occupying the premises thereafter shall conform to the regulations of the zoning district in which it is located.

**10-4-9: REVOCATION:** The Planning Commission, after notice and public hearing, may revoke a conditional use permit for any of the following reasons:

A. Failure to comply with any prescribed requirement of the conditional use permit.

B. Violation of any of the provisions of this Title.

C. The use for which the permit was granted has ceased to exist or has been suspended for six (6) consecutive months or for eighteen (18) months during any three (3) year period.

D. The use for which the permit was granted has been so exercised as to be detrimental to the public health, safety or general welfare, or so as to constitute a nuisance. (Ord. 625, 6-30-80).

**10-4-10: GENERAL CRITERIA:** A conditional use permit may be granted only if the proposal conforms to all the following general criteria: (Ord. 669, 5-17-82)

A. Conformity with the Florence Comprehensive Plan.

B. Compliance with special conditions established by the Planning Commission to carry out the purpose of this Chapter.

C. Findings that adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. Available land can be either vacant land or land which could be converted from another use within the applicable zoning district. Land needs for permitted uses may be determined through projections contained in the Florence Comprehensive Plan or other special studies.

D. Conditional uses are subject to design review under the provisions of Chapter 6 of this Title, except single family and duplex residential use. (Ord. 625, 6-30-80) See Code Section 10-6-3 for Design Review requirements.

E. Adequacy of public facilities, public services and utilities to service the proposed development.

F. Adequacy of vehicle and pedestrian access to the site, including access by fire, police and other vehicles necessary to protect public health and safety. (Ord. 669, 5-17-82).

**10-4-11: GENERAL CONDITIONS:** The Planning Commission may require any of the following conditions it deems necessary to secure the purpose of this Chapter. Where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district. In addition, conditions may be required by the Planning Commission. Such conditions may include:

A. Regulation of uses, special yard setbacks, coverage and height.

B. Requiring fences, walls, screens and landscaping plus their maintenance.

C. Regulation and control of points of vehicular ingress and egress.

D. Regulation of noise, vibration, odors, and sightliness.

E. Requiring surfacing of parking areas.

F. Requiring rehabilitation plans.

G. Regulation of hours of operation and duration of use or operation.

H. Requiring a time period within which the proposed use shall be developed.

I. Requiring bonds to insure performance of special conditions.

J. Regulation of tree and vegetation removal to maintain soil stability, preserve natural habitat, protect riparian vegetation, buffer conflicting uses, and maintain scenic qualities.

K. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Florence Comprehensive Plan.

**10-4-12: ADDITIONAL CONDITIONS:** Some land uses by the nature of the activity associated with them require separate and intense consideration by the Planning Commission prior to their establishment. Such uses and additional conditions are as follows:

A. Places of Worship:

1. Any building used for worship purposes in a residential district, except freestanding parsonages, shall provide and maintain a minimum setback of twenty feet (20') from any property line which is under a different ownership and is zoned for residential use.

2. Places of Worship may provide housing or space for housing in a building that is detached from the place of worship, provided:

    a. At least 50 percent of the residential units provided are affordable to households with incomes equal to or less than 60 percent of the median family income for Lane County.

    b. The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone.

3. Housing and space for housing provided under ORS 227.500 and FCC 10-4-12-A-2 must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit designated as affordable housing as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for Lane County for a period of 60 years from the date of the certificate of occupancy.

4. Places of worship may apply for up to three (3) Recreational Vehicles (RVs) or park models for sleeping or living purposes, provided the following requirements are met:

    a. The property owner submit a complete application for the conditional use permit together with a basic site plan (scale drawing not necessary) and allow access by city officials to the project site and the location of the recreational vehicles or park models for the purposes of inspection and enforcement of the terms and conditions of the permit, including towing the recreational vehicles or park models and removal of temporary sewer and water service connections, whether or not the permit has expired.

    b. The conditional use permit must be issued before the RVs or park models are used for sleeping or living purposes.

    c. Before an RV or park model is used for sleeping or living purposes, the owner and/or occupant of the recreational vehicle or park model must sign a release allowing access to and towing of the recreational vehicle or park model for purposes of inspection and enforcement of the terms and conditions of the permit.

    d. The property owner shall make available connections to an on-site municipal water line and sanitary sewer line in accordance with all applicable state codes and city regulations.

    e. The property owner shall make available electrical connections in accordance with all applicable state codes and city regulations.

        1. Electrical connections may be extension cords from an outlet or permitting and installing a pedestal for plug-in per FCC 4-1.

        2. No hard connections or use of generators shall be permitted.

f. The property owner shall subscribe to and pay for solid waste collection service.

g. The RV or park model occupants are associated with a self sufficiency service or program.

h. Areas occupied by RVs or park models maintain a minimum fifteen-foot (15') buffer from adjacent single-family residential uses.

i. The conditional use is limited to two years and one two (2) year extension.

B. Hospitals: Any building used for hospital purposes shall provide and maintain a minimum setback of fifty feet (50') from rear and side property lines, except on the street side of a corner lot. Alleys contiguous to or within the property being used for hospital purposes may be included as part of the required setback.

C. Public or Private Schools: Any building used for school purposes shall provide and maintain a minimum setback of fifty feet (50') from rear and side property lines, except on the street side of a corner lot. Alleys contiguous to or within the property being used for school purposes may be included as part of the required setback.

D. Service Stations: as used herein, service station means a facility designed to provide fuel and automotive services for passenger-type vehicles. Truck stops or service centers will be treated separately and distinctly from service stations.

1. Location: Service stations shall be located adjacent to and integrated with other commercial uses, but not allowed in "spot" locations. They shall be located adjacent to an arterial street.

2. Site Dimensions: The minimum size for a service station shall be one hundred fifty foot (150') frontage and one hundred foot (100') depth. They shall not abut existing residential districts and there shall be a minimum distance of four hundred feet (400') between service stations except at intersections. No more than two (2) service stations will be allowed at any intersection.

3. Landscaping: Shall be installed in accordance with the standards set forth in FCC 10-34 Landscaping.

4. Curb Cuts: No more than two (2) curb cuts will be allowed off any arterial street and these shall be located a distance no less than thirty feet (30') from any point of intersection with a public right of way.

5. Signs: Signs shall be in accordance with the sign regulations of Title 4 Chapter 7 of this code.

6. Hazards and Nuisances: Noise shall be controlled so as not to exceed the normal ground level of adjacent uses. Lighting shall be in accordance with Section 10-37 of this Title.

7. Operations:

a. Only vehicles awaiting service will be stored on the premises.

b. Operations outside permanent structures shall be limited to dispensing gasoline, oil and water, changing tires, adjusting tire pressure, attaching and detaching trailers and washing vehicles.

c. Rental vehicles or utility trailer, not exceeding ten (10) in number, may be stored for rental, provided that any screening required by the City is in place and maintained.

d. No merchandise shall be displayed or stored outside, except for oil in racks adjacent to the pumps.

8. Discontinuance of Operations:

a. When a service station is not operated for any nine (9) months out of any eighteen (18) consecutive months, the conditional use permit for the service station may be revoked.

b. When a service station is not operated for any nine (9) months out of any eighteen (18) consecutive months, the buildings and structures may be removed at the expense of the property owner(s).

c. If the property owner fails to remove the buildings and structures within six (6) months of the revocation of the conditional use permit, the City may remove such buildings and structures at the expense of the owner(s).

9. Design: An architectural rendering of the proposed service station shall be submitted in addition to the other information required for a conditional use permit. (Ord. 625, 6-30-80)

E. Temporary Mobile Building Space:

1. A conditional use permit may be issued to provide adequate temporary building space for the following uses:

a. Temporary building space accessible to the general public for use during construction or remodeling.

b. Temporary building space for education, nonprofit and government agencies.

2. Conditional Use Permits for Mobile Homes, Recreational Vehicles (RVs), or park models: A conditional use permit may be issued to an applicant showing an undue medical hardship. The applicant must demonstrate to the Commission with supporting factual information that this action is necessary to provide adequate and immediate health care for a person or persons who need close attention, but who would otherwise be unable to receive needed attention from the hospital or care facility, provided that the mobile home, RV or park model is to be used in conjunction with another permanent residential structure on the same lot. The written application for medical hardship special use permit shall be submitted to the Planning Commission and shall contain:

a. A written medical report from a licensed physician indicating the nature of the medical or disability hardship and the amount and type of care needed by the affected person or persons;

b. A property plan showing in detail the proposed location and site of the mobile home, RV or park model with respect to the surrounding area, setbacks, existing structures and improvements to be made.

c. Conditions of approval:

1. There shall be no change in occupancy under the permit.

2. The mobile home, park model or RV shall not be expanded or attached to a permanent structure.

3. The mobile home, park model or RV shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral without paying a sewer hookup charge.

4. The mobile home, park model or RV shall be required to meet all setback requirements of residential dwellings and shall be situated so as to have the least possible visual exposure to adjoining streets.

5. The owner agrees that the mobile home, park model or RV shall be removed from the property when the temporary need allowed by this permit ceases.

3. Temporary Construction Site dwelling: A conditional use permit may be issued for a temporary construction site dwelling on sites with an active grading or building permit, provided the following requirements are met:

a. The Temporary Construction Site dwelling may take the form of an RV, park model or similar structure.

b. The dwelling may not occupy public right-of-way or obstruct sidewalks.

c. The dwelling may be occupied either by the property owner or by a person or persons who will be principally engaged in construction associated with an active grading or building permit on-site.

d. One dwelling is permitted per site.

1. Dwellings must be located on the site where construction is taking place.

2. For large projects, such as a Subdivision or Planned Unit Development, more than 1 dwelling may be permitted by Planning Commission.

i. Large projects may have up to one dwelling per ten lots.

ii. Proposals of greater than five (5) Temporary Construction Site dwellings shall provide hygiene trailers and amenities sufficient to provide for adequate health and sanitation.

e. Dwellings may not occupy the setbacks of the base zone or any other applicable setbacks.

f. Construction shall not prevent the removal of a Temporary Construction site dwelling.

g. Temporary Construction Site dwellings must be removed prior to the issuance of a Certificate of Occupancy. A Certificate of Occupancy will not be issued until the dwelling is removed. For projects where no Certificate is issued, then the dwelling must be removed within 3 days of final inspection approval.

F. Bed and Breakfast Facility:

1. A bed and breakfast facility must be in a one-family dwelling.

2. A maximum of three bedrooms shall be rented.

3. The bed and breakfast shall be an owner occupied residence. No separate structures shall be utilized.

4. Rooms may not be rented for more than seven consecutive days, and no more than fifteen (15) days per person in any thirty (30) day period.

5. The exterior of the building and the yard shall maintain a residential appearance.

6. A morning meal must be served on premise and included within the room charge for guests of the facility and shall be the only meal provided.

7. The facility must meet applicable county and state health, safety (including but not limited to the Uniform Building Code requirements concerning maximum occupancy) and liability requirements.

8. One off-street parking space will be required for each rented bedroom, in addition to the number of spaces required for each dwelling unit.

9. One sign shall be permitted on the premises with a maximum area of four (4) square feet.

10. The city, upon receipt of a citizen complaint, will review a conditional use permit approved for a bed and breakfast facility. The planning commission may withdraw the permit, at any time if it is determined that the conditions of the permit have been violated after reviewing written complaints and the staff report. The operator of a facility will be notified by the city in writing prior to the planning commission determination to allow the operator to appear and show cause why the conditional use permit should not be withdrawn.

11. An increase in the number of rooms rented, over those previously permitted and not to exceed 3 rooms, will require a new conditional use permit with the conditional use fee reduced to one-half.

12. The applicant must have written approval from the Board of Directors of any applicable Homeowner's Association. (Amended by Ord. No. 13, Series 2002)

G. Waste Related Industrial Use:

1. Any waste related industrial use shall provide and maintain a minimum vegetated buffer of twenty feet (20') from any property line which is under a different ownership and/or zoned for residential use.

2. A solid fence and/or wall a minimum of six feet (6') to a maximum of eight feet (8') in height shall be provided and located along side and rear property lines (except corner lots), behind the front yard landscaped setback and behind the side yard landscaped setback on corner lots.

3. Dangerous or hazardous materials and equipment shall be enclosed within a secure fenced area.

4. All necessary State and County permits shall be obtained to ensure the environmental health and safety of the public.

H. Residential Caretaker Unit;

1. Residential caretaker unit must be located a minimum of twenty feet (20') from any property line abutting a street.

2. Provision of a residential caretaker unit must be necessary to ensure adequate security and monitoring of the site and/or viable business operations (e.g. on-call persons, emergency maintenance).

I. All Medical and Recreational Marijuana Uses requiring licensing or registration by the Oregon Liquor Control Commission or the Oregon Health Authority.

1. Medical marijuana dispensaries, recreational marijuana retailers, medical and recreational marijuana processing sites, recreational producers, and marijuana wholesalers are permitted conditionally except as specifically provided for in the Pacific View Business Park District and Limited Industrial District and where permitted as a home occupation. Where

a licensed marijuana use is not listed among the uses permitted conditionally or outright in a particular zoning district, the marijuana use is not permitted in that zoning district.

2. Prior to submitting an application for a medical marijuana or recreational marijuana conditionally permitted use, the applicant shall attend a pre-development meeting with Community Development staff. In addition, prior to submitting the conditional use permit, the applicant shall submit a zone verification request for the development site to determine whether the proposed development site complies with the necessary separation requirements for a medical marijuana or recreational use.

3. Medical marijuana dispensaries and marijuana retailers must be separated from the following by a minimum of the listed distance:

   a. 175 feet from residential zones

   b. 200 feet from public libraries.

   c. 200 feet from public parks, except Miller Park which shall be 400 feet.

   d. 200 feet from child care facilities licensed by the Oregon Department of Education (registered family child care homes, certified family child care homes, and certified child care centers).

   e. 1,000 feet from:

      1. Public elementary or secondary school for which attendance is compulsory under ORS 339.020.

      2. Private or parochial elementary or secondary school, teaching children as described in ORS 339.030.

   School buffers listed in “3.e.” above shall be measured as follows: a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the premises of a retailer or dispensary. For all other buffers, distance is measured in a straight line measurement in a radius extending for the buffered distance in every direction from any point on the boundary line of the real property comprising the buffered use to the nearest primary or accessory structure used for marijuana facility use. The distance limitations are based upon the uses surrounding the proposed marijuana facility location at the time the conditional use application is deemed complete.

4. All medical marijuana and recreational marijuana uses shall:

   a. Not be a home occupation, except Medical Marijuana Production and Processing and Recreational Marijuana Producers and Processors in a permanent building as discussed in ‘c’ below.

   b. Not locate in a building that also contains a dwelling or caretaker facility.

   c. Only locate in a permanent building and shall not locate in a temporary or movable structure, such as a high tunnel, greenhouse, trailer, cargo container or motor vehicle, except as provided in ‘i’. Medical and Recreational Production not in a residential zone and not a home occupation may conduct outdoor grow operations, excepting in the Highway District.

   d. Not have a drive-up window or walk-up window.

e. Provide exterior lighting after sunset during business hours to light the public entrance to the facility. The lighting shall be positioned so as to not negatively impact the picture quality of any video surveillance system used by the facility.

f. Provide overhead lighting after sunset during business hours for any on-site parking area.

g. Have only one public entrance and the single public entrance shall face a public street.

h. Not share an air circulation system with another use.

i. Not locate in greenhouses or high tunnels, except for producers and production sites that are not home occupations may use those structures in non-residential districts where the business use is permitted.

j. Provide effective odor control system such as by carbon filtration.

k. Not use artificial lighting after sunset and before sunrise with outdoor grow sites and production or those operating in greenhouses or high-tunnels.

l. Position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.

5. All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable and must have a current City business license.

6. All medical marijuana grow sites and recreational producers must provide the city a 'will serve' letter or equivalent from Florence Public Works, Central Lincoln PUD and Heceta Water PUD (as applicable) prior to submission of a land use permit application or business license, whichever application is made first.

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Sections: 10-4-4; 10-4-6; 10-4-7 Amended by Ord. 26, 2008
Section: 10-4-11-F: July, 2009 (housekeeping)
Section 10-4-11 amended by Ord. No. 9, Series 2009
Section 10-4-11 amended by Ord. No. 4, Series 2010 (effective 4/5/10)
Sections 10-4-3-B, 10-4-11-D-3, and 10-4-11-D-5 amended, AND Section 10-4-10-D deleted and subsequent sections renumbered by Ordinance No. 4, Series 2011 (effective 4/22/11)
Section10-7-7 amended; sections 10-4-2 and 10-4-7-B added; and subsequent sections renumbered by Ord. No. 3, Series 2013 – See Exhibit B (effective 7-31-13)
Section 10-4-12-D-6 amended by Ord. No. 12, Series 2014 (effective 12-31-14)
Section 10-4-12-I added by Ord. No. 1, Series 2015 (effective 3-15-14)
Section 10-4-12-I amended by Ord. No. 12, Series 2015 (effective 1-1-16)
Sections 10-4-1, 10-4-4, and 10-4-12-C and -I amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Section 10-4-12-A amended by Ord. 4, Series 2018 (effective 6-21-18)
Sections 10-4-12-A & E amended by Ord. 7, Series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 5

# ZONING ADJUSTMENTS AND VARIANCES

SECTION:

10-5-1: Purpose
10-5-2: Limitations
10-5-3: Application
10-5-4: Approval Criteria
10-5-5: Review Required
10-5-6: Effective Date
10-5-7: Expiration of Adjustment or Variance

**10-5-1: PURPOSE:** The purpose of an adjustment or variance shall be to prevent or to lessen such practical difficulties and unnecessary physical hardships which are inconsistent with the objectives of this Title. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical conditions on the site or in the immediate vicinity.

**10-5-2: LIMITATIONS:** An adjustment or variance shall not be granted as a substitute for, or in lieu of, a change in zone. An adjustment or variance does not apply to use regulations

A. Adjustments: An adjustment may be granted through the Type II Review process in Section 10-1-1-6-2 as prescribed by this Title to numerical standards by up to 10% including:

1. Minimum Lot Dimensions.

2. Minimum Lot Area.

3. Yard Regulations and Setbacks.

4. Distance between structures.

5. Exceptions: The following standards are not eligible for adjustments:

a. Building Height

b. Lot Coverage

B. Variances: Requests to vary standards beyond the adjustments allowed in Section 10-5-2-A shall be subject to the review process and approval criteria for variances. The Planning Commission may grant a variance to a regulation through the Type III Review process in Section 10-1-1-6-3 as prescribed by this Title with respect to the following:

1. Fences, hedges, walls or landscaping.

2. Site area, width, depth, square footage, frontage and building coverage.

3. Front, side or rear yards.

4. Height of structures.

5. Distance between structures.

6. Accessory buildings.

7. Parking requirements.

8. Width of rights of way and roadways.

9. Any request to vary numerical standards beyond 10%

**10-5-3: APPLICATION:**

A. The application for an adjustment shall be made in writing to the Planning Director by the owner(s) of the land in consideration or their agent(s), duly authorized in writing.

B. The application for variance shall be made in writing to the Planning Commission by the owner(s) of the land in consideration or their agent(s), duly authorized in writing.

**10-5-4: APPROVAL CRITERIA:**

A. General: An application for an adjustment or variance must describe in detail:

1. The practical difficulties and physical hardships involved.

2. Existing conditions on the site.

3. Reasons for the proposed adjustment or variance being the most practicable solution to the problem.

4. A sight plan, drawn to scale, showing the dimensions and arrangement of the proposed development in comparison to the existing standard(s).

5. Any other pertinent information requested by the Planning Director or Planning Commission.

B. Adjustments: The Planning Director may grant an adjustment to a regulation prescribed by this Title if, on the basis of the petition, investigation and evidence submitted, the Planning Director finds:

1. There are topographic or built conditions, such as steep slopes, wetlands, water areas, structures, streets, utilities, lot patterns, street patterns or similar conditions which justify departure from strict adherence to the standard to be modified.

2. No significant adverse impacts to neighboring properties or to the environment will result from the modification; the cumulative effects of more than one adjustment shall be considered in this regard.

3. The adjustment is consistent with sound engineering principles, and will be safe, practical and efficient.

4. The modification is not contrary to the purpose section of this chapter, or to any applicable policy or provision of the Florence City Code or Comprehensive Plan.

5. There are no other remedies prescribed in this title or the city engineering standards to alleviate the practical problem identified in subsection (1) of this section.

6. The proposed adjustment is the minimum necessary to resolve the identified problem, and

7. The proposed adjustment is no greater than ten percent (10%) of the relevant numeric standard.

C. Variances: The Planning Commission may grant a variance to a regulation prescribed by this Title and may attach such conditions to the granting of all or a portion of any variance as necessary to achieve the purpose of this chapter if, on the basis of the petition, investigation and evidence submitted, the Planning Commission finds:

1. Strict or literal interpretation and enforcement of the specified regulations would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Title.

2. One of the following:

   a. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties classified in the same zoning district, or

   b. The granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

3. The granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

4. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site.

**10-5-5: REVIEW REQUIRED:**

A. Adjustments shall be reviewed through a Type II process in accordance with requirements of Section 10-1-1-6-2 of this Title.

B. Variances shall be reviewed through a Type III process in accordance with requirements of Section 10-1-1-6-3 of this Title.

**10-5-6: EFFECTIVE DATE:** An adjustment or variance shall become effective at the close of the appeal period.

**10-5-7: EXPIRATION OF ADJUSTMENT OR VARIANCE:**

A. Authorization of an adjustment or variance shall expire concurrently with its associated land use approval or one (1) year after the date of approval of an application, whichever is greater, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

1. The request for an extension is made in writing prior to expiration of the original approval

2. There are special or unusual circumstances that exist which warrant an extension

3. No material changes of surrounding land uses or zoning has occurred.

B. The Planning Commission may deny the request for an extension of a variance if new land use regulations have been adopted that affect the applicant's proposal. (Ord. 26, 2008)

Amended by Ordinance No. 15, Series 1988
Amended by Ordinance No. 8, Series 1997
Sections 10-5-5; 10-5-6; 10-5-7 Amended by Ordinance No. 26, Series 2008
Sections 10-5-2-I and 10-5-4-E deleted and subsequent sections renumbered by Ordinance No. 4, Series 2011 (effective 4/22/11)
Sections 10-5-7 amended by Ordinance No. 3, Series 2013, see Exhibit B (effective 7-31-13)
Section 10-5-5 amended by Ordinance No.11, Series 2016 (effective 11-16-16)
Title and all sections amended by Ordinance No. 7, Series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 6

# DESIGN REVIEW

SECTION:


10-6-1: Purpose
10-6-2: Planning Commission
10-6-3: General Applicability
10-6-4: Drawings to be Approved
10-6-5: General Approval Criteria
10-6-6: Architectural Design
10-6-7: Non-Residential Design Requirements
10-6-8: Drawing Submittal
10-6-9: Drawings Submitted to the Planning Commission
10-6-10: Appeal
10-6-11: Lapse of Design Review Approval


**10-6-1: PURPOSE:** The design review process is intended to:

A. Create an attractive appearance that will enhance the City and promote the general welfare of its citizens.

B. Provide property owner the means to protect and conserve the architectural tone of their neighborhood.

C. Recognize areas of existing or potential scenic value.

D. Protect and preserve buildings and sites that are of significant architectural or historic merit. (Ord. 625, 6- 30-80)

**10-6-2: DESIGN REVIEW BOARD:** The Planning Commission shall act as the Design Review Board. Planning Commission and Design Review action may take place simultaneously.

**10-6-3: GENERAL APPLICABILITY:**

A. Planning Commission/ shall:

1. Unless otherwise directed by the underlying zoning district, or subsection (B) below, review the following through a Type III process consistent with FCC 10-1-1-6-3 prior to issuance of a building permit:

   a. New construction,

   b. Alterations to the exterior of non-residential structures or additions involving twenty-five percent (25%) or more of the floor area of a building; and

   c. Changes of use from less intensive to greater intensive use not eligible for Type I or Type II review (see FCC 10-1-1-6-1 and 10-1-1-6-2).

2. Determine whether the proposed development is appropriate to the character of the neighborhood, according to the general criteria listed in Sections 10-6-5-1 and, when applicable, 10-6-6 or 10-6-7;

3. Have authority to require changes in the planned appearances of proposed buildings, structures, and alterations in accordance with Section 10-6-1; and,

4. The Planning Commission or their designee shall review any proposed external alteration, demolition, or change of use for any building shown on the historic resources map of the Comprehensive Plan. The Commission may delay action on such a permit for a period of ninety (90) days to explore with the owner options for rehabilitation and preservation of the structure.

B. The Planning Director or designee shall:

1. Unless otherwise directed by the underlying zoning district, review the following through a Type II process consistent with FCC 10-1-1-6-2 prior to issuance of a building permit:

a. Construction or expansion of a residential or mixed-use building that includes residential uses, but not limited to:

i. Single-family attached dwellings in the Medium Density Residential and Manufactured Home Park Districts.

ii. Multi-family Housing in any zone.

iii. Residential development in a building containing a non-residential use in the Commercial and North Commercial Districts.

iv. Second-floor residential development in the Old Town and Mainstreet Districts

v. Residential uses permitted outright in Table 10-10-2-A are exempt from Design Review.

b. Alterations to the exterior of structures or additions involving twenty-five percent (25%) or more of the floor area of a residential building or mixed-use building including residential uses for any building not shown on the historic resources map of the Comprehensive Plan.

c. Changes of use from less intensive to greater intensive use not eligible for Type I review (see FCC 10-1-1-6-1).

2. Determine whether the proposed development meets applicable design standards listed in Section 10-6-5-2; and,

3. Have authority to impose conditions for approval to meet applicable standards.

C. The requirements of individual zoning districts shall prevail where the applicability of this chapter and individual zoning districts conflict.

**10-6-4: DRAWINGS TO BE APPROVED:** No permit for a new use, structure or exterior alteration or enlargement of an existing use or structure that is subject to design review, as prescribed in this Title, shall be issued until the drawings required by this Chapter have been approved by the Planning Commission, Planning Director, or their designee.

**10-6-5: GENERAL APPROVAL CRITERIA:**

**10-6-5-1: GENERAL CRITERIA FOR NONRESIDENTIAL DEVELOPMENT:** Nonresidential projects shall meet the following criteria. The Planning Commission or Planning Commission or their designee may require any of the following conditions it deems necessary to secure the purpose and intent of this Chapter. The Commission or their designee shall consider the following criteria reviewing applications and may set conditions or standards which regulate and limit the following:

A. Setbacks, yards, height, density and similar design features according to the underlying zoning district.

B. Lot area, dimensions and percentage of coverage according to the underlying zoning district.

C. Installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, and any requirements of the underlying zoning district.

D. The location and design of access and egress points for vehicles and pedestrians, including access points along State highways according to standards set forth in FCC 10-35 Access and Circulation, and any requirements of the underlying zoning district.

E. Noise, vibration, smoke, dust, odor, light intensity and electrical interference's.

F. Parking and outside display areas, dimensions, surfacing and on-site traffic circulation according to standards set forth in FCC 10-3 Parking and Loading.

G. Architectural quality and aesthetic appearance, including compatibility with adjacent buildings.

H. Color, building materials and exterior appearance in accordance with the policies established by the City in the Downtown Implementation Plan, and in applicable zoning districts.

I. Exterior lighting and security.

J. Public health, safety and general welfare.

K. Provision of public facilities and infrastructure according to standards set forth in FCC 10-36 Public Facilities.

L. Requiring a time period within which the proposed use or portions thereof shall be developed.

M. Requiring bonds to insure performance of special conditions. (Ord. 625, 6-30-80)

N. Such other conditions as are necessary to implement policies contained in the Florence Comprehensive Plan. (Ord. 680, 1- 11-83)

**10-6-5-2: GENERAL STANDARDS FOR RESIDENTIAL DEVELOPMENT:** Residential projects and mixed-use buildings with a residential component shall meet the following standards. The Planning Director shall approve or approve with conditions the proposed development based on compliance with the following standards:

A. Setbacks, yards, height, density, lot area, dimensions, percentage of coverage, and similar design features according to the underlying zoning district.

B. Design standards set forth in FCC 10-10 for the proposed residential type, if applicable, except buildings with residential uses in the Old Town or Main Street Districts shall meet Downtown Architectural Design Standards of 10-6-6 subsections: 3-C, 4 and 5 as implemented by the Comprehensive Plan, Multi-family dwellings and mixed-use buildings with a residential component located in any zone other than Old Town or Mainstreet Districts shall comply with the Multi-Family Dwelling Standards in FCC 10-10-9.

C. Installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, and any requirements of the underlying zoning district.

D. The location and design of access and egress points for vehicles and pedestrians, including access points along State highways according to standards set forth in FCC 10-35 Access and Circulation, and any requirements of the underlying zoning district.

E. Parking and outside display areas, dimensions, surfacing and on-site traffic circulation according to standards set forth in FCC 10-3 Parking and Loading.

F. Exterior lighting according to the standards set forth in FCC 10-37 Lighting.

G. Provision of public facilities and infrastructure according to standards set forth in FCC 10-36 Public Facilities, or issuance of a performance bond or suitable substitute as agreed upon by the City has been filed with the City in an amount sufficient to assure the completion of all required public facilities and infrastructure.

**10-6-6: DOWNTOWN ARCHITECTURAL DESIGN:** The Architectural Design criteria are designed to address and implement the Florence Downtown Architectural Guidelines. Where applicable, the following criteria consider the historical character of Florence through proper building massing, siting, and materials which reflect important aspects of Oregon's traditional Northwest architecture. The type of building to which this code may apply may differ by district. The following requirements are intended to create and maintain a built environment that is conducive to walking; reduces dependency on the automobile for short trips; provides natural surveillance of public spaces; creates a human-scale design, e.g., with buildings placed close to streets or other public ways and large building walls divided into smaller planes with detailing; and maintains the historic integrity of the community.

Development in the Old Town and Mainstreet districts shall comply with the standards in this section. T

The City Planning Official, the City Planning Official's designee, or the Planning Commission may require any of the following conditions in order to establish a minimum level of design quality and compatibility between buildings. The Planning Commission may approve adjustments or variances to the standards as part of a site Design Review approval, pursuant with FCC 10-5 and 10-6, respectively.

**10-6-6-1: BUILDING TYPE:** These types of buildings currently exist within the applicable zoning districts and are compatible with each other, despite being different in their massing and form. The following building types are permitted in future development and infill. Other building types not listed which are compatible with the surrounding area and buildings and are compatible with the historic nature of the zoning district are also permitted. Not all types may be permitted or regulated in all zoning districts.

A. Residential Type, single-family, duplex (attached & detached), or multi-family

B. Commercial Storefront Type

C. Mixed-Use House Type

D. Community Building Type

**10-6-6-2: BUILDING STYLE:**

A. Context: Each building or addition shall be designed within the context of its larger surroundings and environment in terms of overall street massing, scale and configuration.

B. Historic Style Compatibility: New and existing building design shall be consistent with the regional and local historical traditions. Where historic ornament and detail is not feasible, historic compatibility shall be achieved through the relation of vertical proportions of historic façades, windows and doors, and the simple vertical massing of historical buildings. Some examples of architectural styles currently or historically present in the Florence area are: Queen Anne, Shingle Style, Second Empire, Victorian, Italianate, Tudor Style, Craftsman Bungalow, American Foursquare, and Vernacular.

1. Existing buildings: Maintain and restore significant historic details.

2. New Buildings: Design shall be compatible with adjacent historic buildings.

**10-6-6-3: BUILDING FAÇADES:**

A. Horizontal Design Elements: Multi-story commercial storefront buildings shall have a distinctive horizontal base; second floor; and eave, cornice and/or parapet line; creating visual interest and relief. Horizontal articulations shall be made with features such as awnings, overhanging eaves, symmetrical gable roofs, material changes, or applied facia detail. New buildings and exterior remodels shall generally follow the prominent horizontal lines existing on adjacent buildings at similar levels along the street frontage. Examples of such horizontal lines include but are not limited to: the base below a series of storefront windows; an existing awning or canopy line, or belt course between building stories; and/or an existing cornice or parapet line. Where existing adjacent buildings do not meet the City's current building design standards, a new building may establish new horizontal lines.

B. Vertical Design Elements: Commercial storefront building faces shall have distinctive vertical lines of emphasis spaced at relatively even intervals. Vertical articulations may be made by material changes, variations in roof heights, applied facia, columns, bay windows, etc. The maximum spacing of vertical articulations on long, uninterrupted building elevations shall be not less than one break for every 30 to 40 feet.

C. Articulation and Detailing: All building elevations that orient to a street or civic space must have breaks in the wall plane (articulation) of not less than one break for every 30 feet of building length or width, as applicable, as follows:

1. Plans shall incorporate design features such as varying rooflines, offsets, balconies, projections (e.g., overhangs, porches, or similar features), recessed or covered entrances, window reveals, or similar elements that break up otherwise long, uninterrupted elevations. Such elements shall occur at a minimum interval of 30-40 feet. In addition, each floor shall contain at least two elements meeting the following criteria:

    a. Recess (e.g., porch, courtyard, entrance balcony, or similar feature) that has a minimum depth of 4 feet;

    b. Extension (e.g., floor area, porch, entrance, balcony, overhang, or similar feature) that projects a minimum of 2 feet and runs horizontally for a minimum length of 4 feet; and/or

    c. Offsets or breaks in roof elevation of 2 feet or greater in height.

    d. A "break," for the purposes of this subsection, is a change in wall plane of not less than 24 inches in depth. Breaks may include, but are not limited to, an offset, recess, window reveal, pilaster, frieze, pediment, cornice, parapet, gable, dormer, eave, coursing, canopy, awning, column, building base, balcony, permanent awning or canopy, marquee, or similar architectural feature.

2. The Planning Commission, through Design Review, may approve detailing that does not meet the 24-inch break-in-wall-plan standard where it finds that proposed detailing is more consistent with the architecture of historically significant or historically-contributing buildings existing in the vicinity.

3. Changes in paint color and features that are not designed as permanent architectural elements, such as display cabinets, window boxes, retractable and similar mounted awnings or canopies, and other similar features, do not meet the 24-inch break-in-wall-plane standard.

4. Building elevations that do not orient to a street or civic space need not comply with the 24-inch break-in-wall-plan standard, but should complement the overall building design.

**10-6-6-4: PERMITTED VISIBLE BUILDING MATERIALS:** Building materials which have the same or better performance may be substituted for the materials below provided that they have the same appearance as the listed materials.

A. Exterior Building Walls:

1. Lap siding, board and batten siding, shingles and shakes. Metal siding and vinyl siding shall not be permitted.

2. Brick or stone masonry with a minimum 2 ½" deep solid veneer material.

3. Cement-based stucco.

4. Secondary materials: Any of the materials listed above as permitted may also be used as secondary materials or accents. In addition, the materials listed above are allowed as secondary materials, trims, or accents (e.g., flashing, wainscoting, awnings, canopies, ornamentation) when non-reflective and compatible with the overall building design, subject to approval. Secondary materials may be used on up to 30% of the façade.

B. Roofs, Awnings, Gutters, and Visible Roofing Components:

1. Composition shingles, concrete, slate or cedar shingles, or concrete or clay tiles. Red composition shingle similar to the Kyle Building are encouraged.

2. Standing seam roofing: copper, terne metal or coated metal.

3. Gutters and downspouts: copper, terne metal, or coated metal.

4. Single or multi-ply roofing, where visibly concealed.

5. Glass, steel, wood or canvas fabric awnings.

6. Skylights: metal and wood framed glass and translucent polymer.

C. Chimney Enclosures: Brick, cement-based stucco, stone masonry or wood shingles.

D. Windows, Entrances, and Accessories:

1. Wood, vinyl or pre-finished metal frames and sashes.

2. Glazed and unglazed entry doors shall be wood, pre-finished or coated metal or fiberglass.

3. Solid wood or fiberglass shutters.

4. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.

E. Trellises, Decks, Stairs, Stoops, Porches, and Balconies

1. Architectural concrete, brick and stone masonry, solid wood or fiberglass columns, posts, piers and arches.

2. Wood, brick, concrete and stone masonry decks, stoops, stairs, porches, and balconies.

3. Solid wood, painted welded steel or iron trellises.

4. Railings, balustrades, and related components shall be solid wood, painted welded steel or iron.

F. Landscape/Retaining Walls and Fences: Shall be subject to the FCC 10-34 and the following requirements:

1. Brick and stone masonry or precast concrete.

2. Architecturally finished exposed concrete.

3. Cement-based stucco over masonry or concrete substrate.

4. Solid wood pickets, lattice and boards.

5. Painted welded metal or iron.

G. Building and Site Material Colors: Color finishes on all building exteriors shall be approved by the City and be of a muted coastal Pacific Northwest palette. Reflective, luminescent, sparkling, primary, and "day-glow" colors and finishes are prohibited. The Planning Commission/Planning Commission or their designee may approve adjustments to the standards as part of a site Design Review approval.

**10-6-6-5: MATERIAL APPLICATIONS AND CONFIGURATIONS:**

A. Building Walls:

1. For each building, there shall be one single, clearly dominant exterior wall material and finish.

2. Brick and stone front façades shall return at least 18" around side walls.

3. Building walls of more than one materials shall change along horizontal lines only, with a maximum of three materials permitted per façade.

4. Heavier materials, such as stone, shall only be used below lighter materials, such as siding.

5. Siding and shingles shall have a maximum 6" to the weather.

6. 4" minimum width corner, skirt, rake and eave trim shall run the full height of each façade, flush, or protrude beyond the surrounding wall surface.

7. Board and batten siding: battens shall be spaced a maximum of 8" on center.

B. Roofs, Awnings, Gutters and Roofing Accessories:

1. Visibly sloped roofs shall pitch a minimum of 5:12 to a maximum 12:12 with symmetrical gable or hip configuration.

2. Eaves shall be continuous except at sheds and dormers.

3. Shed roofs shall attach to the main building wall or roof ridge with minimum 3:1 slope.

4. Flat roofs shall be concealed by cornices or parapets.

5. Gutters shall be round or ogee profile. Leaders shall be round or square.

6. All roof-mounted components such as mechanical equipment shall not be visible from street-level public rights-of-way.

7. Sloped roof eaves shall overhang exterior wall planes at least 12" and shall be visibly supported by exposed rafter ends or other compatible architectural detailing.

C. Towers:

1. Slender towers of a maximum 400 square feet in area are permitted to exceed the building height limit.

2. Towers on residential and commercial buildings shall be occupiable with windows. Community buildings may feature unoccupiable towers.

3. Commercial signage may not be placed on towers.

4. Tower separation shall be minimum of 100 feet.

D. Visible Windows, Glazing, and Entrances:

1. Windows shall be square and/or vertical rectangular shape with straight, bow, or arch tops.

2. 10% of total windows maximum on the public façade may be circular, hexagonal, octagonal or other window configurations.

3. Bay windows shall have visible bracket support.

4. Overhead doors shall not face the building's primary street façade or a major public right-of-way.

5. Door and window shutters shall be sized to cover the entire window.

6. Exterior shutters shall be solid wood or fiberglass.

7. No single lite or glass panel visible from the street shall be greater than 24 square feet in area except in storefront glazing systems.

8. Multiple vertical windows may be grouped in the same horizontal opening provided they are separated by 4" minimum width vertical trim.

9. Windows and doors in exterior walls shall be surrounded with 2 ½" minimum width trim applied flush or projecting beyond the finished wall surface.

10. Profiles of window mullions shall extend out beyond the exterior glass surface. Windows shall have muntins which create True Divided Lights or a similar simulated appearance.

E. Visible Decks and Balconies: All balconies and decks attached to building faces, whether cantilevered or supported below or above, shall be visibly supported by vertical and horizontal elements such as brackets, columns, or beams. Exterior posts and columns, solid or encased, shall be minimum 5 ½" in cross-section.

F. Visible Landscape/Retaining Walls and Fences:

1. Freestanding concrete and masonry walls shall be minimum 8" nominal thickness with a finished top course, cap, or other compatible termination.

2. Site wall materials should generally match or provide compatibility with the adjoining building materials.

3. Metal and iron fencing shall be configured in predominately vertical elements.

G. Mechanical Equipment:

1. Building walls. Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, are permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened pursuant with FCC 10-34. Standpipes, meters, vaults, and similar equipment need not be screened, but shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed on a side or rear elevation where practical.

2. Rooftops. Except as provided below, rooftop mechanical units shall be setback and/or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not practicable, the City decision body may approve painting of the mechanical units in lieu of screening; such painting shall meet the standards of FCC 10-6-6-4-G above and shall make the equipment visually subordinate to the building and adjacent buildings, if any. These regulations do not apply to solar photovoltaic and solar thermal energy systems as allowed by HB 3516 on properties not listed in the Comprehensive Plan's Historic Inventory.

3. Ground-Mounted. Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings per FCC 10-34-3-7. The City may require additional setbacks and/or noise attenuating equipment for compatibility with adjacent uses.

**10-6-6-6: STOREFRONTS:** This section applies specifically to pedestrian-oriented storefront-type buildings.

A. Glazing & Materials:

1. Windows or storefront glazing along the primary public façade shall comprise at least 70% of the main floor's exterior surface area.

2. Clerestory or transom windows above storefronts are recommended.

3. Window openings shall comprise a maximum of 50%, minimum of 30% of the front building façade above the first floor.

B. Storefront Height: Minimum 10 ft., maximum 16 ft. finished interior floor to ceiling height.

C. Storefront Bay Widths: Visible first floor vertical elements such as columns and pilasters shall be spaced center-to-center a maximum of 25 ft. and a minimum of 8 ft. apart.

D. Window Glazing Materials:

1. Clear or "Low E" glazing. Tinted or reflective glass and glass block shall not be visible from public rights-of-way.

2. Glass shall be recessed at least 1 ½" from the surrounding exterior wall surface.

3. Windows shall have true divided-lites with mullions or no divided lites. Butt joint glass is not recommended.

E. Awnings and Canopies: Fixed awnings and canopies attached to a building façade a minimum of 8 ft. above the sidewalk may encroach a maximum of 8 ft. into the public sidewalk right-of-way. Awnings shall extend at least 25% of the storefront length.

F. Building Primary Entries:

1. The entry enclosure shall project out from or be recessed in from the surrounding building façade 3 ft. in order to articulate the building's access and also to ensure that out-swinging doors do not project into sidewalks.

2. Primary store entrances shall open directly onto the primary public street and be unlocked during business hours.

3. Additional entrances to rear or side parking areas are permitted.

G. Pedestrian Shelters: The following standards apply to new buildings and building additions that are subject to site Design Review.

1. Minimum Pedestrian Shelter Coverage. Permanent awnings, canopies, recesses or similar pedestrian shelters shall be provided along 75 percent of the ground floor elevation(s) of a storefront-type building where the building abuts a sidewalk, civic space, or pedestrian access way. Pedestrian shelters used to meet the above standard shall extend at least 5 feet over the pedestrian area; except that the Planning Commission may, through site Design Review, reduce the above standards where it finds that existing right-of-way dimensions, easements, or building code requirements preclude standard shelters. In addition, the above standards to not apply where a building has a ground floor dwelling, as in a mixed-use development and the dwelling entrance has a covered entrance.

2. Pedestrian Shelter Design. Pedestrian shelters shall comply with applicable building codes, and shall be designed to be visually compatible with the architecture of a building. If mezzanine or transom windows exist, the shelter shall be below such windows where practical. Where applicable, pedestrian shelters shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

H. Defined Upper Story (ies): Building elevations shall contain detailing that visually defines street level building spaces (storefronts) from upper stories. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials, and/or fenestration. Upper floors may have less window area than ground floors, but shall follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices. Upper floor window orientation shall primarily be vertical, or have a width that is no greater than height. Paired or grouped windows that, together, are wider than they are tall, shall be visually divided to express the vertical orientation of individual windows.

**10-6-7: NON-RESIDENTIAL DESIGN REQUIREMENTS:** In districts other than Mainstreet and Old Town, the architectural design requirements of this section shall apply to all commercial buildings.

A. All commercial buildings shall meet the standards of FCC 10-6-6-3 and 10-6-6-4-G above.

B. All commercial buildings shall incorporate not fewer than three types of architectural features from 1 through 6 below. Applicants are encouraged to use those elements that best suit the proposed building style and design.

1. Covered front entrance. Not less than six feet in depth and not less than 10 percent the width of the building, excluding the landing for entrance.

2. Windows: not less than 30 percent of surface area of all street-facing elevation(s) with the following features:

a. Trim, reveals, recesses, or similar detailing of not less than four-inches in width or depth as applicable.

b. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features).

3. Pedestrian Shelters: as described in FCC 10-6-6-6-G.

4. Eaves (where applicable): overhang of not less than 12 inches.

5. Decorative top: e.g., cornice or pediment with flat roof or brackets with pitched roof. Towers may be included where building height limitations and surrounding structures deem them appropriate.
6. Awnings and canopies: extending not less than 30% of the elevation where applied.

**10-6-8: DRAWING SUBMITTAL:** In addition to information required by FCC 10-1-1-4, the owner or authorized agent shall submit the following drawings to the City for review:

A. A site plan, drawn to scale, showing the proposed layout of structures and other improvements including, where appropriate, driveways, pedestrian walks, off-street parking and off-street loading areas, landscaped areas, locations of entrances and exits, the direction of traffic flow into and out of off-street parking space and loading berth, and areas for turning and maneuvering vehicles. The site plan shall indicate how utility services and drainage are to be provided.

B. A landscape plan, drawn to scale, in conformance with FCC 10-34-3-2.

C. Architectural drawings or sketches, drawn to scale, including floor plans in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures as they will appear upon completion. All exterior surfacing materials and colors shall be specified.

D. Additional information may be required by the City if necessary to determine whether the purposes of this Chapter are being carried out or may authorize omission of any or all the drawings required by this Chapter if they are not necessary. The City shall specify the number of copies of each drawing to be submitted.

**10-6-9: DRAWINGS SUBMITTED TO THE PLANNING COMMISSION:** The City shall record and check all drawings submitted. If it is found that the plans meet all the other requirements of this Chapter, the drawings shall be submitted to the appropriate City staff departments for comments prior to submittal to the Planning Commission. If the City determines that a permit could not be issued without the granting of a conditional use permit, the granting of a variance, or the enactment of an amendment to this Chapter, the applicant shall be informed and the drawings shall not be submitted to the Planning Commission.

**10-6-10: APPEALS:** See Code Section 10-1-1-7.

**10-6-11: LAPSE OF DESIGN REVIEW APPROVAL:** Authorization of a design review permit shall be void one (1) year after the date of approval of a either a Type II or III design review application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

A. The request for an extension is made in writing prior to expiration of the original approval.
B. There are special or unusual circumstances that exist which warrant an extension.
C. No material changes of surrounding land uses or zoning has occurred.

The Planning Commission may deny the request for an extension of a design review permit if new land use regulations have been adopted that affect the applicant's proposal. (Ord 26, 2008)

Amended by Ordinance No. 15, Series 1988
Section 10-6-9, Amended by Ordinance No. 26, Series 2008
Section 10-6-5 and 10-6-6 Amended by Ord. No. 9, Series 2009
Section 10-6-3 amended by Ordinance No. 4, Series 2010 (effective 4/5/10)
Sections 10-6-3-A, and 10-6-3-D amended, AND Sections 10-6-5-G, and 10-6-6-D deleted and subsequent sections renumbered by Ordinance No. 4, Series 2011 (effective 4/22/11)
Sections10-6-3 and 10-6-6 amended by Ordinance No. 3, Series 2013, Exhibit B (effective 7/31/13)
Sections 10-6-3, 10-6-4, and 10-6-6 through 10-6-10 amended by Ordinance No. 11, Series 2016 (effective 11-16-16)
Sections 10-6-3, 10-6-4, and 10-6-5, Title of 10-6-6, Sections 10-6-6-4-A-4, 10-6-6-4-G, 10-6-6-5-4, 10-6-7, and sections numbers 10-6-8 through 10-6-11 amended by Ordinance No. 7, Series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 7

# SPECIAL DEVELOPMENT STANDARDS

SECTION:

10-7-1: Purpose
10-7-2: Identification of Wetlands and Riparian Areas and Potential Problem Areas
10-7-3: Development Standards for Potential Problem Areas
10-7-4: Development Standards for Wetlands and Riparian Areas
10-7-5: Development Standards for Tsunami Hazard Overlay Areas
10-7-6: Site Investigation Reports (SIR)
10-7-7: Review and Use of Site Investigation Reports

**10-7-1: PURPOSE:** The purpose of this Chapter is to apply additional development standards to areas with wetlands or riparian areas and potential problem areas, such as natural hazards or soils which are particularly subject to erosion, landslide or seasonal surface water. Compliance with these standards is required in order to obtain a permit. The standards are intended to eliminate the danger to the health, safety or property of those who would live in potential problem areas and the general public and to protect areas of critical environmental concern; areas having scenic, scientific, cultural, or biological importance; and significant fish and wildlife habitat as identified through Goal 5: Open Spaces and Scenic, Historic, and Natural Resources, and Goal 17: Coastal Shorelands. (Amended Ord. No. 10, Series 2009)

**10-7-2: IDENTIFICATION OF WETLANDS AND RIPARIAN AREAS AND POTENTIAL PROBLEM AREAS:** At minimum, the following maps shall be used to identify wetlands and riparian areas and potential problem areas:

A. "Hazards Map", Florence Comprehensive Plan Appendix 7.

B. "Soils Map", Florence Comprehensive Plan Appendix 7.

C. "Beaches and Dunes Overlay Zone." See Chapter 19 for overlay zone requirements. Where conflicts exist between that chapter and this one, the more restrictive requirements shall apply.

D. 2013 City of Florence Significant Wetlands Map and 2013 City of Florence Significant Riparian Reaches Map in Appendix A of the 2013 Florence Area Wetlands and Riparian Inventory (2013 Inventory) and in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), in Comprehensive Plan Appendix 5.

E. Other information contained in the plan or adopted by reference into the plan, or more detailed inventory data made available after adoption of the plan may also be used to identify potential problem areas. (Amended Ord. No. 10, Series 2009)

**10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS:** The following standards shall be applied to development in potential problem areas unless an approved Phase I Site Investigation Report or an on-site examination shows that the condition which was identified in the Comprehensive Plan or Overlay Zoning Map does not in fact exist on the subject property. These standards shall be applied in addition to any standards required in the Zoning Districts, Comprehensive Plan, and to any requirements shown to be necessary as a result of site investigation. Where conflicts or inconsistencies exist between these Development Standards, City Code, and the Comprehensive Plan, the strictest provisions shall apply unless stated otherwise.

A. Special Flood Hazard Area: All uses proposed in the flood area shall conform to the provisions of the National Flood Insurance Programs.

B. River Cutbanks: No building shall be permitted within fifty feet (50') from the top of a river cutbank.

C. Active Dune Advancing Edge: No building shall be permitted within one hundred feet (100') of the leading edge of an active dune, except by Planning Commission approval where it can be shown by accepted engineering practices or treatment, or a City approved mitigation plan that no significant sand hazards are likely to occur. Applicant shall demonstrate that the proposed or existing mitigation plan will minimize potential sand hazards to both the proposed development and to nearby properties. Applicant shall also demonstrate that the mitigation plan will have no significant adverse effects on the site, adjacent property, the City's sole source aquifer and wildlife. (Ord. 24, Series 2008)

D. Ocean Flooding, Tidal Flooding, Tsunami: (See subsection A above, Special Flood Hazard Area).

E. Slopes Greater than Twelve Percent: For development on or adjacent to steep slopes, a foundation and grading design prepared by a registered engineer and approved by the City and addressing drainage and revegetation.

F. Active Dune Sands: Open sand will require primary vegetative stabilization as with grasses and secondary stabilization with any of a variety of shrubs and trees excluding noxious plants in conjunction with any development, except where vegetative stabilization is prohibited on the property of State or Federal agencies, and it can be shown by accepted engineering practices or treatment, or a City approved mitigation plan that no significant sand hazards are likely to occur. Applicant shall demonstrate that the proposed or existing mitigation plan will minimize potential sand hazards to both the proposed development and to nearby properties. Applicant shall also demonstrate that the mitigation plan will have no significant adverse effects on the site, adjacent property, the City's sole source aquifer and wildlife. Stabilization may be required prior to development in cases where there are large unstabilized areas.

G. Brallier and Heceta Soils: In general these soils are not suitable for development. Should development occur, structures would be built on pilings or fill as designed by a registered engineer.

H. Yaquina Soils and Wet Areas (except significant wetlands and riparian areas identified in the 2013 Wetland and Riparian Inventory, as amended): In areas with seasonal standing water, construction of a drainage system and/or placement of fill material shall be required according to plans prepared by a registered engineer and approved by the City. (Amended Ord. 10, Series 2009)

**10-7-4: DEVELOPMENT STANDARDS FOR WETLANDS AND RIPARAIN AREAS:**

A. Purpose: Significant wetlands, and their related wetland buffer zones, and significant riparian corridors provide hydrologic control of floodwaters; protect groundwater and surface water quality; provide valuable fish and wildlife habitat, including habitat for andromous salmonids; improve water quality by regulating stream temperatures, trapping sediment, and stabilizing streambanks and shorelines; and provide educational and recreational opportunities. It is recognized that not all resources will exhibit all of these functions and conditions.

The purpose of this Subsection (FCC 10-7-4) is to protect significant wetlands, wetland buffer zones, and significant riparian corridors in order to:

1. Implement the goals and policies of the Comprehensive Plan;

2. Satisfy the requirements of Statewide Planning Goal 5 and ensure consistency with adopted City Stormwater requirements in Florence City Code Title 9 Chapter 5;

3. Safeguard the City's locally significant wetland and riparian areas, especially the flood control and water quality functions these areas provide for the community;

4. Safeguard fish and wildlife habitat;

5. Safeguard water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding;

6. Safeguard the amenity values and educational opportunities for City's wetlands and riparian areas for the community; and

7. Improve and promote coordination among Federal, State, and local agencies regarding development activities near wetlands and riparian areas.

B. Applicability:

1. Affected Property: The procedures and requirements of the Significant Wetland and Riparian Area Standards:

   a. Apply to any parcel designated as having a Significant Goal 5 Wetland or Significant Goal 5 Riparian Corridor, and Significant Wetland Buffer Zones, as defined in FCC Title 9 Chapter 5 and FCC Title 10 Chapter 2. Significant Goal 5 wetlands and significant riparian corridors are mapped in Appendix A of the 2013 Inventory and Tables 2.1 and 2.2 and the Significant Wetland and Riparian Reaches Maps in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), as amended, in Comprehensive Plan Appendix 5, which is adopted into this Code by reference.

   b. Apply in addition to the stormwater standards in FCC 9-5-3-3-F (incorporated herein) and the standards of the property's zoning district, except that the required setbacks in this subsection are not in addition to the required setbacks in the underlying zone. Where conflicts exist between this subsection and the underlying zoning district, this subsection shall apply.

2. Applicability to properties adjacent to the side channel of Munsel Creek (Reach RMC-Cs in the 2013 Inventory). These properties are subject to special setback reductions and provisions, as set out below, due to the unique development patterns and history of the area. These special provisions are supported by, and explained in, the Economic, Social, Environmental, and Energy (ESEE) Analysis and Limited Protection Program (ESEE Analysis) in Chapter 3 of the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in Appendix 5 of the Comprehensive Plan. The ESEE Analysis is adopted as part of the Comprehensive Plan and is incorporated herein by reference.

3. Applicability to public facilities in significant wetlands. Public facilities (transportation, water, wastewater, and stormwater) that are included in the City's Public Facility Plan, as amended, are exempt from the requirements of this subsection provided that permitted uses are designed and constructed to minimize intrusion into the riparian area; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained. This exemption is authorized by the ESEE Analysis in Appendix 5 of the Comprehensive Plan. See Section, "Exemptions," below.

C. Activities Subject to Standards and Requirements: Activities subject to the Special Development Standards in this subsection shall include the following, unless specifically exempted by Code:

1. Partitioning and subdividing of land;

2. New structural development;

3. Exterior expansion of any building or structure, or increase in impervious surfaces or storage areas;

4. Site modifications including grading, excavation or fill (as regulated by the Oregon Department of State Lands and the Army Corps of Engineers), installation of new above or below ground utilities, construction of roads, driveways, or paths, except as specifically exempted in the section "exemptions" below;

5. The cutting of trees and the clearing of any native vegetation within a Significant Wetland, Wetland Buffer Zone, or Riparian Corridor beyond that required to maintain landscaping on individual lots existing on the effective date of this title.

D. Exemptions:

1. Only the following uses and activities in significant riparian corridors or wetland buffer zones are exempt from these Significant Wetland and Riparian Area Standards, provided: the uses and activities are designed and constructed to minimize intrusion into the buffer zone; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained:

   a. Replacement of lawfully created existing structures with structures in the same location that do not disturb additional wetland buffer zone or significant riparian surface area. All Coast Village structures existing on September 5, 2013 are grandfathered and qualify as "lawfully created existing structures" for purposes of this subsection. This provision supersedes the provisions for non-conforming structures in FCC 10-8.

   b. Installation or maintenance of public and private facilities and utilities (such as transportation, water, wastewater, and stormwater, electric, gas, etc.) in riparian areas.

   c. The sale of property.

   d. Temporary emergency procedures necessary for the safety or protection of property.

   e. All water-related and water-dependent uses as defined in the Definitions in the Florence Code Title 10 Chapter 2.

   f. Removal of non-native vegetation and replacement with native plant species.

   g. Removal of vegetation necessary for the development of water-related or water-dependent uses.

   h. Public facilities identified in the City's Public Facility Plan, in Appendix 11 of the Comprehensive Plan, as amended, that are installed in significant wetlands, provided that the facilities are designed and constructed to minimize intrusion into the wetland; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained.

E. Agency Review: Decisions made by the City of Florence under this title do not supersede the authority of the state or federal agencies which may regulate or have an interest in the activity in question. It is the responsibility of the land owner to ensure that any other necessary state or federal permits or clearances are obtained. In particular, state and federal mitigation requirements for impacts associated with approved water-related or water- dependent uses may still be required.

F. General Development Standards and Requirements: When development is proposed that is subject to these standards, the property owner is responsible for the following. Figure 1 below is a cross section illustrating terms used in the discussion of wetland and riparian setbacks defined in Oregon Statewide Planning Goal 5.

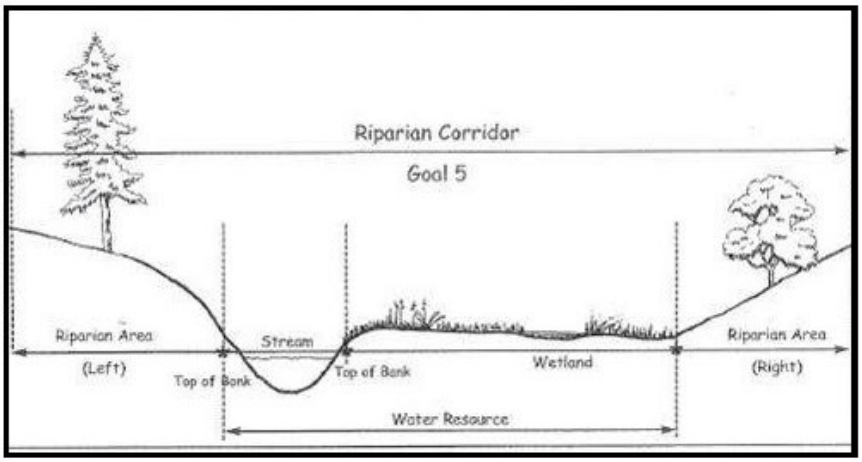


Figure 1: Downstream cross section illustrating terms used in Statewide Planning Goal 5. Source: ***Urban Riparian Inventory and Assessment Guide,*** Oregon Department of State Lands, 1998.

1. Determination of Significant Wetland and Riparian Area Boundaries.

   a. For the purpose of showing the boundary of a significant wetland on a site plan, property owners may choose one of the following options:

      i. Hire a Qualified Professional to do the delineation and have the delineation approved by the Oregon Department of State Lands (DSL); or

      ii. Hire a Qualified Professional to do the delineation but do not request DSL approval of the delineation. The Qualified Professional must have performed prior wetland delineations that were approved by DSL; or

      iii. If the site plan shows the proposed development is outside the 50 foot Stormwater Buffer Zone, the wetland boundaries shown on the adopted Local Wetland Inventory (LWI) Map can be used to determine the wetland boundary for this purpose.

   b. For significant riparian corridors, the width of the corridor boundary is the "significant riparian width" in Table 2.2 of the 2013 City of Florence Significant Wetlands and Riparian Corridor Plan in Comprehensive Appendix 5.

   c. For significant riparian corridors, the boundaries of the riparian corridor will be measured and shown on an approved site plan. The City shall maintain maps of regulated riparian areas, and make them available to the public. These maps will be used to identify the extent of the riparian area unless the applicant can demonstrate through detailed inventory information (including maps, photos, and Lane County aerial photos showing the location and species of vegetation growing in the disputed area) that the city's maps are in error. For purposes of making these measurements, the following shall apply:

      i. Riparian buffer zones are measured horizontally from the top of bank. The top of the bank is the highest point at which the bank meets the grade of the surrounding topography, characterized by an abrupt or noticeable change from a steeper grade to a less steep grade, and, where natural conditions prevail, by a noticeable change from topography or vegetation primarily shaped by the presence and/or movement of the water to topography not primarily shaped by the presence of water. Where there is more than one such break in the grade, the uppermost shall be considered the top of bank.

ii. If the top of bank is not identifiable, the riparian buffer zones are measured horizontally from the line of ordinary high water. In a given stream, the line of ordinary high water is the line on the bank or shore to which seasonal high water rises annually and identified in the field by physical characteristics that include one or more of the following:

a. A clear, natural line impressed on the bank

b. Changes in the characteristics of soils

c. The presence of water-borne litter and debris

d. Destruction of terrestrial vegetation

If reliable water level data are available for 3 or more consecutive previous years, the line of ordinary high water can be considered the mean of the highest water level for all years for which data are available.

2. Preparation and submission of a site plan (vegetation clearing permits are also subject to the submission requirements in FCC Title 4 Chapter 6) that shows:

a. The wetland boundary or the top of bank of the riparian corridor,

b. The significant riparian corridor width or the wetland buffer zone,

c. The footprint of the proposed structure measured from the riparian corridor boundary or wetland buffer zone edges,

d. Any requested setback adjustments as measured from the edge of the wetland or riparian corridor boundary,

e. The type and location of dominant existing native plants that would be displaced, and

f. The type of native plants to be planted and the location where they will be replanted.

3. It is prohibited to permanently alter a significant wetland by: the placement of structures or impervious surfaces; or by the removal of native vegetation; or by grading, excavation, placement of fill, or vegetation removal (other than perimeter mowing and other cutting necessary for hazard prevention), except as follows:

a. Where full protection of the Significant Wetland renders a property unbuildable, as defined in the definitions in Title 10 Chapter 2 of this Code; or

b. Public facilities identified in the City's Public Facility Plan, Appendix 11 of the Comprehensive Plan, as amended, may be installed in significant wetlands or riparian areas, provided that the facilities are designed and constructed to minimize intrusion into the wetland or riparian are; disturbed areas are replanted with native vegetation; and all required federal and state permits are obtained.

G. Stormwater Quality: As provided in FCC 9-5-5-3-F and the Code Definitions in FCC 10-2, significant wetlands over ½ acre and significant streams are "sensitive areas" that shall be protected by a buffer zone of native, undisturbed vegetation. The outer boundary of the buffer shall be determined by a minimum 50-feet setback from the edge of the significant wetland; for significant riparian areas, the buffer zone shall be the significant riparian width identified in the 2013 Inventory and the 2013 City of Florence Wetlands and Riparian Corridors Plan. The width and nature of protection required within the buffer may change as the Endangered Species Act and other state and federal regulations are promulgated. The City requires that the buffer width meet all state and federal requirements.

No land disturbing activities, structures, development and construction activities, gardens, lawns, application of chemicals, pet wastes, dumping of any kind of materials shall be permitted within the buffer zone, except as noted below:

1. Roads, pedestrian, or bike paths crossing the buffer from one side to the other in order to provide access to or across the sensitive area.

2. A pedestrian or bike path constructed within a buffer and parallel to a sensitive area shall have the buffer widened by the width of the path if the path is constructed of impervious material.

3. Pedestrian or bike paths shall not exceed 10-feet in width.

4. Utility/service infrastructure construction (i.e., storm, sanitary sewer, water, phone, gas, cable, etc.) If approved by the City Manager or his/her designee.

5. Measures to remove or abate hazards, nuisance, or fire and life safety violations as approved by the City.

6. Enhancement of the riparian corridor for water quality or quantity benefits, fish, or wildlife habitat as approved by the City and other appropriate regulatory authorities.

7. Water quality facilities planted with appropriate native vegetation may encroach into the buffer area as approved by the City and other appropriate authorities.

H. Additional Statewide Planning Goal 5 exceptions: The following exceptions are in addition to the exceptions in G, above. Consistent with Statewide Planning Goal 5 [OAR 660-023-0090 (8) (a)], the permanent alteration of significant riparian areas by grading or the placement of structures or impervious surfaces is prohibited, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

1. Water-related and water-dependent uses and removal of vegetation necessary for the development of water-related or water-dependent uses;

2. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area; and

3. Removal of non-native vegetation and replacement with native plant species.

I. Removal of native vegetation: In accordance with Goal 5, removal of vegetation from a significant riparian corridor is prohibited, except as otherwise provided in these Wetland and Riparian Standards and in FCC 4-6-3 and for the following:

1. Removal of non-native vegetation and replacement with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, shall maintain or exceed the density of the removed vegetation, and shall maintain or improve the shade provided by the vegetation.

2. Removal of vegetation necessary for the development of approved water-related or water-dependent uses or for the continued maintenance of dikes, drainage ditches, or other stormwater or flood control facilities. Vegetation removal shall be kept to the minimum necessary.

3. Trees in danger of falling and thereby posing a hazard to life or property may be removed, following consultation and approval from the Planning Director. If no hazard will be created, the Planning Department may require these trees, once felled, to be left in place in the Significant Wetland or Riparian Area.

4. The control or removal of nuisance plants should primarily be by mechanical means (e.g. hand-pulling). If mechanical means fail to adequately control nuisance plant populations, a federally approved herbicide technology for use in or near open water is the only type of herbicide that can be used in a Significant Riparian Corridor. Pre-emergent herbicides or auxin herbicides that pose a risk of contaminating water shall not be used. Herbicide applications are preferred to be made early in the morning or during wind-less periods at least 4 hours before probable rainfall. Any herbicide use must follow the label restrictions, especially the cautions against use in or near open water.

J. Special Provisions for the Munsel Creek Side Channel: The following special provisions apply to properties in the significant riparian corridor of the Munsel Creek Side Channel (Reach RMC-Cs in Table 2.2 of the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan). These provisions are in addition to, or provide relief from, the other standards in this subsection, and where conflicts exist, this section shall prevail.

1. In addition to the other setback adjustments and Variances allowed by this subsection, a 50% setback adjustment to the required 50-foot significant riparian width for properties along the Munsel Creek Side Channel will be permitted in order to allow new or expanded development to build up to 25 feet from the top of bank of the creek, as long as any native plants disturbed by the development are replaced elsewhere in the buffer zone, subject to the following exceptions and procedures:

   a. Properties in Florentine Estates PUD that were granted a reduced setback by the Planning Commission prior to October 5, 2013 are deemed to comply with the standards in this subsection and do not need to apply for this setback adjustment.

   b. The setback adjustment for other affected properties shall be granted through the Type II Review process in 10-1-1-6-2.

   c. The applicant shall be granted the setback reduction upon demonstration that any native vegetation displaced by the development shall be replanted in the remaining buffer zone (shrub for shrub, tree for tree, etc.)

   d. The applicant is not required to retain a professional for this application but a qualified professional may help a property owner identify displaced native plants and show how they will be replanted. To provide technical assistance, the City will provide the applicant with a native plant guide. Staff from the Siuslaw Watershed Council and Soil and Water Conservation District are available to provide property owners with technical assistance with native plant identification and guidance on replanting.

K. Setback Adjustments: The following reductions in setbacks shall be allowed for properties affected by the significant wetland and riparian area standards as set out below:

1. Eligibility for setback adjustment. Property owners affected by these significant wetland and riparian corridor standards shall be eligible for setback adjustments as follows:

   a. Single family dwellings: when the significant wetland or significant riparian corridor standard or requirement is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet.

b. For the Munsel Creek side channel: the "required setback" for the purpose of eligibility for the setback adjustment is the reduced setback allowed in subsection "J" above.

2. If the required setback or standard for the significant wetland or riparian corridor is such that no contiguous space exists outside the setback that allows for a dwelling unit at least 50 feet by 27 feet, then a primary dwelling, this size or less, shall be permitted to intrude into the setback area in accordance with the standards of this subsection. Any Code requirements of the applicable zoning district (such as required garages) that would necessitate intrusion into additional riparian area shall not apply.

3. If the proposed primary dwelling will be more than 20 feet from a significant wetland or stream, the adjustment application shall use the Type II Review process in FCC 10-1-1-6-2.

4. If a proposed primary dwelling will be built within 20 feet of a significant wetland or stream, a Hardship Variance from the Planning Commission shall be required in accordance with Florence City Code Title 10 Chapter 5.

L. Hardship Variances: A variance to the provisions of this subsection shall be granted by the Planning Commission in accordance with the procedures in Florence City Code Title 10 Chapter 5 only as a last resort and is only considered necessary to allow reasonable economic use of the subject property. The property must be owned by the applicant and not created after the effective date of this title.

1. Eligibility. An application for a hardship variance from the provisions of this subsection shall be available upon demonstration of the following conditions:

a. Siting of a primary dwelling 50 feet by 27 feet or less requires intrusion into the significant wetland buffer zone or significant riparian corridor within 20 feet of a significant wetland or stream; or

b. Strict adherence to the applicable standards or requirements of this subsection would effectively preclude a use of the parcel that could be reasonably expected to occur in the zone and that the property owner would be precluded a substantial property right enjoyed by the majority of landowners in the vicinity.

c. Due to unique circumstances and historic development patterns outside the control of the property owners, the Variance fee for this application shall be waived for affected Coast Village properties.

2. The following additional standards shall apply:

a. Demonstration that the intrusion into the setback must be the minimum necessary;

b. Demonstration that any native vegetation displaced by the development will be replanted in the remaining significant wetland buffer zone or riparian corridor. The applicant is not required to retain a professional for this application but a qualified professional may help a property owner identify displaced native plants and show how they will be replanted. To provide technical assistance, the City will provide the applicant with a native plant guide; staff from the Siuslaw Watershed Council and Soil and Water Conservation Service are also available to provide property owners with technical assistance with native plant identification and guidance on replanting.

c. Permanent alteration of the Significant Wetland or Riparian Area by an action requiring a variance is subject any mitigation requirements imposed by federal and state permitting authorities.

d. In granting a Variance, the Planning Commission shall impose conditions of approval that address all of the following criteria:

i. The site plan and application shall document the location of the impact, the existing conditions of the resource prior to the impact, and detailed planting plan for the approved setback area with dominant native plant species and density, and a narrative describing how the impacted resource will be replaced and approved setback area restored.

ii. Invasive vegetation shall be removed from, and native vegetation planted in, the approved setback area, with a minimum replacement ratio of 1:1 for the impacted area.

iii. Herbicides and pesticides not approved for use in buffer zones or riparian areas is prohibited in the approved setback area.

iv. All vegetation planted within the approved setback area shall be native to the region. In general, species to be planted shall replace those impacted by the development activity, i.e. trees must replace trees, brush must replace brush, and, within reason, like plants must replace like plants (i.e., dominant plant species).

v. Trees shall be planted at a density not less than the density in place prior to development.

vi. The property owners will work with available federal, state, and local agencies, such as the Siuslaw Watershed Council, the Siuslaw Soil and Water Conservation District, Oregon Department of Fish and Wildlife (ODFW), Department of State Lands (DSL), Salmon Trout Enhancement Program (STEP) to implement practices and programs to restore and protect the riparian area.

M. <u>Significant wetland and riparian corridor enhancement incentives:</u>

1. Enhancement of Significant Wetland Buffer Zones or Riparian Corridors is encouraged, including: riparian or in-channel habitat improvements, non-native plant control, and similar projects which propose to improve or maintain the quality of a Significant Wetland or Riparian Area; however, no enhancement activity requiring the excavation or filling of material in a wetland or jurisdictional stream shall be allowed unless all applicable State and Federal permits have been granted.

2. Incentives shall be provided to improve the continuity of Significant Riparian Corridors in situations where lots would be rendered unbuildable by the setback, as defined in the Definitions in FCC Title 10 Chapter 2. Such incentives may include: reducing the required front yard setback, alternative access, vacating right-of-way, property line adjustments, re-orientation of lots, transfer of development rights (if feasible), and density bonuses, among others. The resulting development will conform, to the maximum extent practical, to the general development patterns in the vicinity of the affected lot.

3. These incentives may also be provided to properties that are severely impacted by the setback when doing so will result in enhancement of the significant wetland, wetland buffer zone, or significant riparian corridor.

N. Inventory Map Corrections: The Planning Director may correct the location of a wetland or riparian boundary shown on the Local Wetland and Riparian Areas Inventory Maps when it has been demonstrated by a property owner or applicant that a mapping error has occurred and the error has been verified by DSL. Wetland delineations verified by DSL shall be used to automatically update and replace the City's Local Wetland Inventory mapping. No variance application shall be required for map corrections where approved delineations are provided.

**10-7-5: DEVELOPMENT STANDARDS FOR TSUNAMI HAZARD OVERLAY AREAS**

A. Purpose. The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in areas subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within areas subject to tsunami hazards in a manner that will:

1. Reduce loss of life;

2. Reduce damage to private and public property;

3. Reduce social, emotional, and economic disruptions; and

4. Increase the ability of the community to respond and recover.

Significant public and private investment has been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, over time, the community's exposure to tsunami risk will be reduced.

B. Definitions. Terms used in this subsection are defined within FCC 10-2-13.

C. Applicability of Tsunami Hazard Overlay Zone. All lands identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section.

D. Uses. In the Tsunami Hazard Overlay Zone, except for the prohibited uses set forth in FCC 10—5-E, all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section.

E. Prohibited Uses. Unless authorized in accordance with FCC 10-7-5-G, the following uses are prohibited in the specified portions of the Tsunami Hazard Overlay Zone:

1. In areas identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:

a. Hospitals and other medical facilities having surgery and emergency treatment areas.

b. Fire and police stations.

c. Structures and equipment in government communication centers and other facilities required for emergency response.

d. Buildings with a capacity greater than 250 individuals for every public, private, or parochial school through secondary level or child care centers.

e. Buildings for colleges or adult educations schools with a capacity of greater than 500 persons.

f. Jail and detention facilities.

2. In areas identified as subject to inundation from the Medium (M) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:

a. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures.

b. Emergency vehicle shelters and garages.

c. Structures and equipment in emergency preparedness centers.

d. Standby power generating equipment for essential facilities.

e. Covered structures whose primary occupancy is public assembly with a capacity of greater than 300 persons.

f. Medical facilities with 50 or more resident, incapacitated patients.

g. Residential uses, including manufactured home parks, of a density exceeding 10 units per acre.

h. Hotels or motels with more than 50 units.

3. Notwithstanding the provisions of FCC 10-8, the requirements of this subsection shall not have the effect of rendering any lawfully established use or structure nonconforming.

F. Use Exceptions. A use listed in FCC 10-7-5-E may be permitted upon authorization of a Use Exception in accordance with the following requirements:

1. Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.

2. Fire or police stations may be permitted upon findings that there is a need for a strategic location.

3. Other uses prohibited by FCC 10-7-5-E may be permitted upon the following findings:

a. There are no reasonable, lower-risk alternative sites available for the proposed use;

b. Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized; and

c. The buildings will be designed and constructed in a manner to minimize the risk of structural failure during the design earthquake and tsunami event.

4. Applications, review, decisions and appeals for Use Exceptions authorized by this subsection shall be in accordance with the requirements for a Type III procedure as set forth in FCC 10-1-1-6-3.

G. Evacuation Route Improvement Requirements. Except single family dwellings on existing lots and parcels, all new development, substantial improvements and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and conform to the adopted Evacuation Route Plan. Such measures shall include :

1. On-site improvements:

   a. Improvements necessary to ensure adequate pedestrian access from the development site to evacuation routes designated in the Evacuation Route Plan in all weather and lighting conditions.

   b. Frontage improvements to designated evacuation routes that are located on or contiguous to the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

   c. Where identified in the Evacuation Route Plan as the only practicable means of evacuation, tsunami evacuation structure(s) of sufficient capacity to accommodate the evacuation needs of the proposed development.

2. Off-site improvements: Improvements to portions of designated evacuation routes that are needed to serve, but are not contiguous to, the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

3. Evacuation route signage consistent with the standards set forth in the Evacuation Route Plan. Such signage shall be adequate to provide necessary evacuation information consistent with the proposed use of the site.

4. Evacuation route improvements and measures required by this subsection shall include, at a minimum, the following:

   a. Improved streets and/or all-weather surface paths of sufficient width and grade to ensure pedestrian access to designated evacuation routes in all lighting conditions;

   b. Improved streets and paths shall provide and maintain horizontal clearances sufficient to prevent the obstruction of such paths from downed trees and structure failures likely to occur during a Cascadia earthquake; and

   c. Such other improvements and measures identified in the Evacuation Route Plan.

5. When it is determined that improvements required by this subsection cannot be practicably accomplished at the time of development approval, payment in lieu of identified improvements shall be in accordance with FCC 8-5-1.

H. Tsunami Evacuation Structures. .

1. All tsunami evacuation structures shall be of sufficient height to place evacuees above the level of inundation for the XXL local source tsunami event.

2. Tsunami evacuation structures are not subject to the building height limitations of this chapter.

I. Flexible Development Option.

1. The purpose of the Flexible Development Option is to provide incentives for, and to encourage and promote, site planning and development within the Tsunami Hazard Overlay Zone that results in lower risk exposure to tsunami hazard that would otherwise be achieved through the conventional application of the requirements of this chapter. The Flexible Development Option is intended to:

   a. Allow for and encourage development designs that incorporate enhanced evacuation measures, appropriate building siting and design, and other features that reduce the risks to life and property from tsunami hazard; and

   b. Permit greater flexibility in the siting of buildings and other physical improvements and in the creation of new lots and parcels in order to allow the full realization of permitted development while reducing risks to life and property from tsunami hazard.

2. The Flexible Development Option may be applied to the development of any lot, parcel, or tract of land that is wholly or partially within the Tsunami Hazard Overlay Zone.

3. The Flexible Development Option may include any uses permitted outright or conditionally in any zone, except for those uses prohibited pursuant to FCC 10-7-5-D.

4. Overall residential density shall be as set forth in the underlying zone or zones. Density shall be computed based on total gross land area of the subject property, excluding street right-of-way.

5. Yards, setbacks, lot area, lot width and depth, lot coverage, building height and similar dimensional requirements may be reduced, adjusted or otherwise modified as necessary to achieve the design objectives of the development and fulfill the purposes of this section.

6. Applications, review, decisions, and appeals for the Flexible Development option shall be in accordance with the requirements for a Type III procedure as set forth in FCC 10-1-1-6-3.

7. Approval of an application for a Flexible Development Option shall be based on findings that the following criteria are satisfied:

   a. The applicable requirements of sub-paragraphs 2 and 4 of this subsection are met; and

   b. The development will provide tsunami hazard mitigation and/or other risk reduction measures at a level greater than would otherwise be provided under conventional land development procedures. Such measures may include, but are not limited to:

      i. Providing evacuation measures, improvements, way finding techniques and signage at a level greater than required by subsection F of this section;

      ii. Providing tsunami evacuation structure(s) which are accessible to and provide capacity for evacuees from off-site;

      iii. Incorporating building designs or techniques which exceed minimum structural speciality code requirements in a manner than increases the capacity of structures to withstand the forces of a local source tsunami; and

iv. Concentrating or clustering development in lower risk portions or areas of the subject property, and limiting or avoiding development in higher risk areas.

**10-7-6: SITE INVESTIGATION REPORTS (SIR):**

A. Areas identified in Section 2 and 3 above, are subject to the site investigation requirements as presented in "Beach and Dune Techniques: Site Investigation Reports by Wilbur Ternyik" from the Oregon Coastal Zone Management Association's *Beaches and Dunes Handbook for the Oregon Coast* (OCZMA Handbook), Appendix 18 of the Florence Comprehensive Plan as modified by the City of Florence. No development permit (such as building permit or land use permit) subject to the provisions of this Title may be issued except with affirmative findings that:

1. Upon specific examination of the site utilizing a Phase I Site Investigation Report (the checklist from the OCZMA Handbook, as modified by the City of Florence), it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; or

2. As demonstrated by the Phase II Site Investigation Report that harmful effects could be mitigated or eliminated through, for example, foundation of structural engineering, setbacks or dedication of protected natural areas. (Amended by Ord. No. 10, Series 2009)

Site investigation requirements may be waived where specific standards, adequate to eliminate the danger to health, safety and property, have been adopted by the City. This exception would apply to flood-prone areas, which are subject to requirements of the National Flood Insurance Program and other problem areas which may be adequately protected through provisions of the Building Code.

B. Permit Fee: A fee to offset the cost of time required to investigate and prepare Findings may be set by Council Resolution.

C. General Requirements for Phase II Site Investigation Reports shall include at least the following information. Additional information, commensurate with the level of hazard and site conditions shall be submitted.

1. Identification of potential hazards to life, proposed development, adjacent property, and the natural environment which may be caused by the proposed development.

2. Mitigation methods for protecting the subject property and surrounding areas from each potential hazard.

3. Acceptable development density.

4. Identification of soils and bedrock types.

5. Identification of soil depth.

6. Water drainage patterns.

7. Identification of visible landslide activity in the immediate area.

8. History of mud and debris flow.

9. In areas prone to landslide, mudflow and where slopes exceed 25%, reports shall identify the orientation of bedding planes in relation to the dip of the surface slope.

10. Recommendations for removal, retention, and placement of trees and vegetation.

11. Recommendations for placement of all structures, on site drives, and roads.

12. Recommendations for protecting the surrounding area from any adverse effects of the development. (Amended by Ord. No. 10, Series 2009)

D. Specific Standards for Phase II Site Investigation Reports will be determined on the basis of the information provided in the Phase I Site Investigation Report. At a minimum, specific standards shall address the following (may include more than one category listed below):

1. The SIR Phase II - Geologic Report shall follow the "Guidelines for Preparing Engineering Geologic Reports in Oregon" as adopted by the Oregon State Board of Geologist Examiners or shall meet the requirements for Site Investigation Reports as required by the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). The SIR Phase II – Geologic Report shall address the following:

   a. An explanation of the site and scope of the study area (e.g. subdivision, by lot specific, or for public improvements)

   b. An explanation of the degree the condition affects the property use in question;

   c. An explanation of the measures to be employed to minimize detrimental impacts associated with the condition;

   d. An explanation of the condition-associated consequences the development and the loss-minimizing measures will have on the surrounding properties.

2. SIR Phase II dealing with Beach or Dune areas shall include the items as listed in the OCZMA Handbook, Implementation Techniques, Section III that begins on page 7.

   a. Due to the sandy soils and the fragile nature of the vegetative covering, care shall be taken during any proposed construction in beaches and dune areas to minimize the amount of grading, excavation, removal of trees and other native vegetation in order to insure the stability of the soils.

   b. All open sand area (pre-existing or newly created) shall be planted or stabilized as soon as practicable after construction is completed.

   c. Using accepted re-vegetation techniques, sand areas shall be returned to their previous level of stability or to at least a conditionally stable level, following completion of construction. For large parcels or tracts, stabilization of the entire area may not be necessary as determined after consideration of a Site Investigation Report.

   d. During extended construction periods, temporary sand stabilization measures shall be employed to minimize sand movement and erosion caused by the removal of groundcover and soil.

3. Slopes in the 12% to 25% range: Determine the presence of soil creep, fills, or signs of past instability. If hazards are present, engineering recommendations shall be provided. If conditions require recommendations for foundation construction outside of the Building Code (IBC), those recommendations shall be provided by an appropriately qualified professional engineer. If thorough examination of the site determines that no hazards are present, documentation by an appropriately qualified professional.

4. Slopes greater than 25%:

   a. Subsurface exploration of areas above, below, and alongside known or suspected slides

   b. Accurate identification and measurement of the limits of the slide mass

   c. Identification of the stability of the slide mass and the mechanics of slide movement.

   d. Identification of the orientation of bedding planes in relation to the dip of the surface slope

   e. A site specific grading and erosion control plan for site stabilization and construction

   f. The methodology for determining the site stabilization plan

   g. Recommendation of suitable setbacks, keeping in mind the anticipated life of the structure or development.

5. Foredunes:

   a. Identification of a surveyed mean high tide line

   b. Determination of the ocean shore vegetation line

   c. Average annual rate that the shoreline is projected to migrate landward due to climate change (sea level rise, feet/year and increased storm intensity) and methodology used.

   d. Historic stability of beaches in the general area

   e. Life expectance of the structure

   f. Elevation of the structure

   g. Projected dune stabilization to protect site from wave action and methodology

   h. History and projection of ocean flooding and methodology

6. Properties along the Siuslaw River Estuary:

   a. Angle of repose for bluff material

   b. Mean high tide, and highest measured tide

   c. Extent of recent and historical cutbank, length of area and height of cut

   d. Area of wave overtopping and furnishing photographs or other evidence

   e. Current and historic stability of riverbank and rates of erosion in general area

   f. Projected rate of erosion and methodology

   g. Environmental resources present

   h. Impacts to be expected

   i. Description and photographs of current vegetation

7. Riprap or other Shoreland protective structures:

   a. Signed certification by the engineer or geologist that the protective structure shall withstand the life of the development that it is protecting; or with the property maintenance plan, the structure shall withstand the life of the development.

   b. Once the protective structure is competed the engineer or geologist shall provide a final summary that the protective structure was built according to the submitted plan.

8. Soils: The Site Investigation Report shall address the following development constraints for the soil types.

   a. Brallier - These are wetlands which should not be developed due to their resource value and severe development constraints.

   b. Dune Land - Development limitations on sand dunes can be slight to severe, depending on slope and whether adequate stabilization is done. These areas are superior to some of the other soil types in that there is no drainage problem. These areas are also known to include active sand dunes. Dune stabilization techniques should be addressed.

   c. Heceta - These are interdunal swales and deflation plains. The high water table and poor drainage make these soils generally unsuitable for development.

   d. Waldport - These are sand dunes which are covered with stabilization vegetation. Conditions are moderate to severe, depending on slope. The particular need here is to preserve existing vegetation and to stabilize soil which is disturbed.

   Drainage is not a problem. Areas with slopes greater than 12% should not be built on unless a site investigation determines the site to be buildable.

   a. Yaquina - These are somewhat poorly drained soils formed on an interdune position on old stabilized dunes. These areas are wet during the winter, but are better drained than Heceta. A site specific investigation would be required to determine location of swales and drainage channels.

   b. Netarts - These are old stabilized dunes. Soils are well-drained. The topography is undulating to hilly. Where slopes are less than 12% there are few development restrictions.

   c. Bohannon; Preacher/Bohannon/Slickrock - These areas have no restrictions except slope and suitability for forestland. They occur east of Munsel Lake Road in areas which are largely unbuildable due to slope. (Amended by Ord. No. 10, Series 2009)

**10-7-7: REVIEW AND USE OF SITE INVESTIGATION REPORTS**

A. The Phase I Site Investigation Report shall be reviewed administratively through a Type II Review. If it is found that the condition identified on the "Hazards Map" or "Soils Map" or "Beaches and Dunes Overlay Zone" or other identified problem area does not exist on the subject property; no Phase II report is required and the Site Investigation process is terminated. If hazards are found to exist, a Phase II report and a Conditional Use Permit shall be required.

   If a Phase II Site Investigation Report is required, the Phase II conclusions shall be submitted for Planning Commission review.

B. Required Certifications and Inspections:

For any Phase II SIR submitted, the registered professional of record shall be required to:

1. Review final plans for development and submit a signed and stamped certification report that all recommendations have been incorporated into development plans.

2. Review subgrade excavations and fills for structures and stormwater drainage and submit a signed and stamped certification report that construction is proceeding in accordance with approved plans.

3. Perform interim inspections as necessary and a final inspection of the site and submit a signed and stamped certification report that the project as constructed complies with approved plans.

C. Conditions of approval may be imposed and/or a bond may be required to be posted prior to issuance of permit to ensure that harmful effects such as erosion, sand encroachment, destruction of desirable vegetation including inadvertent destruction by moisture loss or root damage, spread of noxious weeds, damage to archaeological resources, are mitigated or eliminated.

D. Approval: The property owner shall record a Covenant of Release which outlines the hazard, restrictions and/or conditions that apply to the property and shall state, "The applicant recognizes and accepts that this approval is strictly limited to a determination that the project as described and conditioned herein meets the land use provisions and development standards of the City Code and Comprehensive Plan current as of this date. This approval makes no judgment or guarantee as to the functional or structural adequacy, suitability for purpose, safety, maintainability, or useful service life of the project."

E. Appeal: In the case of an appeal, the City shall hire a certified engineering geologist or other appropriate certified professional to review the Phase II Site Investigation Report. All costs incurred by the city to review the development shall be the responsibility of the applicant. (Ord. No. 10, Series 2009)

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Amended by Ordinance No. 15, Series 1988
Section 10-7-3-D corrected from the reference to C-2 to 10-7-3-B. (12/11/07) Section 10-7-3-E and H amended by Ord.
No. 24, Series 2008
Amended by Ord. No. 10, Series 2009
Section 10-7-1 amended by Ord. No. 3, Series 2013, Exhibit B (effective 7-31-13)
Section 10-7-4 added with Ordinance No. 2, Series 2013 (effective 10-5-13) and all subsequent sections renumbered
Sections 10-7-3, 10-7-4, and 10-7-6 amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Sections 10-7-5 amended and Sections 10-7-1, through 10-7-7 modified by Ord. No. 13, Series 2018 (effective 11-21-18)

TITLE 10
CHAPTER 8

# NONCONFORMING LOTS AND USES

SECTION:

10-8-1: Purpose
10-8-2: Expansion of Pre-Existing, Nonconforming Use
10-8-3: Undersized Lots of Record
10-8-4: Destruction of Nonconforming Buildings
10-8-5: Abandonment of Nonconforming Use
10-8-6: Change of Nonconforming Uses
10-8-7: Removal of Nonconforming Uses
10-8-8: Repairs and Maintenance
10-8-9: Definition of Replace

**10-8-1: PURPOSE:** There were lots, structures and uses that were lawful before the effective date hereof, or amendment hereto, but which have become either prohibited, regulated or restricted under the new terms and conditions of this Title. They shall hereafter be referred to as pre-existing, nonconforming uses or buildings.

It is recognized that significant expenditures of personal and financial energy may have been invested in the development of such uses and structures and that to dismiss these expenditures as no longer relevant would be harmful to the public welfare, both in regards to the community harmony and with respect to support that will be needed to improve the quality, esthetics and functional aspects of the community.

It is therefore the intent of this Chapter to allow these structures and uses that existed prior to the effective date hereof to continue, including normal maintenance, repair or replacement in case of damage due to fire or other disaster.

**10-8-2: EXPANSION OF PRE-EXISTING, NONCONFORMING USE:** A pre- existing nonconforming use may make a normal expansion of the existing structure for the same use up to twenty five percent (25%) of the existing square footage of floor area. Expansions larger than twenty five percent (25%) require a conditional use permit issued by the Planning Commission under the terms and conditions of Chapter 4 of this Title. Any expansion of a pre- existing, nonconforming use shall be subject to design review under the provisions of Chapter 6 of this Title.

**10-8-3: UNDERSIZED LOTS OF RECORD:**

A. Any lot having an area or dimension less than the minimum shall be designated a building site, provided the following criteria are met:

   1. The lot is shown on an officially approved and recorded subdivision map.

   2. A deed or a valid contract of sale is recorded with the Lane County Clerk.

   3. The lot was of legal area and dimension for a building site at the time the sale was recorded.

B. No lot or combination of contiguous lots, either vacant or containing a residential dwelling, shall be platted, partitioned or replatted so that an undersized lot is created, nor shall a lot be platted, partitioned or replatted if setbacks or dimensions less than the minimum would result.

**10-8-4: DESTRUCTION OF NONCONFORMING BUILDINGS:** In the event of damage or destruction due to fire or other disaster, a nonconforming building or structure may be replaced in accordance with the Building Codes and use which existed at the time of such damage or destruction.

Replacement shall be commenced within one year from the date of destruction and shall be diligently followed to completion. The Planning Commission, with a written request of the applicant, may extend the period an additional one year.

**10-8-5: ABANDONMENT OF NONCONFORMING USE:** The discontinuance of a nonconforming use for any six (6) consecutive months shall constitute abandonment. The pre-existing use shall be deemed to have been terminated and every building, structure and use occupying the premises thereafter shall conform to the regulations of the zoning district in which is located.

**10-8-6: CHANGE OF NONCONFORMING USES:** A change from one nonconforming use to another nonconforming use requires a conditional use permit issued by the Planning Commission subject to the procedures and conditions in Chapter 4 of this Title.

**10-8-7: REMOVAL OF NONCONFORMING USES:** If, after holding public hearings, the Planning Commission determines that the continuance of a nonconforming use is detrimental to the health, safety or welfare of a neighborhood, the nonconforming use shall be completely removed or converted to a conforming use within an amortization period prescribed by the City Council. The Planning Commission shall establish conditions for the operation of the nonconforming use during the amortization period (not less than 5 years nor more than 40 years, depending upon the impact the nonconforming use has on the surrounding neighborhood). The Planning Commission shall then grant a conditional use permit subject to the procedures set forth in Chapter 4 of this Title.

**10-8-8: REPAIRS AND MAINTENANCE:** Nothing in this Title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety. (Ord. 625, 6-30-80).

**10-8-9: DEFINITION OF REPLACE:** To rebuild a structure such that it is brought back to its original use. In replacing a damaged nonconforming structure, the structure does not need to conform to the prior design, but the design may not be altered in a manner that increased its nonconformity.

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Amended by Ordinance No. 15, Series 1988
Sections 10-8-4 and 10-8-5 amended and section 10-8-9 added by Ord. No. 3, Series 2013, see Exhibit B (effective 7-31-13)
Section 10-5-3-B amended by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 9

# MOVING BUILDINGS OR STRUCTURES

SECTION:

10-9-1: Requirements

**10-9-1: REQUIREMENTS:** Before a permit is issued for a building or structure to be moved to a location within the City limits, the Building Official shall determine that the building or structure will meet the following requirements:

A. The use for which the building was designed and the intended use are permitted within the zoning district into which it is being moved.

B. The building shall meet all the requirements of the City building, fire and sanitation codes.

C. The appearance of the building or structure is not detrimental to the welfare, character and harmony of the area into which it is being moved. (Ord. 625, 6-30-80)

TITLE 10
CHAPTER 10

# RESIDENTIAL DISTRICTS

SECTION:


10-10-1: Residential Districts and Purpose
10-10-2: Residential Uses
10-10-3: Non-Residential Uses
10-10-4: Lot and Yard Provisions
10-10-5: Site Development Provisions
10-10-6: Accessory Dwelling Units
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## 10-10-1: RESIDENTIAL ZONES AND PURPOSE:

A. Low Density Residential (LDR): The Low Density Residential District is intended to provide a quality environment for low density, urban residential uses and other Planned Unit Development as determined to be necessary and/or desirable.

B. Medium Density Residential (MDR): The Medium Density Residential District is intended to provide a quality environment for medium density, urban residential uses and other compatible land uses determined to be necessary and/or desirable.

C. Mobile Home/Manufactured Home Residential (RMH): The Mobile Home/Manufactured Home Residential District is intended to provide mobile home/manufactured home owners and owners of other pre-manufactured homes an alternative to renting space in a mobile home/manufactured home park. It is further the intent of this District to establish areas within the City for permanent installations of mobile homes/manufactured homes, primarily for resident owners, and to establish certain design features enabling mobile homes/manufactured homes to blend with conventional housing.

D. High Density Residential (HDR): The High Density Residential District is intended to provide a quality environment for high density, urban residential uses together with other compatible land uses determined to be necessary and/or desirable.

**10-10-2: RESIDENTIAL USES:**

A. Table 10-10-2-A. The following table indicates which uses are permitted in each residential zone.

| Uses | LDR | MDR | RMH | HDR |
|---|---|---|---|---|
| Single-family detached dwelling | P | P | P | C |
| Accessory structure | P | P | P | P |
| Accessory dwelling unit | P | P | P | P |
| Single-family attached dwelling | N | SR | SR | P |
| Duplex/duet | N | P | P | P |
| Tri-plex | N | C | C | P |
| Quad-plex | N | C | C | P |
| Multi-family (5+ units) | N | N | N | SR |
| Cluster housing | N | C | C | P |
| Temporary dwelling/RV – Medical hardship | C | C | C | C |
| Manufactured home | P | P | P | C |
| Manufactured home park/subdivision | N | C | SR | SR |
| Mobile home park | N | N | SR | SR |
| Residential Care Facility/Nursing Home | SR | SR | SR | SR |
| Boarding house/dormitory | N | C | C | SR |
| Transitional housing | N | N | N | N |
| Religious institution housing or parsonage | C | C | C | C |
| Planned Unit Development | D | D | D | D |

P=Permitted with Type I review, SR=Type II site review required, C=Type III conditional use review required and N=Not permitted, D=Type III Planning Commission Review

**10-10-3: NON-RESIDENTIAL USES**

A. Table 10-10-3-A. The following table indicates which uses are permitted in each residential zone.

| Uses | LDR | MDR | RMH | HDR |
|---|---|---|---|---|
| Public and semi-public buildings and uses (e.g. fire stations, pumping stations, reservoirs, etc.) | C | C | C | C |
| Public and private parks, playgrounds, community centers and recreation facilities | C | C | C | C |
| Religious institutions | C | C | C | C |
| Child care centers | C | C | C | C |
| Day nurseries (must retain residential character of building) | N | C | C | C |
| Recreation facilities for use of residents or guests as part of an approved PUD | P | P | P | P |
| Home occupations | P | P | P | P |
| Neighborhood Commercial | N | C | C | C |
| Bed and Breakfast Facility | N | C | N | N |
| Professional offices | N | N | N | C |
| Public parking areas | N | N | N | C |
| Agricultural uses | N | C | C | N |
| Gardens and greenhouses for the harvest of fruits, vegetables and flowers for noncommercial use | P | P | P | P |

| | | | | |
|---|---|---|---|---|
| Hospitals | N | C | C | C |
| Public or private schools | N | C | C | C |
| Cemeteries | N | C | C | N |

P=Permitted with Type I review, SR=Type II site review required, C=Type III conditional use review required and N=Not permitted

**10-10-4: LOT AND YARD PROVISIONS:**

A. Minimum Lot Dimensions: To be designated a building site, a lot must meet the following minimum lot dimensions:

Table 10-10-4-A. Minimum Lot Dimensions by Development Type[1]

| | **LDR** | | **MDR** | | **RMH** | | **HDR** | |
|---|---|---|---|---|---|---|---|---|
| **Type** | **Width** | **Depth** | **Width** | **Depth** | **Width** | **Depth** | **Width** | **Depth** |
| All development types including single-family detached[2], except: | 50 ft. | 80 ft. | 50 ft. | 80 ft. | 50 ft. | 80 ft. | 50 ft. | 80 ft. |
| Single-family attached dwelling or duet (single unit) | N/A | N/A | 25 ft. | 80 ft. | 25 ft. | 80 ft. | 25 ft.[3] | 80 ft.[3] |
| Manufactured Home Park | N/A | N/A | 50 ft. | 80 ft. | 35 ft. | 70 ft. | 35 ft. | 70 ft. |

[1] Undersized lots of record with dimensions below the minimum may still be eligible for development. See Section 10-10-12.[2] Cluster housing shall meet minimum lot sizes in FCC 10-10-8-C-2-b.[3] The single-family attached dwelling dimensions shall also apply to single-family detached dwellings in the HDR zone.

B. Minimum Lot Area: To be designated a building site, a lot must meet the following minimum lot area:

Table 10-10-4-B. Minimum Lot Area by Development Type.[1]

| **Development Type** | **LDR** | **MDR** | **RMH** | **HDR** |
|---|---|---|---|---|
| Single-family detached dwelling | 7,500 sq. ft. | 5,000 sq. ft. | 5,000 sq. ft. | 2,000 sq. ft. |
| Single-family attached dwelling | N/A | 3,000 sq. ft. | 3,000 sq. ft. | 2,000 sq. ft. |
| Duplex or Duet (both units) | N/A | 5,000 sq. ft. | 5,000 sq. ft. | 4,000 sq. ft. |
| Tri-plex | N/A | 7,500 sq. ft. | 7,500 sq. ft. | 5,000 sq. ft. |
| Four-plex | N/A | 10,000 sq. ft. | 10,000 sq. ft. | 5,000 sq. ft. |
| All other development types[2] | 7,500 sq. ft. | 5,000 sq. ft. | 5,000 sq. ft. | 5,000 sq. ft. |

[1]Undersized lots of record with area below the minimum may still be eligible for development. See Section 10-10-12 of this Title.[2] Cluster housing shall meet minimum lot sizes in FCC 10-10-8-C-2-a.

C. Lot Coverage: The maximum coverage shall not exceed the following:

| | LDR | MDR | RMH | HDR |
|---|---|---|---|---|
| Maximum building coverage | 50% | 50% | 50% | 75% |
| Maximum coverage by all impervious surfaces | 75% | 75% | 75% | 85% |

D. Yard Regulations: Unless an adjustment or variance is granted in accordance with Chapter 5 of this Title, minimum setbacks and yard regulations shall be as indicated below:

Table 10-10-4-D. Minimum setbacks and yard regulations.

| | LDR | MDR | RMH | HDR |
|---|---|---|---|---|
| **Front** | | | | |
| Primary | 10 ft. | 10 ft. | 10 ft. | 5 ft.[1] |
| Garage or Carport vehicular entrance wall | 20 ft. | 20 ft. | 20 ft. | 20 ft. |
| **Side** | | | | |
| Primary[2] | 10 ft. | 5 ft. | 5 ft. | 5 ft.[1] |
| Accessory Building | 5 ft. | 5 ft. | 5 ft. | 5 ft. |
| Accessory Dwelling Unit | 10 ft. | 5 ft. | 5 ft. | 5 ft. |
| Parking Lot, Garage or Carport | 10 ft. | 5 ft. | 5 ft. | 5 ft. |
| Garage or Carport vehicular entrance wall | 20 ft. | 20 ft. | 20 ft. | 20 ft. |
| **Rear[1]** | | | | |
| Primary | 10 ft. | 5 ft. | 5 ft. | 5 ft.[1] |
| Accessory Building | 5 ft. | 5 ft. | 5 ft. | 5 ft. |
| Accessory Dwelling Unit | 10 ft. | 5 ft. | 5 ft. | 5 ft. |
| Parking Lot, Garage or Carport | 10 ft. | 10 ft. | 10 ft. | 10 ft. |
| Garage or Carport vehicular entrance wall | 20 ft. | 20 ft. | 20 ft. | 20 ft. |

[1]Single-family detached and duplex dwellings in the HDR District shall have the same front, side and rear yard regulations as the MDR District.

[2]Minimum side setbacks may be reduced to zero feet (0') for attached primary structures where they share a common wall with a structure on an adjacent lot.

[3]For a corner lot or parcel which adjoins the point of intersections of two streets as defined in "Lot Type Corner" both lot or parcel lines are the front line. The sum of these setbacks shall not fall below the sum of the minimum front and side yard requirements for primary building and no setback shall be below the minimum primary side yard requirement for the district.

1. The required front and side yards shall not be used for clotheslines, incinerators, storage of trailers, boats and recreational vehicles or of any materials, nor shall said yards be used for the regular or constant parking of automobiles or other vehicles, except as permitted under 10-3-8-A.

2. All patio and playground equipment structures and swimming pools shall be a minimum of five feet (5') from any side or rear property line.

3. When a multi-family use adjoins a single-family detached use, the multi-family use shall be set back from shared lot lines one additional foot for each foot of height over twenty-eight feet (28'), except that the required setback shall not exceed twenty feet (20') from any lot line.

E. Residential Density Standards: Unless a variance is granted in accordance with Chapter 5 of this Title, minimum and maximum density standards shall be as listed below:

| | LDR[2] | MDR[3] | RMH[3] | HDR |
|---|---|---|---|---|
| Minimum net density (units/acre) | - | - | - | 12 |
| Maximum average net density (units/acre) | - | 12 | 12 | 25[1] |

[1]Maximum average net density may be increased in the High Density Residential District through a PUD. See FCC 10-23. [2]Maximum Density is calculated using minimum lot size for use(s) proposed.

[3]Existing undeveloped (infill) lots use lot sizes in Table 10-10-4-B. Subdivisions, partitions, lot line consolidations, and replats use 12 units per acre for MDR and RMH.

**10-10-5: SITE DEVELOPMENT PROVISIONS:**

A. Building or Structural Height Limitations:

1. Primary Structures: The maximum building or structural height shall be thirty-five feet (35'), excepting High Density District which shall permit forty feet (40'), limited to three (3) stories.

2. Accessory Structures: The maximum building height shall be twenty feet (20').

3. Accessory Dwelling Units: The maximum building height shall be twenty-eight feet (28').

4. Nonresidential Structures: The maximum building height shall not exceed thirty feet (30').

5. Structures in the HDR, LDR, MDR and RMH shall have a minimum roof pitch of 3/12, except mobile homes in the mobile/manufactured home parks or district.

B. Fences: See Code Section 10-34-5 of this Title

C. Vision Clearance: Refer to Section 10-2-13 and 10-35-2-14 of this Title for definition, and requirements.

D. Off-Street Parking: Refer to Chapter 3 of this Title (Off-Street Parking and Loading)

E. Signs: Signs shall be in accordance with Title 4, Chapter 7 of this Code. (Ord. 4, 2011)

F. Landscaping: Except for single-family and duplex dwellings, refer to Section 10-34 of this Title for requirements.

G. Access and Circulation: Refer to Section 10-35 of this Title for requirements.

H. Public Facilities: Refer to Section 10-36 of this Title for requirements.

I. Lighting: Refer to Section 10-37 of this Title for requirements.

**10-10-6: ACCESSORY DWELLING UNITS:**

A. Accessory Dwelling Units are permitted within all Residential Districts on all parcels with previously-existing primary detached single-family dwellings subject to a Type I approval process and the following criteria:

1. Construction Criteria:

   a. The total floor area of the ADU shall be no fewer than 201 square feet. The floor area shall also not exceed 1,000 square feet, or 75 percent of the area of the primary unit; whichever is less.

   b. Where the primary dwelling is fewer than 500 square feet of living area, an Accessory Dwelling Unit may be constructed within up to 100% of the living area of the primary dwelling.

   c. Adequate provisions shall be made for stormwater, water, and wastewater as well as other utilities such as power.

   d. ADUs may be interior to, attached to, or detached from the structure of the primary dwelling, but are permanent structures built on a foundation, with the following exception:

      i. Dwellings built on an axled frame designed for transportation on streets and highways do not qualify as ADUs unless made permanent through the payment of System Development Charges.

      ii. ADUs built on an axled frame may be considered a permanent dwelling through the removal of tongue and running gear, addition of blocking, and the addition of skirting.

2. Siting & Design Criteria:

   a. Separate access shall be provided to each dwelling through a hard-surfaced pedestrian walkway leading to the nearest developed right-of-way or sidewalk. Connection through an existing sidewalk or driveway is permitted.

   b. Parking for each dwelling shall be denoted on a site plan, established, and maintained per FCC 10-3-4 and 10-3-8.

   c. One hundred square feet (100 sq. ft.) of open space, denoted on a site plan, shall be provided for the use of occupants of the ADU meeting the following criteria:

      i. Not less than ten feet (10’) in width or depth at any point.

      ii. Located on land with less than a five percent (5%) slope.

      iii. Cleared sufficiently of trees, brush and obstructions so that intended recreational use proposed is possible.

      iv. Not used for temporary or regular parking of automobiles or other vehicles.

   d. Accessory Dwelling Units shall meet the architectural standards of the underlying zoning district. ADUs need not match the architecture of the primary dwelling if located within the side or rear yards of the primary dwelling. ADUs within the front yard of the primary dwelling must match the appearance, building material (in appearance) and color of the primary dwelling.

   e. Sites with more than one primary dwelling (i.e. a duplex or triplex), where an Accessory Dwelling Unit is proposed may be approved through a Type II process.

   f. Within the Low Density Residential, Medium Density Residential, Mobile Home / Manufactured Home, and Coast Village zoning districts: One ADU may be constructed per legal, buildable lot.

g. Within the High Density Residential District, both a detached ADU and an attached ADU may be constructed on the same lot. The number of Accessory Dwellings per legal, buildable lot shall not exceed two. Applications with more than one ADU may be approved through a Type II review. All other criteria in place for ADUs shall be met.

h. ADUs may be constructed or placed according to the standards of this chapter within other non-residential districts. One ADU may be constructed per legal, buildable lot.

3. Safety Requirements:

a. All Accessory Dwelling Units shall meet the standards of Building and Fire Code.

b. All Accessory Dwelling Units shall be inspected by the Building Official prior to their occupancy in order to determine the safety of the structure for habitation.

B. Residential Development Density Standards do not apply to Accessory Dwelling Units.

C. Accessory Dwelling Units shall not be used for Short Term Rentals.

D. The standards of code section 10-10-6 regarding accessory dwelling units supercede those of all other residential districts.

**10-10-7: ATTACHED HOUSING:**

A. Applicability: Single-family attached dwellings, duplexes, tri-plexes, and four-plexes are subject to all of the applicable sections of this Title. Where there is a conflict between these standards and standards elsewhere in the code, the Attached Housing standards shall apply.

B. Intent.

1. To provide a variety of housing types that respond to changing household sizes and ages, including but not limited to retirees, small families, and single-person households.

2. To ensure that the overall size and visual impact of the attached development be comparable to standard residential development, by balancing bulk and mass of individual residential units with allowed intensity of units.

3. To ensure minimal visual impact from vehicular use and storage areas for residents of the attached housing development as well as adjacent properties.

C. Approval Criteria.

1. Construction Criteria:

a. Maintenance easement: No building permit shall be issued for an attached development unless the applicant provides a copy of a recorded easement from the owner(s) of contiguous properties providing for reasonable ingress, egress, and use of such properties for the purpose of maintaining, repairing and replacing the premises. The easement shall be in a form approved by the City Attorney.

b. Number of attached units allowed: No more than 4 consecutive units that share a common wall or walls, roof, or foundation are permitted. A set of 4 attached units is allowed to be adjacent to a separate set of 4 attached units.

2. Dimensional Standards: In addition to the standards listed in 10-10-4, attached housing must meet the following:

   a. Interior side setback: Any exterior wall or portion thereof which faces but is not contiguous to an interior side lot line shall be setback a minimum of five feet. This standard shall also apply to accessory structures

3. Open Space: Developments of four (4) or more units shall provide and maintain open space for the use of all occupants. Open space shall have the following characteristics:

   a. Not less than ten feet (10') in width or depth at any point.

   b. Located on land with grade less than five percent (5%) slope.

   c. Cleared sufficiently of trees, brush and obstructions so that intended recreational use proposed is possible.

   d. Not used for temporary or regular parking of automobiles or other vehicles.

   e. Includes at least one hundred (100) square feet of area for each dwelling unit. (Ord. 625, 6-30-80).

   f. Includes one or more of the following: indoor or outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

   g. Open space may be provided as private open space for single-family attached dwellings.

4. Architectural Details

   a. Approved exterior building wall materials:

      i. Lap siding, board and batten siding, shingles and shakes. Metal siding shall not be permitted

      ii. Vinyl siding is permitted if it meets the following standards:

         1. The style emulates lap siding, board and batten siding, shinges and/or shakes.

         2. The vinyl is ultraviolet- and heat-stabilized.

         3. Panels are a minimum thickness of 0.044 inches.

         4. Soffit panels are a minimum thickness of 0.050 inches.

         5. Siding is installed with corrosion-resistant fasteners such as aluminum or galvanized nails.

         6. Siding is installed with sufficient space at openings, stops and nailing slots to allow for expansion and contraction of the material without warping, buckling or cracking.

      iii. Brick or stone masonry with a minimum 2 ½” deep solid veneer material

iv. Cement-based stucco

v. Secondary materials: Any of the materials listed above as permitted may also be used as secondary materials or accents. In addition, the materials listed above are allowed as secondary materials, trims, or accents (e.g., flashing, wainscoting, awnings, canopies, ornamentation) when non-reflective and compatible with the overall building design, subject to approval. Secondary materials may be used on up to 30% of the façade.

b. Single-family attached and duet dwellings shall include an area of transition between the public realm of the right-of-way and the entry to the private dwelling with one of the following options:

i. A covered porch or patio of at least sixty square feet with a minimum depth of five feet (5') between the main entrance and the street.

ii. Uncovered stairs that lead to the front door or front porch of the dwelling. The stairs shall rise at least three feet (3'), and not more than six feet (6'), from grade.

5. Off-Street Parking: Attached Housing must meet all of the applicable standards outlined in Section 10-3 of this Title.

6. Fences: Attached Housing must meet all of the applicable standards outlined in Section 10-34-5 of this Title.

**10-10-8: CLUSTER HOUSING:**

A. Applicability: Cluster developments are subject to all the applicable sections of this Title. Where there is a conflict between these standards and standards elsewhere in the code, the Cluster Housing standards shall apply.

B. Intent.

1. To provide a variety of housing types that respond to changing household sizes and ages, including but not limited to retirees, small families, and single-person households.

2. To encourage creation of more usable open space for residents of the development through flexibility in density and lot standards.

3. To ensure that the overall size and visual impact of the cluster development be comparable to standard residential development, by balancing bulk and mass of individual residential units with allowed intensity of units.

4. To provide centrally located and functional common open space that fosters a sense of community and a sense of openness in cluster housing developments.

5. To ensure minimal visual impact from vehicular use and storage areas for residents of the cluster housing development as well as adjacent properties.

C. Development Standards.

1. Unit Standards:

a. Maximum average gross floor area: One thousand and two hundred (1,200) square feet per dwelling unit

b. Maximum height for primary dwellings: twenty-eight feet (28')

c. Minimum roof slope of all structures: 4:12

d. Permitted Housing Types:

i. Medium Density Residential and Mobile Home/Manufactured Home Residential Districts: Units may be single-family detached or up to four units attached.

ii. High Density Residential District: Units may be single-family detached or any number of units attached.

2. Dimensional Standards: In addition to the standards listed in 10-10-4, cluster developments must meet the following:

a. Minimum Lot size: Shall meet standards of Table 10-10-8-A.

| | Minimum lot size for development on a single lot | Minimum lot size for development with individual lots |
|---|---|---|
| MDR and RMH | 10,000 square feet | 2,000 square feet |
| HDR | 8,000 square feet | 1,500 square feet |

b. Minimum lot dimensions: Minimum lot width for individual lots shall be twenty (20) feet, with a minimum lot depth of fifty (50) feet.

c. Minimum setbacks from site perimeter: Same as the base zone.

d. Minimum setbacks for single-family and duplex dwellings on individual lots within a Cluster Housing development:

| | **Setback** |
|---|---|
| Front | 10 ft. |
| Porch or stairs | 5 ft. |
| Side | 3 ft. |
| Rear | 5 ft. |

e. Setbacks for accessory buildings shall comply with 10-10-4-D.

f. Maximum building coverage shall be the same as the underlying zone.

g. Minimum distance separating dwelling units (excluding attached dwellings and accessory structures): Six feet (6').

3. Density.

a. For developments in the Medium Density Residential and Mobile Home/Manufactured Home Residential Districts: Maximum net density is 17.4 units per acre.

b. For developments in the High-Density Residential District: Maximum net density shall be the same as allowed under 10-10-4-E.

c. Units Per Cluster:

i. Medium Density Residential District: There may be 4-12 units per cluster.

ii. High Density Residential District: There may be 4-12 units per cluster with no limit on the number of clusters.

4. Open Space:

a. Cluster Housing shall provide and maintain at least one common open space for the use of all occupants. The open space shall have the following characteristics:

i. Located on land with a grade less than a five percent (5%) slope.

ii. Cleared sufficiently of trees, brush and obstructions so that intended recreational use proposed is possible.

iii. Not used for temporary or regular parking of automobiles or other vehicles.

iv. Includes at least one hundred (100) square feet of area for each dwelling unit.

v. Provides at least 50% of open space in the form of a single, contiguous, centrally located open space that:

A. Has a minimum dimension of twenty feet (20')

B. Abuts at least fifty percent of the dwellings in a cluster housing development.

C. Has dwellings abutting on at least two sides.

D. The common open space shall be developed with a mix of landscaping and lawn area, recreational amenities, hard-surfaced pedestrian paths, or a community building built for the sole use of the cluster housing residents. Impervious elements of the common open space, excluding community buildings, shall not exceed 30 percent of the total open space.

E. Shared non-recreational facilities such as shared laundry or storage facilities shall not count towards the open space requirement.

b. If private open space is provided for dwelling units, it shall be adjacent to each dwelling unit. Private open space may include landscaping, porches, patios and decks. The minimum dimension for private open spaces shall be ten feet (10'), except that porches shall have a minimum dimension of five feet (5'). 2nd story decks are excluded.

5. Architectural Details

a. Approved exterior building wall materials:

i. Lap siding, board and batten siding, shingles and shakes. Metal siding shall not be permitted

ii. Vinyl siding is permitted if it meets the following standards:

1. The style emulates lap siding, board and batten siding, shinges and/or shakes.

2. The vinyl is ultraviolet- and heat-stabilized.

3. Panels are a minimum thickness of 0.044 inches.

4. Soffit panels are a minimum thickness of 0.050 inches.

5. Siding is installed with corrosion-resistant fasteners such as aluminum or galvanized nails.

6. Siding is installed with sufficient space at openings, stops and nailing slots to allow for expansion and contraction of the material without warping, buckling or cracking.

iii. Brick or stone masonry with a minimum 2 ½" deep solid veneer material

iv. Cement-based stucco

v. Secondary materials: Any of the materials listed above as permitted may also be used as secondary materials or accents. In addition, the materials listed above are allowed as secondary materials, trims, or accents (e.g., flashing, wainscoting, awnings, canopies, ornamentation) when non-reflective and compatible with the overall building design, subject to approval. Secondary materials may be used on up to 30% of the façade.

6. Off-Street Parking: Cluster Housing must meet all of the applicable standards outlined in Section 10-3 of this Title.

7. Fences: Cluster Housing must meet all of the applicable standards outlined in Section 10-34-5 of this Title.

8. Existing dwelling unit onsite: One existing single-family home incorporated into a Cluster Cottage Housing Development that does not meet the requirements of this chapter is permitted to remain on a site developed for cluster housing and shall be considered a dwelling in the development. The existing single family dwelling unit shall not be part of the average gross floor area calculations. Modifications or additions to the existing dwelling unit not consistent with the provisions of this chapter shall not be permitted.

**10-10-9: MULTI-FAMILY DWELLINGS:**

A. Applicability: Developments of five (5) or more attached residential units are subject to all of the applicable sections of this Title. Where there is a conflict between these standards and standards elsewhere in the code, the Multi-Family Dwellings standards shall apply.

B. Siting and Design Criteria:

1. Separation Between Buildings: The minimum separation between multiple-family buildings shall be thirty feet (30') except where buildings are arranged end to end. Except In such a case, there shall be at least a ten foot (10') separation and no doorway or entry may open into the space between the buildings.

2. Public Facilities: In addition to requirements listed in Section 10-36 of this Title, the developer of a multi-family dwelling shall have full financial responsibility for the utilities needed on the building site. The developer shall also have partial or full financial responsibility, as determined by the City, for extra capacity utilities required to serve the building site.

3. Open Space: Developments of five (5) or more units shall provide and maintain at least one common open space for the use of all occupants. The open space shall have the following characteristics:

   a. Not less than ten feet (10') in width or depth at any point.

   b. Located on land with less than a five percent (5%) slope.

   c. Cleared sufficiently of trees, brush and obstructions so that intended recreational use proposed is possible.

   d. Not used for temporary or regular parking of automobiles or other vehicles.

   e. Includes at least one hundred (100) square feet of area for each dwelling unit. (Ord. 625, 6-30-80)

   f. Includes one or more of the following: indoor or outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

4. Design Standards: Multi-family buildings must meet all applicable design criteria of FCC 10-6-6-4 and 10-6-6-5, with the following exceptions:

   a. 10-6-6-4. G.

   b. 10-6-6-5. F. 2.

   c. 10-6-6-5. G. 3.

   d. Vinyl siding may be permitted if it meets the following standards:

      1. The style emulates lap siding, board and batten siding, shinges and/or shakes.

      2. The vinyl is ultraviolet- and heat-stabilized.

      3. Panels are a minimum thickness of 0.044 inches.

      4. Soffit panels are a minimum thickness of 0.050 inches.

      5. Siding is installed with corrosion-resistant fasteners such as aluminum or galvanized nails.

      6. Siding is installed with sufficient space at openings, stops and nailing slots to allow for expansion and contraction of the material without warping, buckling or cracking.

5. Off-Street Parking: Multi-family development must meet all of the applicable standards outlined in Section 10-3 of this Title.

6. Fences: Multi-family development must meet all of the applicable standards outlined in Section 10-34-5 of this Title.

**10-10-10: MANUFACTURED HOMES OUTSIDE OF MH SUBDIVISIONS OR PARKS**

A. When a manufactured home is placed outside of a manufactured home subdivision or mobile home park in a zone which allows single family dwellings, in addition to any other requirements that would be imposed were the structure constructed on site, the manufactured home shall comply with the following placement standards:

1. Size: The manufactured home shall be multisectional and enclose a space of not less than 1,000 square feet.

2. Foundation: The manufactured home shall be placed on an excavated and back-filled foundation and skirted in conformance with the requirements of the Building Codes Agency Manufactured Dwelling Administrative Rules in effect at the time of construction.

3. Roof Pitch: The manufactured home shall have a pitched roof with a nominal slope of at least three feet (3') in height for each twelve feet (12') in width.

4. Siding and Roofing Requirements: The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community.

5. Thermal Performance: The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the State Building Code as defined in ORS 455.010.

B. Nothing in this section shall allow a manufactured home to be placed on residential land immediately adjacent to a historic landmark or other property with a historic designation for tax or assessment purposes.

**10-10-11: MOBILE HOME/MANUFACTURED HOME PARKS:**

**10-10-11-1: ADMINISTRATIVE PROVISIONS:**

A. Compliance Required: No land within the City shall be developed for use as a mobile home/manufactured home park and no plan for such park shall be filed or recorded until submitted to and approved by the Planning Director through a Type II Process as defined in 10-1-1-6-2.

B. Minimum Standards: The requirements and standards set forth in this Section are the minimum ones to which a mobile home/manufactured home park must conform before approval of the Planning Director.

C. Conformity to the Comprehensive Plan: The mobile home/manufactured home park development shall conform to the City Comprehensive Plan of that portion of the City with which the development is located.

**10-10-11-2: DESIGN STANDARDS:** The following standards and requirements shall govern the application of a mobile home/manufactured home park development in an area in which it is permitted:

A. A mobile home/manufactured home park shall not be less than one and one-half (1 1/2) acres in area, nor contain less than fifteen (15) rental spaces.

B. Lots or spaces within the park shall contain a minimum of two thousand four hundred fifty (2,450) square feet, with a width of no less than thirty five feet (35').

C. Only one living unit shall be permitted on a lot or space.

D. No building, structure or land within the boundaries of a mobile home/manufactured home park shall be used for any purpose except for the uses permitted as follows:

1. Mobile homes/manufactured homes for residential uses only, together with the normal accessory buildings such as cabana, ramada, patio slab, carport or garage and storage or washroom building.

2. Private and public utilities and services on approval by the Planning Director.

3. Community recreation facilities, including swimming pools, for residents of the park and guests only.

4. Residences for the use of a caretaker and/or managers responsible for maintaining or operating the property.

5. One small store for the convenience of the residents of the park and guests and/or other appropriate businesses subject to approval by the Planning Director.

E. All mobile homes/manufactured homes shall be set back at least twenty feet (20') from mobile home/manufactured home park boundary lines abutting upon public streets or highways, one hundred feet (100') from the center line of a State highway, and at least ten feet (10') from other park boundary lines.

F. All mobile homes/manufactured homes shall be provided with a foundation stand, which shall be improved to provide adequate support for the placement and tie down of the mobile home/manufactured home. The stand shall be all-weather surfaced with asphalt, concrete or crushed rock, and must be at least as large as the mobile home placed upon it. The stand shall be constructed so that it will not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. Each stand design shall be approved by the City Building Official.

G. All single-wide mobile homes/manufactured homes shall be tied down, thereby securing the structure against uplift, sliding, rotation and overturning. Anchors and tie downs or other devices to be used to stabilize the mobile home/manufactured home shall be of an approved type and shall be able to sustain a minimum load of four thousand seven hundred twenty five (4,725) pounds each. All such devices for anchoring and securing the structure must be approved by the City Building Official.

H. All mobile homes/manufactured homes shall be required to provide minimum exterior finishing and construction of accessories as follows:

1. All mobile homes/manufactured homes shall have compatible skirting of a moisture resistant, noncombustible material or fire- retardant wood, which must be installed within sixty (60) days from placement of home. This skirting material must be maintained in perpetuity as long as the unit is habitable.

2. Pedestals or supports shall be installed to insure adequate support for all mobile homes/manufactured home. However, no mobile home/manufactured home shall be permanently attached to a foundation.

3. All awnings, carports, cabanas, etc., shall comply with the City's Building Code.

I. All mobile home/manufactured home parks over ten (10) acres in size shall be located so as to have access on a street designated by the City as a collector street.

J. Street lighting shall be provided within the park in accordance with Section 10-36. All other lighting in the park to include that provided for and on residential and accessory structures shall be provided in accordance with Section 10-37 of this Title.

K. All utilities shall be installed underground.

L. If a master TV cable is installed, the owner of the park shall see that a coordinated plan is prepared and executed.

M. Buffering or screening, as required by the Planning Director, shall be a sight obscuring fence, wall, evergreen or other suitable planting at least six feet (6') high.

N. Fences or windbreaks exceeding forty two inches (42") in height shall be no closer than three feet (3') to any structure or mobile home/manufactured home. Maximum height of all fences, except swimming pool fences and perimeter barriers, shall be six feet (6').

O. The condition of soil, sand, groundwater level, drainage and topography shall not create hazards to the property or the safety of the occupants. The site shall be located so as not to be exposed to objectionable smoke, noise, odors or other adverse influence, which would subject persons or property to hazards.

P. There shall be landscaping within the front and side setback area, and in all open areas of the mobile home park not otherwise used for mobile home park purposes. The method of landscaping shall be included in the park plan for approval by the Planning Director. The proposed landscaping must meet the standards outlined in Section 10-34 of this Title. The maintenance of the open spaces is necessary to continue renewal of the park license.

Q. The condition of soil, sand, groundwater level, drainage and topography shall not create hazards to the property or the safety of the occupants. The site shall be located so as not to be exposed to objectionable smoke, noise, odors or other adverse influence, which would subject persons or property to hazards.

R. Utilities and street standards within a mobile home/manufactured home park should be set by the Public Works Department and staff on a finding of soil condition, drainage and traffic flow.

S. All other conditions listed in the State Code for Mobile Home/Manufactured Home Parks must be complied with.

**10-10-11-3: DEVELOPMENT PLAN:**

A. All applications submitted for approval of a mobile home/manufactured home park development shall consist of two (2) copies of a development plan. Such plan shall contain but not be limited to the following information:

1. Name of person who prepared plan.

2. Name(s) of person(s) owning and/or controlling the land proposed for a park.

3. Name of mobile home/manufactured home park and address.

4. Scale and north point of the plan.

5. Boundaries and dimensions of the mobile home/manufactured home park.

6. Vicinity map showing relationship of mobile home/manufactured home park to adjacent properties and surrounding zoning.

7. Location and dimensions of each mobile home/manufactured home site, with each site designated by number, letter or name.

8. Location and dimensions of each existing or proposed building.

9. Location and width of mobile home/manufactured home park streets and pedestrian ways.

10. Location of each lighting fixture for lighting the area.

11. Location of recreational areas and buildings and common area.

12. Location and type of landscaping plantings, fences, walls or combination of any of these, or other screening materials.

13. Extent, location, arrangement and proposed improvements of all off-street parking and loading facilities.

14. Location of fire hydrants.

15. Enlarged plot plan of a typical mobile home/manufactured home space showing location of the stand, storage, space, parking, sidewalk, utility connections and landscaping.

16. The plan shall indicate positions of the mobile homes/manufactured homes on their foundations.

17. The plan shall show the topography of the park site with contour intervals of not more than five feet (5'), except that the Building Official or Planning Director may require closer contour intervals.

18. A drainage plan.

B. At the time of application to construct a new mobile home/manufactured home park, the applicant shall submit, in addition to the above and as part of the development plan, two (2) copies of the following plans:

1. A survey and plat of the property.

2. New structures.

3. Public water systems approved by the appropriate governmental agency, and a certificate of connection to the City water system.

4. Methods of sewage disposal approved by the Department of Environmental Quality, State of Oregon, and certification of approval to connect to City sewer system.

5. Method of garbage disposal.

**10-10-11-4: DEVELOPMENT PLAN PROCEDURE:**

A. Review Types.

1. Development plans for new manufactured home parks and alterations or expansions of existing parks by 25 percent or more of the shall be reviewed as a Type II review consistent with FCC 10-1-1-6-2.

2. Alterations or expansions of existing parks by less than 25 percent shall be reviewed as a Type I review consistent with FCC 10-1-1-6-1.

3. Approvals shall expire in two (2) years unless the plan is substantially implemented.

B. Phased Development Plan. The development of a manufactured home park may be phased. No development may occur without receiving tentative phased development plan approval as set forth in this section. When the development of a manufactured home park is phased, one tentative plan is approved by Planning Commission for the entire phased development plan, and each individual phase receives separate approval from the Planning Director. Planning Commission shall approve a phased development plan, provided affirmative findings can be made that:

1. The proposed development plan meet the approval criteria for manufactured home parks.

2. The proposed development plan includes the following elements:

a. A phasing plan that indicates the tentative boundaries of each phase, the sequencing of the phases, the tentative configuration of lots in each phase, and a plan for the construction of all required city infrastructure in each phase.

b. Connectivity for streets and City utilities between each phase ensures the orderly and efficient construction of required public improvements among all phases.

c. Each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements.

d. Each phase is designed in such a manner that all phases support the infrastructure requirements for the phased subdivision as a whole.

3. If the approval of an individual phase requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative phased development plan shall be modified prior to the approval of the individual phase.

4. Tentative development plan approval shall be effective for two years within which time the application and development plan must be submitted as required by this Title. An applicant may apply to the Planning Director for two (2) extensions of two (2) years each. A decision to extend the approval shall be based on compliance with the following criteria:

a. The request for an extension is made in writing prior to expiration of the original approval;

b. There are special or unusual circumstances that exist which warrant an extension; and

c. No material changes of surrounding land uses or zoning has occurred.

Otherwise the entire procedure must be repeated for reconsideration in light of changed conditions that may exist.

**10-10-11-5: MOBILE HOME/MANUFACTURED HOME PARK LICENSE:**

A. No use or occupancy of any mobile home/manufactured home park or building or facility covered hereunder will be allowed until the license is issued.

B. The project as approved by the Planning Director shall be completed before first occupancy is permitted.

C. Licenses issued hereunder shall be valid for a period of one year, and renewable thereafter, unless a shorter or longer time is noted and approved by the Planning Director on the signed approved copies of the development plan.

Deviations from the approved plan must be submitted to the Planning Director for approval as revisions of the plan.

**10-10-11-6: BASIC REGULATIONS AND PROVISIONS:**

A. Alterations and Additions: The management shall be held responsible for all alterations and additions to a mobile home/manufactured home park and shall make certain that all permits and inspections are obtained from the proper authorities.

B. Electrical Connections: All electrical connections shall comply with the State Electrical Code and be duly inspected.

C. Fire Extinguishers: Portable fire extinguishers rated Classes A, B and C shall be kept in service buildings and be maintained in good operating condition.

D. Fire Hazards: The owner of the park shall be responsible to maintain the park free of dry brush, leaves and weeds which might communicate fires between mobile homes and other buildings in the park.

E. Fire Hydrants: Approved fire hydrants shall be installed so that all mobile homes/manufactured homes and other structures are within three hundred feet (300') down the center line of a street of an approved fire hydrant.

F. Fire Protection: Fire protection requirements for mobile homes/manufactured homes shall be the same as for a Group I occupancy under the Uniform Building Code as regards sire detection devices. These devices are the responsibility of the mobile home/manufactured home owner.

G. Insignia of Compliance: All mobile homes/manufactured homes installed in mobile home/manufactured home parks after the effective date hereof shall meet State Mobile Home/Manufactured Home Building Code requirements and bear the insignia of compliance or be able to prove their mobile home/manufactured home meets or exceeds those standards within six (6) months.

H. Inspections: The Building Official shall check each park a minimum of once a year and submit to the park owner and manager a written report stating whether or not the park is in compliance. If not in compliance, the owner must make whatever repairs are required before a license or license of renewal for the park will be issued.

An extension of time to make repairs may be allowed by the Planning Commission, if it can be shown that risk to the public health, safety or welfare will not be created by this extension, for a period not to exceed one year, by the granting of a temporary emergency license.

I. Mail Boxes: The owner or operator of a mobile home/manufactured home park shall provide facilities for individual mail boxes or distribution facilities for incoming mail, and shall provide at least one collection box for outgoing mail which shall be dispatched daily.

J. Management Responsibility: Either the owner, an operator or resident manager or similar supervisor or representative of the owner, shall be available and responsible for the direct management of the mobile home/manufactured home park while it is in use.

K. Plot Plans: A plot plan must be provided by the park administration to the City, including the space and sizes of units permitted, on both pre-existing and newly established parks.

L. Pre-Existing Mobile Home/Manufactured Home Park: A pre-existing mobile home/manufactured home park must file a plan which provides for improvements of the park to minimum standards for sanitation and electrical so as not to endanger the health or safety of occupants. Minimum standards would be in compliance with State codes for sanitation, fire and electrical safety standards, with a time period not to exceed twelve (12) months from the effective date hereof or upon annexation to the City.

M. Refuse Burning: Burning of refuse will not be permitted except in an approved device at a designated site as directed by the Fire Department.

N. Refuse and Debris Control: All mobile home/manufactured home parks shall be maintained free of accumulations of refuse or debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests. All units shall have an adequate garbage container, as determined by the County Health Officer or his designate.

O. Signs: All signs within the park shall be located so as to not be hazardous to passers-by. Sufficient signs for proper traffic direction shall be required. Signs advertising the park must comply with Title 4, Chapter 7 of this Code.

P. Storage of Materials: Storage of decomposing, combustible or other unhealthy or unsafe materials inside or beneath any mobile home/manufactured home is not permitted, but may be allowed in an outside accessory building if such installation is approved by the City Building Official.

Q. Telephone: At least one public telephone for the use of the park residents shall be provided for use at all times, if available.

R. Water and Sewer Connections: All mobile homes/manufactured home, service buildings, etc., shall be connected to the City sewer and water systems in a manner that provides these services to the same degree as other residents of the City.

**10-10-11-7: PARK ADMINISTRATION:**

A. It shall be the responsibility of the park owners and manager to see that the provisions of this Section are observed and maintained within their park, and for failure to do so the owner and manager shall be subject to the penalties provided for violation of this Section.

B. No mobile home/manufactured home shall be installed in any mobile home/manufactured home park until an installation permit has been issued by the Building Department.

C. The project shall be completed or, a minimum of fifteen (15) spaces must be available for occupancy before first occupancy is permitted.

D. An accurate record book shall be maintained for the purpose of public health, safety and welfare containing the current names and location address of all residents, along with the dates of entry and departure from the park for a period of one year. Such record shall be available to any person authorized by the City Council to inspect the mobile home/manufactured home park.

**10-10-12: UNDERSIZED RESIDENTIAL LOTS OF RECORD**

A. Any pre-existing residential lot of record meeting the standards listed in FCC 10-8-3 shall be designated a building site.

B. A pre-existing lot of record that is less than or equal to 30 feet wide must conform to all applicable standards outlined in Title 10, with the following exceptions:

1. Parking:

   a. Minimum parking space requirements for residential uses may be reduced to one space per unit, and may be covered or uncovered.

   b. A street facing garage of up to 12 feet wide per lot may be permitted but is not required to satisfy the minimum parking space requirement.

2. Dimensional Standards:

   a. Minimum Lot Width, Depth and Size: Minimum Lot Width, Depth and Size do not apply for undersized lots of record.

   b. Height: Primary structure height is limited to 1.2 times the width of the structure.

   c. Setbacks:

      i. Detached Structures: Detached residential primary structure building envelopes with less than twenty-five feet (25') in width may reduce side setbacks equal to one half foot (0.5') per foot of building envelope less than twenty five feet (25') under the base zone setback. The minimum side setback shall not fall below three feet (3').

      ii. Attached Structures; Attached residential primary structures may reduce the minimum side setback to zero feet (0') where they are attached to a structure on an adjacent lot.

   d. Maximum Lot Coverage: The maximum coverage for buildings may not exceed 50% of the site area nor may the maximum coverage for all impervious surfaces exceed 75%, unless expressly permitted by the base zone.

3. Density: Density standards do not apply for undersized lots of record.

C. No lot or combination of contiguous lots, either vacant or containing a residential dwelling, shall be platted or replatted so that an undersized lot is created, nor shall a lot be platted or replatted if setbacks or dimensions less than the minimum would result.

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Amended by Ordinance No. 15, Series 1988
Amended by Ordinance No. 3 , Series 1999
Section 10-10-5 B,C,E - Amended by Ordinance No. 26, Series 2008
Section 10-10-5 amended by Ordinance No. 9, Series 2009
Section 10-10-3 B – Amended by Ord. No. 2, Series 2011 – effective March 11, 2011
Section 10-10-5-D-E – Amended by Ord. No. 4, Series 2011 – effective April 22, 2011
Section 10-10-5-D amended by Ord. No. 3, Series 2013 – effective 7-31-13
Section 10-10-5-I amended by Ord. No. 12, Series 2014 – effective 12-31-14
Section 10-10-3 and -5-C amended by Ord. No. 11, Series 2016 – effective 11-16-16
Section 10-10-6 and 7 amended by Ord. 4, Series 2018 – effective 6-21-18
All Sections amended by Ord. 7, Series 2019 – effective 12-18-19

TITLE 10
CHAPTER 11

# SINGLE-FAMILY RESIDENTIAL DISTRICT (RS)

REPEALED BY ORDINANCE NO. 7, SERIES 2019

TITLE 10
CHAPTER 12

# MOBILE HOME/MANUFACTURED HOME REGULATIONS

REPEALED BY ORDINANCE NO. 7, SERIES 2019

TITLE 10
CHAPTER 13

# MULTI-FAMILY RESIDENTIAL DISTRICT (RM)

REPEALED BY ORDINANCE NO. 7, SERIES 2019

TITLE 10
CHAPTER 14

# NEIGHBORHOOD COMMERCIAL DISTRICT (NC)

SECTION:


10-14-1: Purpose
10-14-2: Permitted Buildings and Uses
10-14-3: Buildings and Uses Permitted Conditionally
10-14-4: Lot and Yard Provisions
10-14-5: Site Development Provisions


**10-14-1: PURPOSE:** The Neighborhood Commercial District is intended to enhance the livability of residential areas by providing for small neighborhood businesses to serve the frequently recurring needs of residents. In general, Neighborhood Commercial is intended to be a small scale, neighborhood shopping center with more than one business, although a single, multi-purpose convenience store would also qualify. Neighborhood Commercial is not intended to be combined with a residence or to be located in a converted residence or garage.

**10-14-2: PERMITTED BUILDINGS AND USES:** Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter.

Banks

Barber shops

Beauty shops

Day nurseries

Drug Stores

Grocery stores or markets

Restaurants (except drive-ins or walk-ups)

Small specialty stores (such as florist or bicycle shops)

Variety stores

**10-14-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for other buildings and uses determined to be similar to those permitted outright and which do not have a different or more detrimental effect upon the adjoining areas than those buildings and uses specifically permitted.

**10-14-4: LOT AND YARD PROVISIONS:**

A. Minimum Lot Dimensions: The minimum lot width shall be one hundred feet (100').

B. Minimum Lot Area: The minimum lot area shall be twelve thousand (12,000) square feet.

C. Yard Regulations:

1. Front yards and street side yards shall be a minimum of twenty feet (20').

2. Side yards and rear yards abutting a residential district shall be fifteen feet (15').

**10-14-5: SITE AND DEVELOPMENT PROVISIONS:**

A. Visual Barrier: A fence, wall, hedge, natural vegetation or landscape planting may be required by the City. Such a barrier must include a vision clearance area for driveways to promote vehicle safety. Guidelines (not intended to limit optional solutions) for such a visual barrier are listed below:

1. At least thirty inches (30") high along entire street frontage except at points of ingress and egress.

2. In the absence of native vegetation on the site, a solid fence should be installed along with the planting of a vegetative screen along side or near property lines abutting a residential district.

B. Parking: Shall be in accordance with Chapter 3 of this Title.

C. Signs: Shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

D. Appeal: Shall be in accordance with Section 10-1-1-7 of this Title.

E. Height Limitations: The maximum building or structural height shall be twenty eight feet (28').

F. Vision Clearance: Refer to Section 10-2-13 and 10-35-2-14 of this Title for definitions, and requirements. (Ord. 26, 2008)

G. General Provisions:

1. Yards and open areas shall not be used for the storage, display or sale of used building materials, scrap or salvage.

2. Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance. (Ord. 669, 5-17-82).

H. Lighting: Refer to Section 10-37 of this Title for requirements.

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Amended by Ordinance No. 15, Series 1988
Section 10-14-5 C, D, F - Amended by Ordinance No. 26, Series 2008
Section 10-14-5-C – amended by Ordinance No. 4, Series 2011 – effective 4/22/11
Section 10-14-5-H amended by Ord. No. 12, Series 2014 – effective 12/31/14
Section 10-14-3 and -5-F amended by Ord. No. 11, Series 2016 – effective 11/16/16

TITLE 10
CHAPTER 15

# COMMERCIAL DISTRICT (C)

SECTION:


10-15-1: Purpose
10-15-2: Permitted Buildings and Uses
10-15-3: Buildings and Uses Permitted Conditionally
10-15-4: Lot and Yard Requirements
10-15-5: Site and Development Provisions
10-15-6: General Provisions


**10-15-1: PURPOSE:** The Commercial District is intended to preserve and enhance areas within which a wide range of retail sales and businesses will occur.

**10-15-2: PERMITTED BUILDINGS AND USES:** The following uses shall be permitted only upon affirmative findings by the Planning Commission that the proposed use meets the general criteria in Section 10-15-4 herein.

Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter.

Ambulance services

Animal clinics or grooming facilities (not abutting a residential district)

Antique shops

Appliance sales and service

Art supplies

Artist studios

Auction sales, excluding livestock

Automobile parts and accessories stores

Bakeries, retail

Banks

Barber and beauty shops

Bars or night clubs, including entertainment and sale of alcoholic beverages

Bicycle shops

Billiard and pool halls

Blood banks

Blueprinting

Book stores

Building maintenance service

Building material yards

Bus depots

Camera and supplies shops
Catering services

Clinics

Clothing, apparel shops

Clubs, lodges and meeting halls

Cocktail lounges

Confectionery stores with fountains

Curio shops

Dairy processing center

Data processing center

Day nurseries

Delicatessen stores

Department stores

Drapery stores

Dress and millinery shops

Dry cleaning establishments, coin-operated, custom and self- service

Electrical and electronic supplies, retail

Floor covering stores

Florist shops

Furniture stores

Garden supplies stores
Gift shops

Grocery stores, markets and supermarkets

Hardware stores

Health Studios,

Home occupations,

Hobby shops

Hotel, motel, motor motel or tourist courts

Interior decorator studios

Jewelry stores

Laboratories, medical and dental

Laundromats, hand laundries and self-service laundries
Leather goods stores

Liquor stores, package

Lockers, cold storage, retail

Locksmith shops

Movie theaters

Museums

Music stores

Newspaper printing establishments

Offices for the following:

Accountants

Attorneys

Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the State of Oregon to practice the healing arts.

Engineers, architects, landscape architects, surveyors, and those engaged in the practice of drafting or graphics.

General administration
Insurance brokers

Lumber brokers

Real estate sales

Savings and loans

Stockbrokers

Telephone answering services

Offices similar to the above but not specifically listed

Office supplies and equipment stores

Paint and wallpaper stores

Parking areas, public or private

Parking garages, public or private

Pawnshops

Pet shops

Pharmacy and drug stores

Photographers' studios

Photographic film processing, photoengraving, photocopying and/or Photostatting
Planned unit developments (Chapter 23 of this Title)

Post offices

Printing shops

Radio and television broadcasting studios

Radio and television sales and services

Reducing salons

Residential units, provided that the building contains a non-residential use or uses permitted or permitted conditionally on the ground floor, and that the unit(s) shall not occupy the front twenty five feet (25') of the ground floor of the building or site facing the street; if access to the dwelling is from the principal commercial street, it shall be a separate entrance and not more than ten feet (10') wide. (Ord. 7, 2019)

Restaurants, drive-ins and walk-ups (including drive-thrus and drive-ups)

Secondhand stores, if conducted within a wholly enclosed building

Sewing machine sales and service

Shoe repair shops
Sporting goods stores

Tailor shops

Taverns

Telephone and telegraph exchanges

Theaters

Tobacco shops

Toy stores

Travel agencies

Upholstery, automobile and furniture

Variety stores

Other buildings and uses determined to be similar to those listed in this Section and which do not have a different or more detrimental effect upon the adjoining areas than those buildings and uses specifically permitted.

**10-15-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Amusement establishments

Churches, excluding rescue missions or temporary revivals

Funeral homes

Greenhouses and nurseries, retail

Service stations

Automobile repair garage

Automobile sales, new and used
Mobile home/manufactured home sales and service

Truck repair garage

Public buildings and facilities

Single-family, duet, and duplex dwellings.

Woodworking and cabinet shops, provided that the business includes retail sales of product(s) produced on the premises.

Public and private elementary or secondary schools.

Medical Marijuana Dispensaries

Marijuana Retailers

Marijuana testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority

**10-15-4: LOT AND YARD REQUIREMENTS:**

A. Minimum Lot Dimensions: The minimum lot width shall be twenty five feet (25').

B. Minimum Lot Area: The minimum lot area shall be two thousand five hundred (2,500) square feet.

C. Lot Coverage: Eighty-five percent (85%) lot coverage, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

D. Yard Regulations:

1. Front yards are not required except where setbacks have been established for road widening or other purposes.

2. Side and rear yards are not required except:

a. Where setbacks have been established for road widening or other purposes.

b. Where the commercial use abuts a residential use, see FCC 10-34-3-7-D.

**10-15-5: SITE AND DEVELOPMENT PROVISIONS:**

A. Building or Structural Height Limitations: The maximum building or structural height shall be thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

B. Fences, Hedges, Walls and Landscaping: Refer to 10-34 of this Title for requirements.

C. Parking and Loading Space: Refer to Chapter 3 of this Title for specific parking requirements.

D. Vision Clearance: Refer to Section 10-2-13 and 10-35-2-14 of this Title for definitions, and requirements.

E. Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

F. Access and circulation: Refer to Section 10-35 of this Title for requirements.

G. Public Facilities: Refer to Section 10-36 of this Title for requirements.

H. Open Space is required for residential housing developments of 4 or more units as follows:

1. An area on the site measuring a minimum of 100 square feet per dwelling unit shall be designated and permanently reserved as common open space.

2. In meeting the open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

3. To receive credit under this section, a common open space area shall have an average length that is not less than twenty feet (20').

4. Any common areas shall be owned as common property and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

I. Lighting: Refer to Section 10-37 of this Title for requirements.

J. Residential and mixed-use development refer to Section 10-6-5-2 of this title for requirements. However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

**10-15-6: GENERAL PROVISIONS:**

A. Yards and open areas shall not be used for the storage, display or sale of used building materials, scrap or salvage.

B. Where there is manufacturing, compounding, processing or treatment of products for wholesale, the front twenty five feet (25') of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.

C. Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.

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Amended by Ordinance No. 15, Series 1988
Section 10-15-5 D, E - Amended by Ordinance No. 26, Series 2008
Sections 10-15-4 and 10-15-5 Amended by Ordinance No. 9, Series 2009
Section 10-15-5-H added by Ordinance No. 2, Series 2011
Section 10-15-5 amended by Ordinance No. 4, Series 2011 (effective 4/22/11)
Section 10-15-2 and 10-15-3 amended by Ordinance No. 3, Series 2013, See Exhibit B (effective 7-31-13)
Section 10-15-5-I added by Ord. No. 12, Series 2014 (effective 12/31/14)
Section 10-15-3 amended by Ord. No. 1, Series 2015 (effective 3/17/15)
Section 10-15-3 amended by Ord. No. 12, Series 2015 (effective 1/1/15)
Sections 10-15-2, 10-15-3, and 10-15-5-D amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Sections 10-15-2, 10-15-3, 10-15-5-H and J amended by Ord. No. 7, Series 2019 (effective 12-18-19)
Sections 10-15-3, 10-15-5(A) and (J) amended by Ord. No. 9, Series 2020 (effective 9-16-20)

TITLE 10
CHAPTER 16

# HIGHWAY DISTRICT (H)

SECTION:


10-16-1: Purpose
10-16-2: Permitted Buildings and Uses
10-16-3: Buildings and Uses Permitted Conditionally
10-16-4: General Criteria
10-16-5: Development Standards
10-16-6: Rehabilitation of Existing Buildings and Uses
10-16-7: Design Specifications


**10-16-1: PURPOSE:** The Highway District includes the area adjacent to Highways 101 and 126. Highway frontage is recognized as an item of major concern that needs individual attention in order to serve the public interest and deal with its special nature and character. The principal concerns are:

A. The need to create an attractive community appearance.

B. The need to restrain the linear pattern of commercial development.

C. The need to provide for a safe, efficient traffic flow with minimum congestion.

D. The need to provide adequate area for new commercial, limited industrial and multiple-family development.

E. The need to recognize that a pattern of land valuation and subsequent taxation has evolved over many years which has anticipated a high intensity of use.

F. The need to recognize that there are activities and uses whose survival is dependent upon highway access and visibility.

G. To recognize the pre-existing development pattern of highway property and to insure it has continued use and value whenever possible and consistent with other concerns.

These concerns are addressed in the Highway District with a multiple use concept that can enlist the personal and financial energies of a broad diversity of interests. The multiple use concept requires careful restraint and employs a design review procedure that encourages highway enterprises to blend harmoniously with the scenic and aesthetic features at the entrances to the City.

It is intended that the economic potential of this District should be developed, but in a manner than enhances our coastal village atmosphere and is consistent with the Florence Comprehensive Plan. (Ord. 625, 6-30-80)

**10-16-2: PERMITTED BUILDINGS AND USES:**

The following uses shall be permitted only upon affirmative findings by the Planning Commission that the proposed use meets the general criteria in Section 10-16-4 herein.

A. All uses permitted outright or conditionally in the Commercial District, except single-family dwellings, duets and duplex dwellings, public buildings and facilities, medical marijuana dispensaries, marijuana retailers, marijuana testing facilities, and single-family residential PUD's.

B. Multiple-family residential, tri-plex and four-plex.

C. Planned unit developments, excluding single-family residential developments.

D. Mini storage units

Any use proposed to locate within this District shall be subject to review by the Planning Commission according to the general criteria listed in Section 10-16-4 herein. Buildings and uses proposed to be established within the Highway District shall be presented for design review in accordance with Chapter 6 of this Title.

**10-16-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The following uses shall be permitted only upon affirmative findings by the Planning Commission that the proposed use meets the general criteria in Section 10-16-4 herein, with conditions to be required by the Planning Commission through the provisions of Chapters 1 and 4 of this Title.

A. All uses permitted outright or conditionally in the Limited Industrial District.

B. Public buildings and facilities.

C. Single-family detached, duet and duplex residences.

D. Home occupations.

E. Mobile Home/Manufactured Home/RV Parks

F. Medical Marijuana Dispensaries

G. Marijuana Retailers

H. Medical and Recreational Marijuana Production, Processing, or Wholesaling.

I. Marijuana testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority.

**10-16-4: GENERAL CRITERIA:** Before a building or use is established within the Highway District, the petitioner must demonstrate to the City that the proposed development will meet the following criteria:

A. The operating characteristics and intensity of land use will be compatible with and will not adversely affect the development potential of adjacent properties.

B. The site planning and building design will be as attractive as the nature of the use and the setting will allow.

C. The location of the site can accommodate energy efficient traffic circulation routes.

D. The vehicle and pedestrian access to the site can be safely and efficiently provided.

E. The necessary utility systems and public facilities are available with sufficient capacity.

F. Limited industrial uses shall be reviewed for compatibility with neighboring uses in terms of noise, odor, smoke, glare, use of outdoor space for materials' storage, general exterior finish and landscaping. Where the proposed use is adjacent to an established or planned multiple-family use, these criteria will be applied more strictly.

**10-16-5: DEVELOPMENT STANDARDS:** The City may require any conditions it deems necessary to secure the purpose and intent of this Chapter. Such conditions may regulate and limit the following:

A. Setbacks, yards, height, density and similar design features.

B. The installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, except as modified by specific standards of this zoning district.

C. The location and design of access points for vehicles and pedestrians according to standards set forth in FCC 10-35 Access and Circulation, except as modified by specific standards of this zoning district.

D. Noise, vibration, smoke, dust, odor, lighting and electrical interference.

E. Parking areas and on site traffic circulation according to standards set forth in FCC 10-3 On-site Parking and Loading.

F. Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

G. Architectural quality and aesthetic appearance.

H. Public health and safety.

I. Security.

J. Lot area, dimensions and percent of coverage.

K. Provision of public facilities and infrastructure according to standards set forth in FCC 10-36 Public Facilities.

**10-16-6: REHABILITATION OF EXISTING BUILDINGS AND USES:** The City may require the rehabilitation of substandard or nonconforming buildings or uses. In such an instance, the voluntary cooperation of the owner shall be solicited. The City may establish a schedule of rehabilitation which allows reasonable time for compliance, does not create a financial hardship for the owner and fulfills the purpose and intent of this Chapter.

In the absence of voluntary compliance, the City will enforce the applicable codes, State laws or City ordinances to affect structural, building, electrical, clearance of debris or vehicles, elimination of health, safety and sanitation problems or deficiencies when necessary.

**10-16-7: DESIGN SPECIFICATIONS:**

A. Highway Setback (Minimum Allowed Without a Variance; Measured From the Center Line of the Highway Right of Way):

1. Commercial: Seventy feet (70'), but one hundred foot (100') setback is recommended.

2. Residential: One hundred feet (100').

3. Light Industrial: One hundred feet (100').

4. All Other Uses: As determined by the City.

B. Setback from Side Streets and Abutting Property: Minimum of five feet (5') unless otherwise determined by the City with consideration given to the existing and proposed uses on the abutting properties.

C. Visual Barrier: A fence, wall, hedge, natural vegetation or landscape planting may be required by the City. Such a barrier must include a vision clearance area for driveways to promote vehicle safety. Guidelines (not intended to limit optional solutions) for such a visual barrier are listed below:

1. Commercial: At least thirty inches (30") high along entire highway frontage except at points of ingress and egress.

2. Residential: At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.

   In the absence of native vegetation on the site, a solid fence should be installed along with the planting of a vegetative screen on the highway side. Such a fence should obstruct the view of all vehicles and buildings up to a height of six feet (6') above grade.

3. Light Industrial: At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.

   In the absence of native vegetation on the site, a solid fence should be installed along with the planting of a vegetative screen. Such a fence should obstruct the view of all vehicles and buildings up to a height of six feet (6') above grade.

D. Highway Access: For reasons of safety and to reduce congestion, vehicle access to and from the highway shall be limited to street intersections only. Curb cuts shall be authorized on side streets only, unless:

1. The property does not abut a side street or the property has at least two hundred feet (200') of highway frontage; or

2. The City specifically authorizes the highway curb cuts.

E. Parking: Shall be in accordance with Chapter 3 of this Title.

F. Signs: Shall be in accordance with Title 4 Chapter 7 of this Code.

G. Appeal: Shall be in accordance with Section 10-1-1-7 of this Title.

H. General Provisions:

1. Yards and open areas shall not be used for the storage, display or sale of used building materials, scrap or salvage.

2. Where there is manufacturing, compounding, processing or treating of products for wholesale, the front twenty five feet (25') of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.

3. Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.

I. Minimum Lot Dimensions: The minimum lot width shall be fifty feet (50').

J. Minimum Lot Area: The minimum lot area shall be six thousand (6,000) square feet.

K. Height Limitations: The maximum building or structural height shall be thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

L. Vision Clearance: Refer to Section 10-2-13 and 10-35-2-14 of this Title for definitions, and requirements. (Ord. 26, 2008)

M. Maximum lot coverage shall be 85%, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

N. Open Space is required for residential housing developments of 4 or more units as follows:

1. An area on the site measuring a minimum of 100 square feet per dwelling unit shall be designed and permanently reserved as common open space.

2. In meeting the open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g. trees or bank vegetation preserved), play fields , outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

3. To receive credit under this section, a common open space area shall have an average length that is not less than twenty feet (20').

4. Any common areas shall be owned as common property and maintained by a homeowners associations or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

O. Lighting: Refer to Section 10-37 of this Title for requirements.

P. Residential and mixed-use development refer to Section 10-6-5-2 of this title for requirements. However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

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Amended by Ordinance No. 15 Series 1988
Section 10-16-7, F, G, L - Amended by Ordinance No. 26, Series 2008
Sections 10-16-5 and 10-16-7 Amended by Ord. No. 9, Series 2009
Section 10-16-7-N added by Ord. No. 2, Series 2011
Section 10-16-5-F, 10-16-7-F amended by Ord. No. 4, Series 2011 (effective 4/22/11)
Section 10-16-2-D added by Ordinance No. 3, Series 2013 (effective 7-31-13)
Section 10-16-5-D and 10-16-7-O amended by Ord. No. 12, Series 2014 (effective 12-31-14)
Section 10-16-3 amended by Ord. 1, Series 2015 (effective 3-17-15)
Section 10-16-2 and 10-16-3 amended by Ord. No. 12, Series 2015 (effective 1-1-16)
Sections 10-16-3 and -7-L amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Section 10-16-17-N amended by Ord. No. 7, Series 2019 (effective 12-18-19)
Sections 10-16-2(A) and (B), 10-16-3(C), 10-16-17(A)(2), (C)(2), (K), amended by, and section 10-16-17(P) added by Ord. 9, 2020 (effective 9-16-20)

**TITLE 10**
**CHAPTER 17**

# OLD TOWN DISTRICT

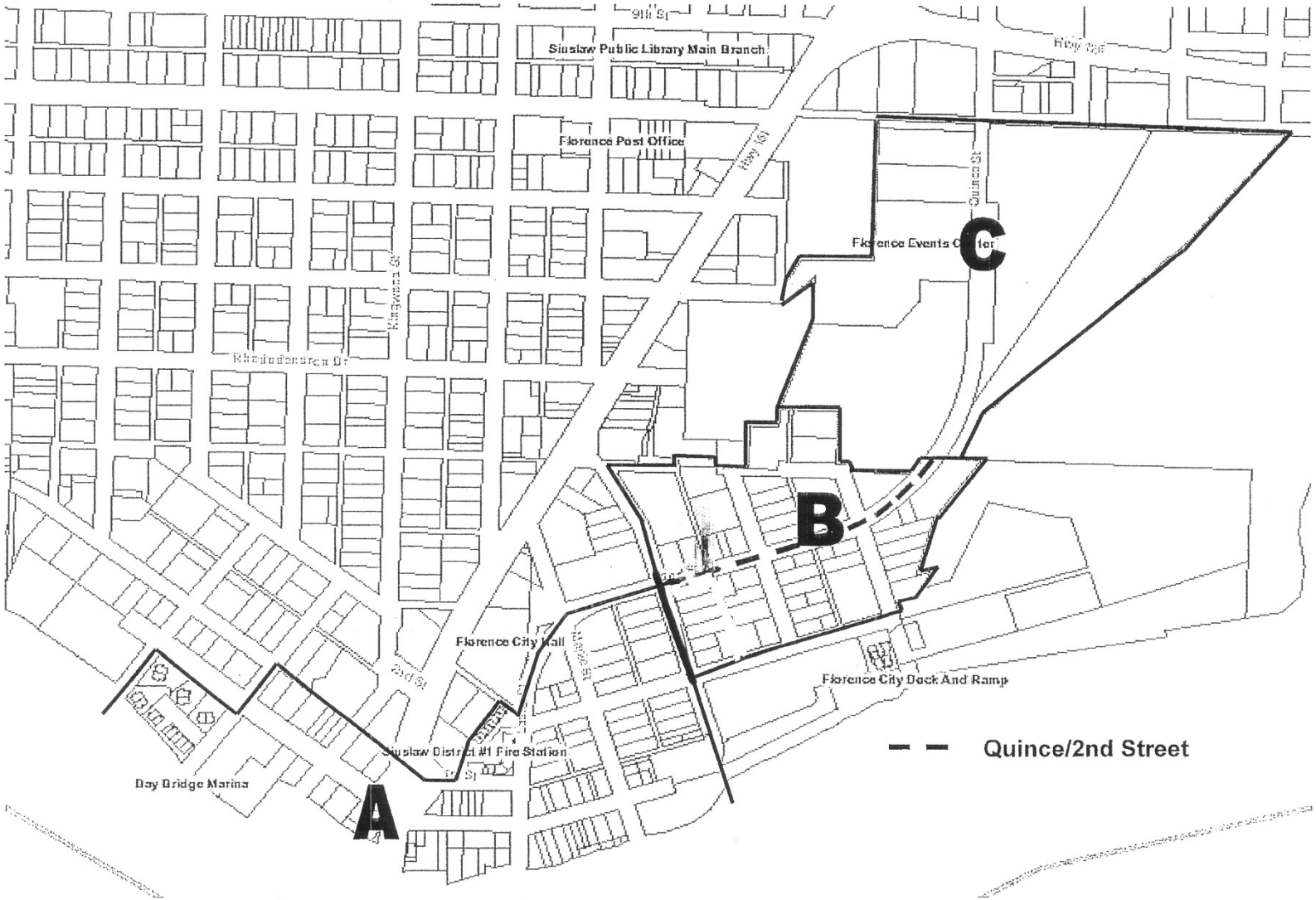
**SECTION**


| | |
|---|---|
| 10-17-1 | General Purpose for Old Town |
| 10-17-2 | Definitions |
| 10-17A-1 | Purpose for Area A |
| 10-17A-2 | Land Uses for Area A |
| 10-17A-3 | Lot and Yard Provisions for Area A |
| 10-17A-4 | Site and Development Provisions for Area A |
| 10-17B-1 | Purpose for Area B |
| 10-17B-2 | Land Uses for Area B |
| 10-17B-3 | Lot and Yard Provisions for Area B |
| 10-17B-4 | Site and Development Provisions for Area B |
| 10-17C-1 | Purpose for Area C |
| 10-17C-2 | Land Uses for Area C |
| 10-17C-3 | Lot and Yard Provisions for Area C |
| 10-17C-4 | Site and Development Provisions for Area C |


**10-17-1 GENERAL PURPOSE FOR OLD TOWN:** The Old Town District is intended to provide an area for pedestrian oriented, mixed land uses. Areas A and B are located near or along the waterfront and comprise the historic old town with generally smaller scale structures than Area C. The Old Town District is also intended to encourage restoration, revitalization and preservation of the District.

The Old Town District includes areas which vary in character and development potential. Therefore, the permitted uses and development regulations have been separately defined for three sub-areas (Areas A, B, and C) making up the overall Old Town District in accordance with Figure 17.1. The purpose of these sub-areas is described in each subsection.

# City of Florence Proposed Zoning District for Old Town Area A, Area B and Area C
## Figure 17.1



**10-17-2** **DEFINITIONS:** As used in this Chapter, the following definitions apply, instead of, where applicable, and in addition to the general definitions in Chapter 2:

ACCESSORY BUILDING — A building of secondary importance on a site, detached from the principal building. The accessory building must be (1) subordinate in size (area and height) to the principal building; (2) contribute to the comfort, convenience, or necessity of occupants of the principal building; and (3) located on the same lot as the principal building; (4) under the same ownership and control as the principal structure; (5) in compliance with all applicable zoning regulations including building setbacks; and (6) shall not be constructed or maintained prior to the construction of the principal use. (Building permits for an accessory structure may be obtained as part of or at the same time as a permit for the principal structure). Examples of accessory buildings include but are not limited to: garages, carports, decks, gazebos, storage sheds, play houses, patios, and terraces.

ACCESSORY USE — A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. It shall (1) be subordinate to and serve a primary use in function and time; (2) be subordinate in area, extent, or purpose to primary use; (3) contribute to the comfort, convenience, or necessity of those occupying, working at, or being served by the primary use; (4) be located on the same lot as the primary use; (5) be under the same ownership and control as the primary use; (6) comply with the use limitations applicable in the zoning district in which it is located; and (7) no accessory use shall be established prior to the primary use.

BUILDING HEIGHT — The "building height" dimension is defined as the vertical distance from the average level of the undisturbed natural grade around the building's outer foundation line to the highest point of the roof or the roof parapet, if present. If fill has been or will be added or removed in accordance with a City-approved grading plan (as for drainage, access, or compatibility with surrounding topography), the approved grade shall be used in lieu of the undisturbed natural grade. Stories located entirely below the average grade level or occupying no more than three feet above the average grade level are not counted. The dimensional limit is normally adequate to allow a pitched or gable roof style over the maximum allowed number of above-grade stories.

VISUAL AID — Visualization aids may be of three general types:

Type I: "Story poles" with connecting ribbons that are physically erected on the site to accurately represent the full extent of the proposed structure. Accuracy of critical story pole dimensions shall be checked and certified by a licensed surveyor after erection. Type I aids shall be installed twenty (20) days before the public hearing and removed within twenty (20) days after the final land use decision.

Type II: Virtual computer images which depict the proposed structure and its relation to the surroundings. Such images shall be accurately scaled and shall portray detailed 3-D perspectives of the structure/surroundings in color from several critical viewpoints as may be administratively specified. When applicable, viewsheds to the Siuslaw River, the US 101 bridge, the Pacific Ocean, and/or sand dunes shall be included in the depictions. The source/creator of the depictions shall be subject to approval by the City and the accuracy and validity of the depictions shall be certified by the source. Type II aids shall be available to the City and the public twenty (20) days before the public hearing.

VISUAL AID *(continued)*

Type III: Colorized architectural renderings which depict the proposed structure and its relation to the surroundings. Such renderings shall be at least two feet (2') in the smaller dimension, shall be accurately scaled, and shall portray detailed 3-D perspectives of the structure/surroundings from several critical viewpoints as may be administratively specified. When applicable, viewsheds to the Siuslaw River, the US 101 bridge, the Pacific Ocean, and/or sand dunes shall be included in the depictions. The source/creator of the depictions shall be subject to approval by the City and the accuracy and validity of the depictions shall be certified by the source. Type III aids shall be available to the City and the public twenty (20) days before the public hearing. At least two (2) copies shall be provided; one set of copies shall be "weatherproofed" and displayed for public view at the site.

## OLD TOWN DISTRICT AREA A

**10-17A-1 PURPOSE FOR AREA A:** Old Town Area A is intended as the primary tourist destination, which provides for shopping, entertainment and water-related activities for visitors and residents of Florence.

**10-17A-2 LAND USES FOR AREA A:** The following establishes permitted, conditional, and prohibited uses for the Old Town District Area A:

A. **Permitted Uses:** Uses which are administratively determined to have an impact similar to or less than Permitted uses listed below:

Basic utilities (water, sewage, electrical, and communication facilities - not staffed)

Commercial and public marinas, piers, and docks

Educational services (accessory only, not school)

Offices, professional and administrative

Parks and open space

Recreational facilities (facility must be outdoor, water-related, and non-motorized)

Residential: above ground floor commercial

Residential Units: provided that any building facing a street (or streets if a corner lot) shall include a first story commercial use that occupies the first twenty-five feet (25') of the building(s) that face(s) a street. If pedestrian access to the dwelling(s) is from the street, it shall be a separate entrance and not more than ten feet (10') wide. Residential uses shall be reviewed through a Type II Site Review as defied in Section 10-1-1-6. (Ord. 7, 2019)

Restaurants and cafes, without drive-thru

Retail sales and service (Retail sales and service uses involve the sale, rental, and repair of new or used products, supplies, goods and foodstuffs to/for the general public. The retail category also includes personal services such as banking, real estate, and personal care activities. Note that restaurant, entertainment and recreation, lodging, and vehicle-related uses are otherwise listed in this section and are thus excluded from the general retail category.)

Taverns and bars

**B.** **Conditional Uses:** Uses which are administratively determined to have an impact similar to or less than Conditional uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Accessory uses and structures, except activities that are permitted as a basic use and for required on-site parking

Bed and Breakfast inns

Commercial & public parking lots (ground level)

Entertainment and recreational facilities (indoor)

Lodging, motels and hotels

Manufacturing and production of food and beverage items sold on-and off-premises, when accompanied by a retail space and/or restaurant the premises where those items are sold (≤ 5000 square feet not including retail/restaurant area) and loading of materials to be sold off-site takes place on private property

Public safety facilities (police and fire stations)

Taxi stands

**C.** **Prohibited Uses:** Uses that are administratively determined to have impact similar to or greater than a Prohibited use listed below are prohibited in this Area. The following uses are specifically Prohibited:

Commercial & public parking structures

Daycare, adult and child

Firing ranges (indoor or outdoor)

Group living

Industrial services

Kennels, animal clinics, or grooming facilities

Marijuana Retailers

Medical and Recreational Marijuana Production, Processing or Wholesale

Medical centers

Medical Marijuana Dispensaries

Mobile home parks

Religious Institutions

Residential, single family (unless part of mixed uses as listed in permitted or conditional uses)

Residential: multi-family, townhouses, duplexes (unless part of mixed use development as listed in permitted or conditional uses)

Restaurants, with drive-thru (includes drive-up and drive-thru)

RV parks and campgrounds

Schools and colleges

Self-service storage

Vehicle repair or storage of non-operational vehicles

Vehicle sales or leasing

Vehicle short-term rental

Warehousing, except as allowed above as an accessory to a Conditional Use

Waste/recycling facilities (except as incidental to an approved use)

Wholesale sales, except as allowed above as an accessory to a Conditional Use

**D. Existing Single-family Residences:** Existing single-family residences remain grandfathered until such time as a conversion is made to commercial use.

## 10-17A-3 LOT AND YARD PROVISIONS FOR AREA A

**A. Lot Area:** The lot area shall be a minimum of 1,500 square feet.

**B. Lot Dimensions:** The minimum lot width shall be twenty-five feet (25').

**C. Lot Coverage:** The Planning Commission or their designee may allow up to ninety percent (90%) lot coverage by buildings and other impervious surfaces.

**D. Yard Regulations:**

1. For Area A, yards shall be as follows:

   **Front Yards:** Building fronts may vary from zero to ten feet (0' to 10)' setback from the front property line. Upper story windows and balconies may encroach into the sidewalk area as long as a minimum eight feet (8') wide and ten feet (10') high pedestrian way is maintained within the sidewalk area. Benches and tables may encroach into the sidewalk area as long as the minimum eight feet (8') wide pedestrian way is maintained within the sidewalk area. Ten percent (10%) of the lot frontage, or a maximum of six feet (6'), may be utilized for pedestrian walkways connecting to interior parking lots or for river viewing areas.

   **Side and Rear Yards:** Buildings may be zero lot line, provided that all Building Code requirements are met.

2. In each block, there will be at least one opening for Americans with Disabilities Act (ADA) accessible public access to interior parking lots and/or to new or existing public viewing areas of the Siuslaw River.

## 10-17A-4 SITE AND DEVELOPMENT PROVISIONS FOR AREA A

**A. Building or Structural Height Limitations:** The maximum height for buildings or other structures in the Old Town District Area A shall be two (2) stories above grade with a maximum of thirty feet (30').

For any building two (2) stories above grade, two (2) or more of the following design options shall be employed to reduce the perceived scale of the structure:

1. Pitched or gable roofs are encouraged, with offsets, valleys, or false dormers to break up the roof plane as viewed from any abutting street.

2. Building exterior shall be broken into shapes and planes of less than 750 square feet for any building plane. Such planes shall have a two foot (2') minimum relative off-set.

3. Windows, balconies, entryways, and/or arcades shall be used to create visual interest and reduce the apparent bulk/mass of the building; and variation in materials, textures, colors, and shapes shall be used to break up wall planes.

4. A public plaza may be provided between the building and the street right-of-way. The plaza shall be a minimum of four feet (4') in depth (in addition to the 8 feet wide sidewalk), with a minimum of 100 square feet in size for seating, landscaping, and weather protection such as awnings, canopies, overhangs, or similar features.

**B.** **Building Size Limitation:** No structure designed solely for retail or office use shall have a floor area that exceeds 15,000 square feet. Mixed use buildings may have greater floor areas, subject to Design Review for compatibility with surrounding structures and uses.

**C.** **Access:** Americans with Disabilities Act (ADA) approved access must be provided to all floors of buildings and structures as required by the Building Codes.

**D.** **Sidewalks:** Public sidewalks shall be a minimum of eight feet (8') wide.

**E.** **Parking and Loading Spaces:**

1. Non-residential parking spaces may be located on-street in front of the lot, and/or may be located in an interior parking lot within the block or in an off-site lot. Individual parking areas or lots will not be approved unless no other alternative exists. Parking may not be located between the building and the street.

2. Residential parking spaces may be specifically designated within any on-site parking area. Individual parking areas or lots located off-site will not be approved unless no other alternative exists; such off-site parking assigned to specific residential buildings in Area A shall be located on the same block or not more than 300 feet from the residential building entrance.
3. Bike racks shall be located either in the interior parking lot or by an entrance. Bike racks may not be located in the required eight feet (8') minimum pedestrian walkway.

4. Parking requirements listed in Table 10-3-1 of Section 10-3-4 of this Code are waived for all changes of use in any structures in Old Town Area A which existed prior to October 15, 2014.

    a. No increase in provided parking spaces shall be required for any change of use in Old Town Area A.

    b. All current structures and uses shall maintain the number of parking spaces provided for those uses as of October 15, 2014.

    c. The number of parking spaces provided by a business or residence shall be retained for all subsequent businesses or residences housed within that space, regardless of the intensity of use.

    d. Changes of use in buildings which have not had a previous Planning Commission or staff approval or an amount of required parking set shall have proposed parking reviewed at the time of building permit submittal.

    e. Required parking may be provided off-site, pursuant to Section 10-3-7 of this Code.

5. All new construction (structures and additions built after October 15, 2014), not including residential, lodging, motel, or inn uses, are allowed a waiver of up to 50% of parking required by Section 10-3-4 of this Code, to be determined with a Type II or III approval. The waiver of required parking is not to exceed the minimum number of two (2) parking spaces required by Section 10-3-4.

**F.** **Vision Clearance:** Refer to Sections 10-2-13and 10-35-2-14 of this Title for definition and requirements.

**G.** **Signs:** Signs shall be in accordance with Title 4, Chapter 7 of this Code. (Ord. 4, 2011)

**H.** **Fences, Hedges, Walls and Landscaping:** Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

1. **Landscaping:** A minimum of ten percent (10%) landscaping is required. The calculation of the required minimum may include street trees installed and maintained by an applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the ten percent (10%) calculation must be installed and maintained by the applicant or his/her successors.

2. **Walls, Fences and Hedges:** Interior parking lots may be separated from rear courtyards by walls, fences and/or hedges four feet (4') in height or less. Eating establishments may separate outdoor eating areas from parking areas and adjacent buildings or structures by a fence, wall or hedge not to exceed six feet (6') in height. Pedestrian walkways may be separated from abutting uses by plantings or fences which allow visual surveillance of the walkway and surrounding areas. Chain link fences are prohibited in Area A.

**I.** **Lighting:** Street lighting, building lighting, and lighting of parking lots and walkways shall conform to the following lighting standards:

1. Where there are antique street lights within the public right of way, new light fixtures shall match the antique streetlights. (See Figure 17.2)

2. In the areas where the antique street lights are not currently located, the light fixtures within the public right of way shall use the Central Lincoln Public Utility District's Ornamental streetlights. (See Figure 17.2)

3. Light fixtures shall conform to the lighting styles in the Downtown Architectural Guidelines.

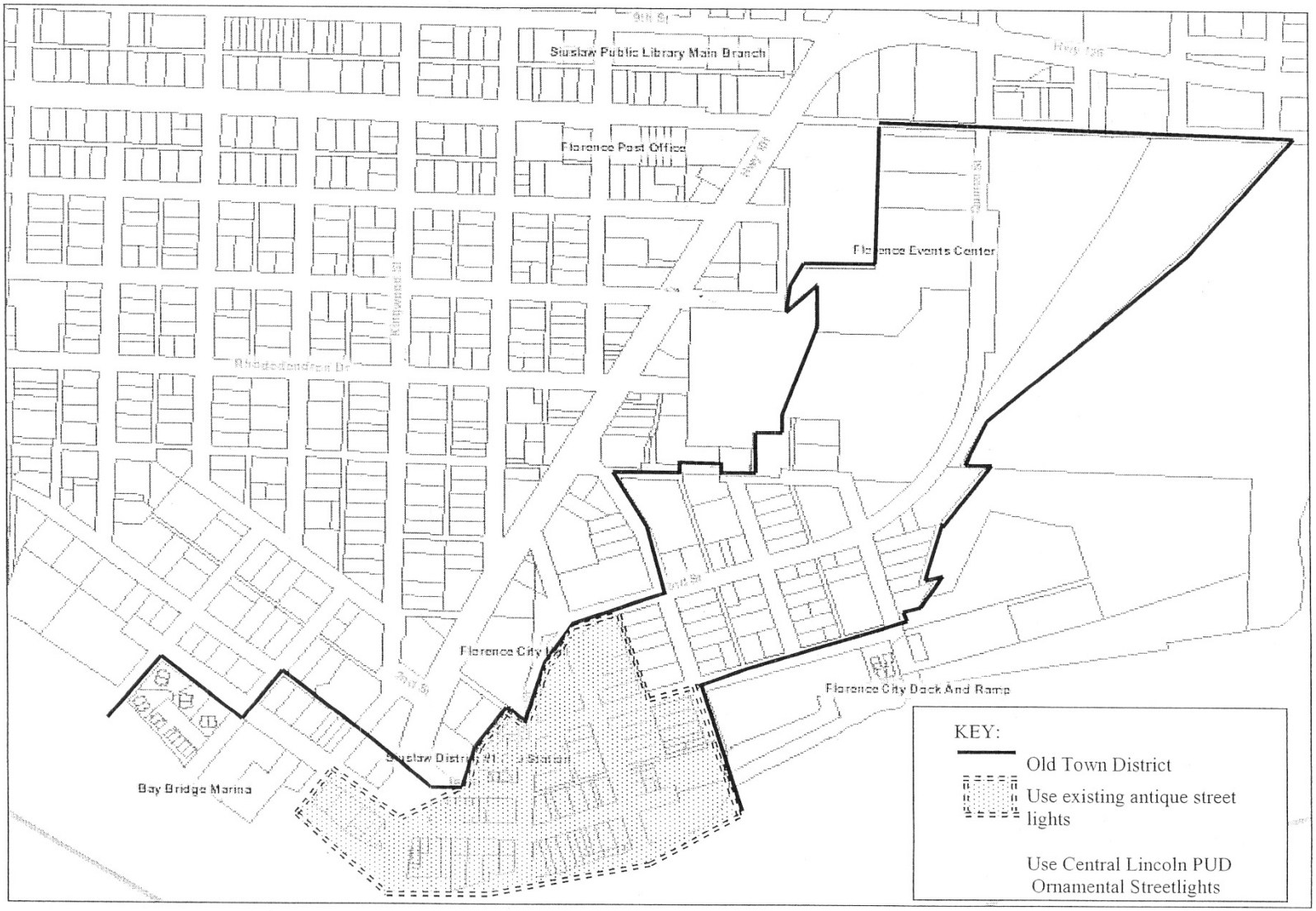
4. Lighting shall be pedestrian scaled.

5. Refer to Section 10-37 of this Title for additional requirements.

6. Wiring for historic light fixtures shall be placed underground.

7. Other overhead wiring shall be placed underground, where possible.

# City of Florence Proposed Old Town District Lighting Map
## Figure 17.2



**J.** **Trash Enclosures:** At least one trash receptacle shall be provided on site. Dumpsters or similar utilitarian trash receptacles shall be screened with a solid fence or wall not less than 5' in height. Trash receptacles for pedestrians shall have a consistent design in order to provide consistency in street furniture.

**K.** **Design Review:** All uses in Area A of Old Town District whether permitted or conditional uses, shall be subject to design review (FCC 10-6) to insure compatibility and integration with the character of the district and to encourage revitalization. Architectural design shall be reviewed against criteria contained within FCC 10-6-6: Architectural Design to determine compatibility with the character of the district, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516 on properties not listed in the Comprehensive Plan's Historic Inventory.

1. **Additional Requirements:**

a. **Survey:** All new development and redevelopments and/or additions must also submit a recent survey map with their Design Review Application. The survey must show:

i. Property lines

ii. Easements

iii. 2' Contours

iv. Existing structures (including height of sea-wall, if appropriate)

v. Floodplain

vi. Highest observed tide

b. **New Construction or Story Additions**: As an element of the Design Review process, the applicant is required to provide and/or install visual aids to assist the Planning Commission and the public to visualize the size/configuration of the proposed structure with its relation to the surroundings. The required visualization aids consist of three types: Type I Story Poles, Type II Virtual Images, and Type III Color Architectural Renderings, as defined in FCC 10-17-2 Definitions of Visual Aid.

Visual aids are required unless waived by the Community Development Director. In the course of the public hearing, the Commission may overrule such determination and require additional visual aid(s). The following visual aides are required for all buildings or story additions in Area A:

i. Projects located on the riverside of Bay Street shall provide visual aid type I and visual aid type II or III.

ii. Projects located in Area A other than the riverside of Bay Street shall provide visual aid type I, II or III.

## OLD TOWN DISTRICT AREA B

**10-17B-1 PURPOSE FOR AREA B:** Old Town Area B is an area of mixed use residential intended to provide a transition between the waterfront visitor attractions and the Events Center campus, with Quince/2nd Street as the pedestrian-friendly link between these key areas.

**10-17B-2 LAND USES FOR AREA B:** The following establishes permitted, conditional, and prohibited uses for the Old Town District Area B:

**A. Permitted Uses:** Uses which are administratively determined to have an impact similar to or less than Permitted listed uses below:

Accessory uses and structures, except activities that are permitted as a basic use and for required on-site parking

Basic utilities (water, sewage, electrical, and communication facilities – not staffed)

Educational services (accessory only, not school)

Offices, professional and administrative

Parks and open space

Residential, single family

Residential: above ground floor commercial

Residential: multi-family, townhouses, duplexes

Restaurants and cafes, without drive-thru

Retail sales and service (Retail sales and service uses involve the sale, rental, and repair of new or used products, supplies, goods and foodstuffs to/for the general public. The retail category also includes personal services such as banking, real estate, and personal care activities. Note that restaurant, entertainment and recreation, lodging, and vehicle-related uses are otherwise listed in this section and are thus excluded from the general retail category.)

**B. Conditional Uses:** Uses which are administratively determined to have an impact similar to or less than the Conditional Uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Bed and breakfast inns

Commercial & public parking lots (ground level)

Commercial & public parking structures

Daycare, adult and child

Entertainment and recreational facilities (indoor)

Lodging, motels and hotels

Manufacturing and production of retail items sold on the premises (< 5000 s.f. w/retail)

Office, vehicle short-term rental (no outdoor storage of cars, bicycles, or watercraft)

Public safety facilities (police and fire stations)

Recreational facilities (facility must be outdoor, water-related, and non-motorized)

Religious Institutions

Taverns and bars

Taxi stands

**C.** **Prohibited Use**s: Uses that are administratively determined to have impact similar to or greater than a Prohibited use listed below is prohibited in this area. The following uses are specifically prohibited:

Firing ranges (indoor or outdoor)

Industrial services

Kennels, animal clinics, or grooming facilities

Marijuana Retailers

Medical and Recreational Marijuana Production, Processing, or Wholesale

Medical centers

Medical Marijuana Dispensaries

Mobile home parks

Restaurants, with drive-thru

RV parks and campgrounds

Schools and colleges

Self-service storage

Vehicle repair or storage of non-operational vehicles

Vehicle sales or leasing

Warehousing

Waste/recycling facilities (except as incidental to an approved use)

Wholesale sales

## 10-17B-3 LOT AND YARD PROVISIONS FOR AREA B

**A.** **Lot Area:** The lot area shall be a minimum of 2,500 square feet. Lot area for a duplex shall be at least 5,000 sq ft, and lot area for a multiple family structure shall be at least 2,500 sq ft for each ground floor unit.

**B.** **Lot Dimensions:** The minimum lot width shall be twenty-five feet (25').

**C.** **Lot Coverage:** The maximum lot coverage allowed shall be seventy percent (70%) for buildings and structures and a total of eighty percent (80%) for all buildings and other impervious surfaces.

**D.** **Yard Regulations:**

1. **Garage and Carport Entries:** Garage and carport entries shall have a minimum setback of twenty feet (20').

2. **Front Yard:** Front yard setback shall be a minimum of ten feet (10') and up to five feet (5') with approval by the Planning Commission.

3. **Side Yard:** Zero lot line spacing is allowed for row-house (townhouse) development between the interior and exterior units. All other development is required to have a minimum of a five foot (5') sideyard, unless zero lot line spacing is approved by the Planning Commission.

4. **Rear Yard or Alley:** Rear yard or alley setback shall be a minimum of five feet (5'). For single family dwellings, the rear yard shall have a minimum setback of ten feet (10').

5. The Planning Commission may allow reduction of any Area B setbacks, if an easement is approved and dedicated that will preserve mature trees, sand banks, and/or bank vegetation.

6. For developments with ground floor commercial units facing Quince/2nd Street, the Planning Commission may allow reduced front yard or side yard setbacks from that street if pedestrian-friendly amenities are provided, such as street trees, wider sidewalks with seating, overhangs and awnings, etc.

**E. Common Open Space:** Common open space is required for multi-family housing developments of four (4) or more units as follows:

1. An area on the site measuring a minimum of 100 square feet per dwelling unit shall be designated and permanently reserved as common open space.

2. In meeting the common open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

3. To receive credit under this section, a common open space area shall have an average width that is not less than twenty feet (20') and an average length that is not less than twenty feet (20').

4. Any common areas shall be owned as common property and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

## 10-17B-4 SITE AND DEVELOPMENT PROVISIONS FOR AREA B

**A. Building or Structural Height Limitations.**

1. **South of Quince/2nd Street:** The maximum height for buildings or other structures in the Old Town District Area B south of Quince/2nd Street shall be two (2) stories above grade with a maximum of thirty feet (30').

2. **North of Quince/2nd Street:** The maximum height for buildings or other structures in the Old Town District Area B north of Quince/2nd Street may be three (3) stories above grade with a maximum of forty feet (40') when approved by a conditional use permit.

   a. If the property includes a Scenic Resource identified as Site 7 on Map 5H-1 in the Comprehensive Plan and is therefore undevelopable, the remainder of the property may be developed with three stories.

   b. If the property includes natural features such as mature trees, sand banks, and/or bank vegetation (outside of Site 7), three stories may be allowed if those features are preserved with an easement as approved by the Planning Commission; or

   c. Three stories may also be allowed if design elements are incorporated into the roof-line such as stepping back the third story a minimum of 10 feet (10') from the wall plane of the floor below if it faces a street, using a mansard roof design, or by incorporating living space within the attic of a pitched roof via a dormer(s) and/or partition-wall.

3. For any building two (2) stories or more above grade, two (2) or more of the following design options shall be employed to reduce the perceived scale of the structure:

   a. Pitched or gable roofs are encouraged, with offsets, valleys, or false dormers to break up the roof plane as viewed from any abutting street.

   b. Building exterior shall be broken into shapes and planes of less than 750 square feet for any building plane. Such planes shall have a two foot (2') minimum relative off-set.

   c. Windows, balconies, entryways, and/or arcades shall be used to create visual interest and reduce the apparent bulk/mass of the building; and variation in materials, textures, colors, and shapes shall be used to break up wall planes.

   d. A public plaza may be provided between the building and the street right-way. The plaza shall be a minimum of four feet (4') in depth (in addition to any required sidewalk), with a minimum of 100 square feet wide for seating, landscaping, and weather protection, such as awnings, canopies, overhangs, or similar features.

**B.** **Building Size Limitation:** No structure designed solely for retail or office use shall have a floor area that exceeds 15,000 square feet. Mixed use buildings may have greater floor areas, subject to Design Review for compatibility with surrounding structures and uses.

**C.** **Access:** Americans with Disabilities Act (ADA) approved access must be provided to all floors of buildings and structures as required by Building Codes.

**D.** **Sidewalks:** Public sidewalks shall be a minimum of eight feet (8') wide along Quince Street/2nd Street.

**E.** **Parking and Loading Spaces:** All required residential parking spaces must be located on-site, but may not be located within the front yard.

Every multi family housing structure building that incorporates indoor parking shall have an approved fire sprinkler system installed, unless it is granted an exception provided by the state building code.

Non-residential parking spaces may be located on-street in front of the front yard of the lot, and/or may be located in an interior parking lot within the block or in an off-site lot. The number of parking spaces as provided in Chapter 3, Title 10 shall be used as guideline when determining parking needs. For non-residential uses, off-street parking shall not be located between the building and street

Bike racks shall be located either in the interior parking lot or by an entrance. Bike racks may not be located in the required pedestrian walkway.

**F.** **Vision Clearance:** Refer to Sections 10-2-13 and 10-35-2-14 of this Title for definition and requirements.

**G.** **Signs:** Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

**H.** **Fences, Hedges, Walls and Landscaping:** Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

1. **Landscaping:** A minimum of ten percent (10%) landscaping is required. The calculation of the required minimum may include street trees installed and maintained by an applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the 10% calculation must be installed and maintained by the applicant or his/her successors.

2. **Walls, Fences and Hedges:** Interior parking lots may be separated from rear courtyards by walls, fences and/or hedges four feet (4') in height or less. Eating establishments may separate outdoor eating areas from parking areas and adjacent buildings or structures by a fence, wall or hedge not to exceed six feet (6') in height. Pedestrian walkways may be separated from abutting uses by plantings or fences which allow visual surveillance of the walkway and surrounding areas. Chain link fences are prohibited in Area B.

**I.** **Lighting:** Street lighting, building lighting, and lighting of parking lots and walkways shall conform to the following lighting standards:

1. Where there are antique street lights within the public right of way, new light fixtures shall match the antique streetlights. (See Figure 17.2)

2. In the areas where the antique street lights are not currently located, the light fixtures within the public right of way shall use the Central Lincoln Public Utility District's Ornamental streetlights. (See Figure 17.2)

3. Light fixtures shall conform to the lighting styles in the Downtown Architectural Guidelines.

4. Lighting shall be pedestrian scaled.

5. Refer to Section 10-37 of this Title for additional requirements.

6. Wiring for historic light fixtures shall be placed underground.

7. Other overhead wiring shall be placed underground, where possible.

**J.** **Trash Enclosures:** At least one trash receptacle shall be provided on site. Dumpsters or similar utilitarian trash receptacles shall be screened with a solid fence or wall not less than 5' in height. Trash receptacles for pedestrians shall have a consistent design in order to provide consistency in street furniture.

**K.** **Design Review:** All uses in the Old Town District Area B, whether permitted or conditional uses, shall be subject to design review (FCC 10-6) to insure compatibility and integration with the character of the district and to encourage revitalization. Architectural design shall be reviewed against criteria contained within FCC 10-6-6: Architectural Design to determine compatibility with the character of the district, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516 on properties not listed in the Comprehensive Plan's Historic Inventory.

1. **Additional Requirements:**

   a. **Survey:** All new development and redevelopments and/or additions must also submit a recent survey map with their Design Review Application. The survey must show:

      i. Property lines

      ii. Easements

      iii. 2' Contours

      iv. Existing structures

v. Floodplain

b. **New Construction or Story Additions**: As an element of the Design Review process, the applicant is required to provide and/or install visual aids to assist the Planning Commission and the public to visualize the size/configuration of the proposed structure with its relation to the surroundings. The required visualization aids consist of three types: Type I Story Poles, Type II Virtual Images, and Type III Color Architectural Renderings, as defined in FCC 10-17-2 Definitions of Visual Aid.

Visual aids are required unless waived by the Community Development Director. In the course of the public hearing, the Commission may overrule such determination and require additional visual aid(s). Visual aid type I, II or III is required for all buildings or story additions equal to or greater than two (2) stories in Area B.

L. **Development Prohibition:** Any property identified as Site 7 on Map 5H-1 in the Comprehensive Plan shall remain undeveloped.

## OLD TOWN DISTRICT AREA C

**10-17C-1** **PURPOSE FOR AREA C: Old Town Area C is intended for mixed uses which provide a range of housing and hospitality options around the Events Center that take advantage of the surrounding natural features and views of the river.**

**10-17C-2** **LAND USES FOR AREA C:** The following establishes permitted, conditional, and Prohibited uses for the Old Town District Area C:

**A.** **Permitted Uses:** Uses which are administratively determined to have an impact similar to or less than Permitted uses listed below:

Accessory uses and structures, except activities that are permitted as a basic use and for required on-site parking

Basic utilities (water, sewage, electrical, and communication facilities - not staffed)

Educational services (accessory only, not school)

Entertainment and recreational facilities (indoor)

Lodging, motels and hotels

Offices, professional and administrative

Parks and open space

Residential: above ground floor commercial

Residential: multi-family, townhouses, duplexes

Restaurants and cafes, without drive-thru

Retail sales and service (Retail sales and service uses involve the sale, rental, and repair of new or used products, supplies, goods and foodstuffs to/for the general public. The retail category also includes personal services such as banking, real estate, and personal care activities. Note that restaurant, entertainment and recreation, lodging, and vehicle-related uses are otherwise listed in this section and are thus excluded from the general retail category.)

Taxi stands

**B.** **Conditional Uses:** Uses which are administratively determined to have an impact similar to or less than Conditional Uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Bed and breakfast inns

Commercial & public parking lots (ground level)

Commercial & public parking structures

Commercial and public marinas, piers, and docks

Daycare, adult and child

Manufacturing and production of retail items sold on the premises (< 5000 s.f. w/retail)

Office, vehicle short-term rental (no outdoor storage)

Public safety facilities (police and fire stations)

Recreational facilities (must be outdoor, water-related, and non-motorized such as canoeing or kayaking)

Religious Institutions

Taverns and bars

**C.** **Prohibited Uses:** Uses that are administratively determined to have impact similar to or greater than Prohibited uses listed below are prohibited. The following uses are specifically prohibited:

Firing ranges (indoor or outdoor)

Industrial services

Kennels, animal clinics, or grooming facilities

Marijuana Retailers

Medical and Recreational Marijuana Production, Processing or Wholesale

Medical centers

Medical Marijuana Dispensaries

Mobile home parks

Residential, single family

Restaurants, with drive-thru

RV parks and campgrounds

Schools and colleges

Self-service storage

Vehicle repair or storage of non-operational vehicles

Vehicle sales or leasing (except short-term car, bicycle, or watercraft rental)

Warehousing

Waste/recycling facilities (except as incidental to an approved use)

Wholesale sales

**D.** **Existing Single-family Residences:** Existing single-family residences remain grandfathered until such time as a conversion is made to commercial use.

**10-17C-3 LOT AND YARD PROVISIONS FOR AREA C**

**A.** **Lot Area:** The lot area shall be a minimum of 2,500 square feet. Lot area for a duplex shall be at least 5,000 sq ft, and lot area for a multiple family structure shall be at least 2,500 sq ft for each ground floor unit.

**B.** **Lot Dimensions:** The minimum lot width shall be twenty-five feet (25').

**C.** **Lot Coverage:** The Planning Commission or their designee may allow up to eighty percent (80%) lot coverage by buildings and other impervious surfaces.

**D.** **Yard Regulations:**

1. **Garage and Carport Entries:** Garage and carport entries shall have a minimum setback of twenty feet (20'), with all parking to have access from side or rear of property.

2. **Front Yards:** Front yard setback shall be a minimum of fifteen feet (15').

3. **Side Yard:** No side yard shall be less than five feet (5') unless zero lot line spacing is approved.

4. **Rear Yard or Alley:** Rear yard or alley setback shall be a minimum of five feet (5').

5. The Planning Commission may allow reduction of any Area C setbacks, if an easement is approved and dedicated that will preserve mature trees, sand banks, and/or bank vegetation.

6. For developments with ground floor commercial units facing Quince/2nd Street, the Planning Commission may allow reduced front yard or side yard setbacks from that street if pedestrian-friendly amenities are provided, such as street trees, wider sidewalks with seating, overhangs and awnings, etc.

**E. Common Open Space:** Common open space is required for multi-family housing developments of four (4) or more units, as follows:

1. An area on the site measuring a minimum of 100 sq ft per dwelling unit shall be designated and permanently reserved as common open space.

2. In meeting the common open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

3. To receive credit under this section, a common open space area shall have an average width that is not less than twenty feet (20') and an average length that is not less than 20 feet.

4. Any common areas shall be owned as common property and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

## 10-17C-4 SITE AND DEVELOPMENT PROVISIONS FOR AREA C

**A. Building or Structural Height Limitations:** The maximum height for buildings or other structures in the Old Town District Area C shall be four (4) stories above grade with a maximum height of fifty-five feet (55').

For any building two (2) stories or more above grade, two (2) or more of the following design options shall be employed to reduce the perceived scale of the structure:

1. Pitched or gable roofs are encouraged, with offsets, valleys, or false dormers to break up the roof plane as viewed from any abutting street.

2. Building exterior shall be broken into shapes and planes of less than 750 square feet for any building plane. Such planes shall have a two foot (2') minimum relative off-set. Any third or fourth story shall be set back a minimum of 10 feet from the wall plane of the floor below if it faces a street.

3. Windows, balconies, entryways, and/or arcades shall be used to create visual interest and reduce the apparent bulk/mass of the building; and variation in materials, textures, colors, and shapes shall be used to break up wall planes.

4. A public plaza may be provided between the buildings and the street right-of-way. The plaza shall be a 1,000 square feet in size for seating, landscaping, and weather protection, such as awnings, canopies, overhangs, or similar features.

**B. Building Size Limitation:** No structure designed solely for non-residential use shall have a building footprint that exceeds 15,000 square feet. Mixed use buildings may have greater building footprints, subject to Design Review for compatibility with surrounding structures and uses.

**C. Access:** Americans with Disabilities Act (ADA) approved access must be provided to all floors of buildings and structures as required by the building codes.

**D. Sidewalks:** Public sidewalks shall be a minimum of eight feet (8') wide along Quince Street/2nd Street.

**E.** **Parking and Loading Spaces:** Off-street parking shall not be located between the building and the street, unless mitigation measures are approved by the Planning Commission that include each of the following: pedestrian pathways from the street to the building, landscaped berms and professionally designed landscaping. All required parking shall be on site unless otherwise provided in Chapter 3.

Every building of three (3) stories or more above grade and every multi family housing structure building that incorporates indoor parking shall have an approved fire sprinkler system installed, unless it is granted an exception provided by the state building code.

Bike racks shall be located either in the interior parking lot or by an entrance. Bike racks may not be located in the required pedestrian walkway.

**F.** **Vision Clearance:** Refer to Sections 10-2-13 and 10-35-2-14 of this Title for definition and requirements.

**G.** **Signs:** Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

**H.** **Fences, Hedges, Walls and Landscaping:** Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

1. **Landscaping:** A minimum of fifteen percent (15%) landscaping is required unless a preservation credit is achieved in accordance with 10-34-2-4. The calculation of the required minimum may include street trees installed and maintained by an applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All required landscaping must be installed and maintained by the applicant or his/her successors.

2. **Walls, Fences and Hedges:** Interior parking lots may be separated from rear courtyards by walls, fences and/or hedges four feet (4') in height or less. Eating establishments may separate outdoor eating areas from parking areas and adjacent buildings or structures by a fence, wall or hedge not to exceed six feet (6') in height. Pedestrian walkways may be separated from abutting uses by plantings or fences which allow visual surveillance of the walkway and surrounding areas. Chain link fences are prohibited in Area C.

**I.** **Lighting:** Street lighting, building lighting, and lighting of parking lots and walkways shall conform to the following lighting standards:

1. The light fixtures within the public right of way shall use the Central Lincoln Public Utility District's Ornamental streetlights. (See Figure 17.2)

2. Light fixtures shall conform to the lighting styles in the Downtown Architectural Guidelines.

3. Lighting shall be pedestrian scaled.

4. Refer to Section 10-37 of this Title for additional requirements.

5. Wiring for historic light fixtures shall be placed underground.

6. Other overhead wiring shall be placed underground, where possible.

**J.** **Trash Enclosures:** At least one trash receptacle shall be provided on site. Dumpsters or similar utilitarian trash receptacles shall be screened with a solid fence or wall not less than five feet (5') in height. Trash receptacles for pedestrians shall have a consistent design in order to provide consistency in street furniture.

**K.** **Design Review:** All uses in the Old Town District Area C whether permitted or conditional uses, shall be subject to design review (FCC 10-6) to insure compatibility and integration with the character of the district and to encourage revitalization. Architectural design shall be reviewed against criteria contained within FCC 10-6-6: Architectural Design to determine compatibility with the character of the district, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516 on properties not listed in the Comprehensive Plan's Historic Inventory.

1. **Additional Requirements:**

a. **Survey:** All new development and redevelopments and/or additions must also submit a recent survey map with their Design Review Application. The survey must show:

i. Property lines

ii. Easements

iii. 2' Contours

iv. Existing structures (including height of sea-wall, if appropriate)

v. Floodplain

vi. Highest observed tide

b. **New Construction or Story Addition**: As an element of the Design Review process, the applicant is required to provide and/or install visual aids to assist the Planning Commission and the public to visualize the size/configuration of the proposed structure with its relation to the surroundings. The required visualization aids consist of three types: Type I Story Poles, Type II Virtual Images, and Type III Color Architectural Renderings, as defined in FCC 10-17-2 Definitions of Visual Aid.

Visual aids are required unless waived by the Community Development Director. In the course of the public hearing, the Commission may overrule such determination and require additional visual aid(s). Visual aid type I, II or III is required for all buildings or story additions equal to or greater than two (2) stories in Area C.

L. **Development Prohibition:** Any property identified as Site 7 on Map 5H-1 in the Comprehensive Plan shall remain undeveloped.

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Established by Ord. No 1, Series 2008 – effective Feb. 4, 2008
Sections 10-17A-2, 10-17B-2, 10-17C-2,10-17A-4, 10-17B-4 and 10-17C-4 Amended by Ord. No. 9, Series 2009
Sections 10-17B-3-E and 10-17C-3-E, Amended by Ord. No. 2, Series 2011 – effective March 11, 2011
Sections 10-17-A-4-G, 10-17-B-4-G, and 10-17-C-4-G amended by Ord. No. 4, Series 2011 – effective April 22, 2011
Sections 10-17A-2, 10-17A-4, 10-17B2, 10-17B-4, 10-17C-2, and 10-17C-4 amended by Ord. No. 3, Series 2013, see Exhibit B (effective 7-31-13)
Section 10-17A-4-E amended by Ordinance No. 4, Series 2014 – effective October 15, 2014
Section 10-17-A-4-I-5, 10-17-B-4-I-5, and 10-17-C-4-I-4 amended by Ord. No. 12, Series 2014 – effective December 31, 2014
Section 10-17A-2-C, 10-17B-2-C, and 10-17C-2-C amended by Ord. No. 12, Series 2015 – effective 1-1-16
Section 10-17A-2-B amended by Ord. No. 13, Series 2015 – effective 1-12-16
Sections 10-17-2, 10-17A-2, 10-17A-4, 10-17B-2, 10-17B-4, 10-17C-2, and 10-17C-4 amended by Ord. No. 11, Series – effective 11-16-16
Sections 10-17A-2-A & B, 10-17B-2-A & B, and 10-17C-2-B amended by Ord. No. 7, Series 2019 – effective 12-18-19

TITLE 10
CHAPTER 18

# MARINE DISTRICT

SECTION:


10-18-1: Administrative Provisions
10-18-2: Permitted Buildings and Uses
10-18-3: Buildings and Uses Permitted Conditionally
10-18-4: Specific Approval Criteria
10-18-5: Property Development Standards


## 10-18-1: ADMINISTRATIVE PROVISIONS:

A. Purpose: The Marine District is primarily intended to provide for water dependent commercial, recreational and industrial uses. In addition, this District provides for certain water related uses which are most appropriately located near a water dependent use or in areas near the estuary. Such water related uses may not be directly dependent upon access to a water body, but do provide or use goods or services that are directly associated with water dependent uses. It is intended that this District be developed to benefit the economy of the Florence area, consistent with the Florence Comprehensive Plan and other plans which may be adopted by the City and the Port of Siuslaw.

B. Evidence of Compliance: Any applicant for a use shall furnish evidence of compliance with, or intent to comply with, appropriate permit and rule requirements of:

1. Port of Siuslaw.

2. Oregon State Department of Environmental Quality.

3. Division of State Lands.

4. United States Army Corps of Engineers.

5. All other State and Federal agencies having interest applicable to the proposed use. (Amended by Ord. No. 10, Series 2009)

**10-18-2: PERMITTED BUILDINGS AND USES:** None of the uses intended for this District are permitted outright; all are conditional uses.

**10-18-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following uses. The requirements of the adjacent Estuary District shall supersede the requirements in this section; and the provisions of the adjacent Estuary District shall be reviewed for any additional uses or requirements that may apply.

A. Water Dependent Uses

Dredge or fill activities, consistent with the adjacent Estuary District provisions.

Wharves, docks, and piers, consistent with the adjacent Estuary District provisions.

Other water dependent buildings and uses as those are defined in the definition of Water Dependent Uses in this Code.

B. Water Related Uses

C. Temporary Uses

**10-18-4: SPECIFIC APPROVAL CRITERIA:**

A. Conditional Use Permit: In addition to the general approval criteria set forth in Section 10-4-10 of this Title, the following criteria shall apply to the consideration of a conditional use permit in this District in addition to applicable criteria in the adjacent Estuary District:

1. The proposed use must be a Water Dependent or Water Related Use, as defined in Chapter 2 of this Title.

2. Where the proposed location is within a management unit as defined in the Comprehensive Plan, approval is subject to the "allowed uses and priorities" listed for that management unit. Where competition for limited land area exists, uses higher on the list have priority.

3. In the case of water related uses, approval must be based on findings that:

a. Water Related Uses must be in conjunction with and incidental and subordinate to water-dependent uses on the site and there are no alternative upland locations in other districts which would be suitable for the proposed use;

b. There are sufficient sites available to meet projected needs for water dependent uses, especially sites adjacent to the estuary.

c. Such non-water-dependent uses shall be constructed at the same time as or after the water-dependent use of the site is established, and must be carried out together with the water-dependent use.

d. The ratio of the square footage of ground-level indoor floor space plus outdoor acreage distributed between the non-water-dependent uses and the water-dependent uses at the site shall not exceed one to three (non-water-dependent to water-dependent).

e. Such non-water-dependent uses shall not interfere with the conduct of the water-dependent use.

f. For temporary non-water-dependent uses: the use must involve minimal capital investment and no permanent structures. The intent of allowing such uses is to avoid posing a significant economic obstacle to attracting water-dependent uses. Tools for implementing this approach include "vacate" clauses in leases on public lands, as well as requiring "vacate" clauses for land use approvals involving leasing of private lands.

B. Special Conditions: In addition to the general conditions listed in Sections 10-4-10 and 10-4-11, special conditions may be required.

1. State and/or Federal permits for any dredge, fill or installation of pilings must be obtained, if applicable.

2. Structures or vegetative plantings may be required to prevent riverbank erosion.

**10-18-5: PROPERTY DEVELOPMENT STANDARDS:**

A. Minimum Lot Area: The minimum lot area shall be two thousand five hundred (2,500) square feet.

B. Minimum Lot Dimensions: The minimum lot width shall be fifty feet (50').

C. Lot Coverage: Eighty-five percent (85%) lot coverage, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

D. Setback Requirements:

1. Front yards are not required except where setbacks have been established for road widening or other purposes.

2. Side yards are not required except:

a. Where setbacks have been established for road widening or other purposes;

b. Where the use abuts a residential district. In such instances a buffer may be required; and

c. Where required to preserve a visual corridor or public access to the river.

3. Shorefront setback requirements will be required for permanent structures in those instances where sound engineering practices require setback:

a. To comply with the National Flood Insurance Program;

b. To provide for shoreland stabilization or protection measures; and

c. To allow a buffer strip for areas of geological instability.

E. Building and Structural Height Limitations: The maximum building or structural height shall be twenty eight feet (28').

F. Fences, Hedges, Walls and Landscaping: The City may require that a fence, hedge, wall or landscaping be maintained within the Marine District or with abutting districts. Refer to Section 10-34 of this Title for requirements.

G. Parking and Loading Space: Refer to Chapter 3 of this Title for specific parking requirements.

H. Visual Clearance: Refer to Section 10-2-13 and 10-35-2-14 of this Title for definition and requirements.

I. Signs: Signs shall be in accordance with Title 4 Chapter 7 of this Code.

J. Vegetative Strip: A vegetative strip adjacent to the estuary shall be maintained, insofar as possible, consistent with permitted uses.

K. Utility Systems and Public Facilities: The necessary utility systems and public facilities must be available with sufficient capacity to serve the proposed use. Refer to Section 10-36 of this Title for requirements.

L. Access and Circulation: Refer to Section 10-34 of this Title for requirements.

M. Design Review: All uses shall be subject to the design review provisions of Chapter 6 of this Title.

N. Lighting: Refer to Section 10-37 of this Title for requirements.

Amended by Ordinance No. 15, Series 1988
Section 10-18-5, H, I - Amended by Ordinance No. 26, Series 2008
Section 10-18-5 amended by Ord. No. 9, Series 2009
Section 10-18-3 and 10-18-4 amended by Ord. No. 10, Series 2009
Section 10-18-5-I amended by Ord. No. 4, Series 2011 (effective 4/22/11)
Section 10-18-5-N added by Ord. No. 12, Series 2014 (effective 12/31/14)
Sections 10-18-3, 10-18-4, and 10-18-5 amended by Ord. No. 11, Series 2016 (effective 11/16/16)

TITLE 10
CHAPTER 19

# ESTUARY, SHORELANDS, AND BEACHES AND DUNES

SECTION:


**10-19-1: Estuary District Administration**
10-19-2: Natural Estuary District (NE)
10-19-3: Conservation Estuary District (CE)
10-19-4: Development Estuary District (DE)
**10-19-5: Coastal Shorelands Overlay Districts Administration**
10-19-6: Shoreland Residential Overlay District (/SR)
10-19-7: Mixed Development Overlay District (/MD)
10-19-8: Dredge Material/Mitigation Site Overlay District (/DMS)
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10-19-10: Natural Resource Conservation Overlay District (/NRC)
**10-19-11: Beaches and Dunes Overlay District Administration**
10-19-12: Beaches and Dunes Overlay District (/BD)


## 10-19-1: ESTUARY DISTRICT ADMINISTRATION

A. Applicability

1. The following three Estuary Zoning Districts apply to the Siuslaw River Estuary within the Florence city limits: Natural Estuary, Conservation Estuary, and Development Estuary. These districts implement the requirements of Statewide Planning Goal 16 and policies in the Florence Comprehensive Plan and corresponding “management units.” In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 16, Siuslaw Estuarine Resources.

2. Estuary Zoning Districts are applied to portions of the estuary within city limits as classified on the City of Florence Zoning Map.

B. Resource Capability Assessment:

1. Purpose: Uses Requiring a Special Use Permit (Type II Review) or Conditional Uses (Type III Review) in the Natural Estuary (NE) and Conservation Estuary (CE) Districts are allowed only if determined to be consistent with the Resource Capabilities of the area and the purpose of the management unit in which the use or activity occurs. The purpose of this subsection is to establish a procedure for making a Resource Capabilities Assessment. Major activities or uses in the estuary may require an Estuarine Impact Assessment. Those uses do not also require this Resource Capability Assessment.

2. Definition of Resource Capability Assessment: An assessment used to determine if a use or activity is consistent with the resource capabilities of an area. Definitions specific to Estuary Management Units (MUs) are as follows:

   a. In the Natural Estuary District, a use or activity is consistent with the resource capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

   b. In the Conservation Estuary District, a use or activity is consistent with the resource capabilities when it is able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

3. Identification of Resources and Impacts: The required assessment need not be lengthy or complex, but it should enable reviewers to gain a clear understanding of the impacts to be expected. The application for a proposed use or activity in which a resource capability determination must be made shall submit information on the following. The Planning Director may waive inapplicable items for any particular use or project.

   a. The type and extent of alterations expected.

   b. The type of resources affected. The type of resources likely to be affected by the proposed action shall be inventoried. The City shall assist the applicant in locating sources of information. Sources which can be used include: Lane County Coastal Resources Inventory, environmental impact statements for the Siuslaw River, or other published information concerning the Siuslaw estuary, or more current resource information from federal or state agencies, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians or other public sources.

   c. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary.

   d. The methods which could be employed to avoid or minimize adverse impacts. Where adverse impacts have been or can be identified, information shall be provided on reasonable methods which could be employed to avoid or minimize adverse impacts.

4. Resource Capability Assessment: Information on resources present and impacts to be expected will be evaluated as part of the Special Use Permit (Type II) or Conditional Use Permit (Type III) procedure, based on the requirement that the estuary can still function to achieve the purpose of the zone in which the activity will be located. Information developed by resource agencies and information submitted by the applicant may be used in the determination, and will be used whenever possible to reduce duplication of effort between agencies.

5. Resource Capability Findings: Unless fully addressed during the development and adoption of the Comprehensive Plan, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings shall be concluded in approving the use permit, otherwise it shall be denied:

   a. The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or

   b. The impacts of the use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or

   c. In the Natural Estuary District, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education; or

   d. In the Conservation Estuary District, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

6. Notification of Agencies: Any application that is subject to the provisions of this section shall, at a minimum, be referred to the following:

   a. U.S. Fish and Wildlife Service

   b. U.S. Environmental Protection Agency

   c. U.S. Army Corps of Engineers

   d. National Marine Fisheries

   e. Oregon Dept. of Fish and Wildlife

   f. Oregon Dept. of Land Conservation and Development

   g. Oregon Department of State Lands

   h. Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians.

C. Estuarine Impact Assessment:

1. Purpose: The purpose of this subsection is to provide a procedure for evaluation of uses or activities which are major in nature and which could potentially alter the integrity of the estuarine ecosystem. Activities which require an Estuarine Impact Assessment do not also require a Resource Capability Assessment. Uses which are permitted outright do not require an Estuarine Impact Assessment. Uses in Estuary Districts requiring a Special Use Permit (Type II review) or a Conditional Use Permit (Type III review) will require an Estuarine Impact Assessment only when an Environmental Impact statement (EIS) is required through the Corps of Engineers Section 10/404 permit process.

2. Information to be presented in the Estuarine Impact Assessment: Information contained in an Estuarine Impact Assessment shall be used in the evaluation of a use or activity during a Special Use Permit (Type II) or Conditional Use Permit (Type III) procedure. As part of the permit review, information developed by resource agencies may be requested and used in the determination. Any possibilities of reducing duplication of effort by the City and other agencies will be utilized so long as necessary information is adequately analyzed. Information contained in the Estuarine Impact Assessment may be drawn from available data and analysis contained in the Lane County Coastal Resources Inventory, environmental impact statements and assessments for projects in the Siuslaw River estuary, other published studies pertaining to the Siuslaw River estuary or more current information provided by application.

   The Estuarine Impact Assessment shall apply available information to the following general areas of analysis: the type and extent of alterations expected; the type of resources affected; the expected extent of the impact of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary; and the methods which could be employed to avoid or minimize adverse impacts, and specifically detailed below. The Planning Director may waive inapplicable items for any particular use or project.

   a. Aquatic life forms and habitat, including information on: habitat type and use (e.g., rearing, spawning, feeding/resting, migration), species present, seasonal abundance, sediment type and characteristics and vegetation present. The type of alteration, including information detailing the extent of alteration (e.g., area measurement, depths to which alteration will extend, volumes of materials removed and/or placed as fill), impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.

b. Shoreland life forms and habitat, including information on: habitat type and use (e.g., feeding, resting or watering areas, flyways), species present, seasonal abundance, soil types and characteristics, and vegetation present. Impacted species (including threatened and endangered species), life stages and life cycles affected with regard to timing of the proposed alteration, percent of total available habitat type subjected to alteration.

c. Water quality, including information on: increases in sedimentation and turbidity, decreases in dissolved oxygen concentration, changes in biological and chemical oxygen demand, contaminated sediments, alteration of salinity regime, disruption of naturally occurring water temperatures, changes due to reduction, diversion or impoundment of water.

d. Hydraulic characteristics, including information on: changes in water circulation patterns, shoaling patterns, potential of erosion or accretion in adjacent areas, changes in the floodplain, decreases in flushing capacity or decreases in rate of water flow from reduction, diversion or impoundment of water sources.

e. Air quality, including information on: quantities of emissions of particulates, expected inorganic and organic airborne pollutants.

f. Impact of the proposed project on navigation and public access to the shoreline and aquatic areas.

g. Demonstration of public need to warrant such a modification to the estuary.

h. Demonstration that non-water-dependent uses will not preempt existing or future water-dependent use of the area.

i. Determination of the potential cumulative impact of the proposed development, including alteration of adjacent significant fish and wildlife habitat and essential properties of the estuary.

j. Presentation of upland alternatives and methods to minimize preventable adverse impacts.

k. Determination of need for mitigation.

3. Estuarine Impact Assessment Findings: Unless fully addressed during the development and adoption of the Comprehensive Plan, actions which would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration. Such activities include dredging, fill, in-water structures, riprap, application of pesticides and herbicides, water intake or withdrawal and effluent discharge, flow-lane disposal of dredged material, and other activities which could affect the estuary's physical processes or biological resources. Based on the analysis of resources and impacts, one of the following findings shall be concluded in approving the use permit, otherwise it shall be denied:

a. The specific use was fully addressed during the development and adoption of the Comprehensive Plan and the use is allowed; or

b. The use or activity will not have a significant impact on estuarine species, habitats, biological productivity or water quality; or

c. In the Natural Estuary District, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education; or

d. In the Conservation Estuary District, that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

4. Notification of Agencies: Any application that is subject to the provisions of this section shall, at a minimum, be referred to the following:

a. U.S. Fish and Wildlife Service

b. U.S. Environmental Protection Agency

c. U.S. Army Corps of Engineers

d. National Marine Fisheries

e. Oregon Dept. of Fish and Wildlife

f. Oregon Dept. of Land Conservation and Development

g. Oregon Department of State Lands

h. Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians.

D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the application may be required to submit a supplementary report containing findings prepared by an environmental scientist, hydrologist, engineer, geologist, biologist, or other qualified consultant.

E. Uses Subject to State and Federal Permits:

1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.

2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary. .

3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

F. Emergencies: Estuarine alterations performed under emergency conditions for which the Department of State Lands or other agency with such authority has issued an emergency permit, shall not be deemed to violate this Chapter. The party performing work must submit a copy of written confirmation of such an emergency permit to the city.

**10-19-2: NATURAL ESTUARY DISTRICT (NE):**

A. Purpose and Extent: The purpose of the Natural Estuary District (NE) is to assure the protection of significant fish and wildlife habitats and continued biological productivity of the estuary and to accommodate the uses which are consistent with these objectives. The boundaries of the NE District are determined by the natural estuarine features. The NE District includes all major tracts of salt marsh, tideflats, eelgrass and algae beds. These are as identified on the City Zoning Map as specified by this Title.

B. The following uses and no others shall be permitted outright, provided that no such use shall involve dredge or fill:

1. Undeveloped low-intensity water-dependent recreation
2. Research and educational observations
3. Navigational aids, such as beacons and buoys
4. Protection of habitat, nutrient, fish, wildlife and aesthetic resources;
5. Passive restoration measures;
6. Maintenance of existing riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits; and such maintenance shall not increase the size, extent, or scope of the riprap or otherwise alter the estuary.
7. Bridge crossings.

C. Special Uses Approved by Type II Review: The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the NE District; and upon satisfaction of the applicable criteria in F. A Resource Capability Assessment is required as set forth FCC subsection 10-19-1-B except for major projects requiring an Estuarine Impact Assessment as set forth in FCC subsection 10-19-1-C.

1. Bridge crossing support structures and dredging necessary for their installation; and dredging necessary for on-site maintenance of existing functional tidegates and associated drainage channels.

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2. Expansion of existing riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities. The riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits.

D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the NE District, and upon satisfaction of all of the applicable criteria in F and below. A Resource Capability Assessment is required as set forth in FCC 10-19-1-B, except for major projects requiring an Estuarine Impact Assessment as set forth in FCC 10-19-1-C.

1. Aquaculture which does not involve dredge or fill or other estuarine alteration other than incidental dredging for harvest of benthic species or removable in-water structures such as stakes or racks.
2. Communication facilities.
3. Active restoration of fish and wildlife habitat or water quality and estuarine management.
4. Boat ramps for public use where no dredging or fill for navigational access is needed
5. Pipelines, cables and utility crossings, including incidental dredging necessary for their installation.
6. Temporary alterations, subject to the requirements in d and the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition.

7. Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill. All other fills, regardless of volume, are prohibited in this MU.

8. Installation of new riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values; and public facilities.

E. A use or activity is consistent with the resource capabilities of Natural Estuary District when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner to protect significant wildlife habitats, natural biological productivity, and values for scientific research and education.

F. Dredging and fill and other activities which could potentially alter the estuary are prohibited in this District except as expressly permitted through a Special Use Permit (Type II) or Conditional Use Permit (Type III) in Sections C and D. When allowed in C or D, these uses or activities shall meet all of the following criteria:

1. no feasible alternative upland locations exist;

2. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in C and D above;

3. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in C or D, rip; and fill, whether located in the waterways or on shorelands above ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

4. dredge or fill activities, found to be subject to state mitigation requirements, must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and

5. all federal and state requirements, including mitigation requirements, are met as a condition of approval.

**10-19-3: CONSERVATION ESTUARY DISTRICT (CE):**

A. Purpose and Extent: The purpose of the Conservation Estuary District (CE) is to provide for the long-term use of the estuary's renewable resources in ways which do not require major alteration of the estuary. Providing for recreational and aesthetic uses of the estuarine resources as well as maintenance and restoration of biological productivity are primary objectives in this District. The boundaries of the CE District are defined by natural features. The CE District includes minor tracts of salt marsh, tideflats, eelgrass and algae beds; and those not included in the Natural Estuary District (NE). This District also includes oyster and clam beds and areas immediately adjacent to developed estuarine areas. These are as identified on the City Zoning Map as specified by this Title.

B. The following uses and no others shall be permitted outright, provided that no such use shall involve dredge or fill:

1. All uses permitted outright in the Natural Estuary District Section B.

2. Maintenance of existing riprap which is currently serviceable and was previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the riprap, or otherwise alter the estuary.

3. Maintenance and repair of existing, functional, public and private docks and piers, provided that the activity: does not require dredging or fill of the estuary; minimizes adverse impacts on estuarine resources; and does not alter the size, shape, or design of the existing structure, or otherwise alter the estuary.

C. Special Uses Approved by Type II Review: The following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the CE District; and upon satisfaction of the applicable criteria in F. A Resource Capability Assessment is required as set forth FCC subsection 10-19-1-B except for major projects requiring an Estuarine Impact Assessment as set forth in FCC subsection 10-19-1-C.

1. All uses permitted through a Special Use Permit in the Natural Estuary District Section C.

2. Expansion of existing riprap, provided the riprap shall be necessary to protect an existing use or a use that is permitted outright or with Special Use Permit approval. The existing riprap must be currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits.

D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, upon affirmative findings that the use is consistent with the resource capabilities of the area, as defined in E, and the purposes of the CE District, and upon satisfaction of all of the applicable criteria in F and G, and below. A Resource Capability Assessment is required as set forth in FCC 10-19-1-B, except for major projects requiring an Estuarine Impact Assessment as set forth in FCC 10-19-1-C.

1. All Conditional Uses in Natural Estuary District Section D.

2. Water-dependent uses requiring occupation of water surface area by means other than dredge or fill (e.g., on pilings or floating), including mooring buoys which are permanently anchored to estuary floor, dolphins, docks and piers, and other such uses.

3. High-intensity water-dependent recreation, including public beaches, boat ramps, marinas and new dredging for boat ramps and marinas.

4. Minor navigational improvements.

5. Aquaculture requiring dredge or fill or other alteration of the estuary.

6. Active restoration for purposes other than those listed above.

7. Installation of new riprap, provided the riprap shall be necessary to protect an existing use or a use that is permitted outright or with Special Use Permit or Conditional Use Permit approval.

E. A use or activity is consistent with the resource capabilities of Conservation Estuary District when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or the resources of the area are able to assimilate the use or activity and its effects and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values and aquaculture.

F. Dredging and fill and other activities which could potentially alter the estuary are prohibited in this District except as expressly permitted through a Special Use Permit or Conditional Use Permit in Sections C and D. When allowed in C or D, these uses or activities shall meet all of the following criteria:

1. no feasible alternative upland locations exist;
2. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in B, C, and D above;
3. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in C or D, rip; and fill, whether located in the waterways or on shorelands above ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
4. dredge or fill activities must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality; and
5. all federal and state permit requirements, including mitigation requirements, are met as a condition of approval.

G. Public and private piers and docks, shall meet the following additional criteria:

1. The size and shape shall be limited to that required for the intended use.
2. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
3. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

**10-19-4: DEVELOPMENT ESTUARY DISTRICT (DE):**

A. Purpose and Extent: The primary purpose of the Development Estuary District (DE) is to provide for navigational needs and public, commercial and industrial water-dependent uses which require an estuarine location. Uses which are not water dependent which do not damage the overall integrity or estuarine resources and values should be considered, provided they do not conflict with the primary purpose of the District. The DE District is designed to apply to navigation channels, sub-tidal areas for in-water disposal of dredged material, major navigational appurtenances, deep-water areas adjacent to the shoreline and areas of minimal biological significance needed for uses requiring alteration of the estuary. These are as defined on the City Zoning Map as specified by this Title.

B. Permitted Uses: Activities and uses permitted outright in the estuary throughout all portions of Development Estuary Districts are as follows, provided that these specific uses and activities do not involve dredge or fill:

1. Maintenance of existing riprap and other erosion control structures which are currently serviceable and previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the structure or otherwise alter the estuary.

2. Maintenance and repair of existing, functional, public and private docks and piers, provided that the activity: does not require dredging or fill of the estuary; minimizes adverse impacts on estuarine resources; and does not alter the size, shape, or design of the existing dock or pier or otherwise alter the estuary.

C. Permitted Uses in Areas Managed for Water Dependent Activities. In addition to the activities specifically permitted in B, the following uses and no others are permitted outright in the estuary in Areas Managed for Water Dependent Activities:

1. Navigation, provided no dredging or fill is involved.

2. Maintenance dredging and maintenance of the north jetty are permitted outright where they have been established as appropriate in the Florence Comprehensive Plan for specific Management Units. Maintenance dredging must also meet the following additional criteria: 1) the footprint of the area to be dredged shall be the same as the area that has been dredged in the past; and 2) the dredging shall be approved by all applicable federal and state permitting agencies. For example, maintenance dredging of the Federal Navigation Channel, as authorized in the Siuslaw River Dredge Material Disposal Plan, is automatically approved and need not go through a local permit process for each individual project.

D. Special Uses Approved by Type II Review: The following specified uses and no others require a Special Use Permit throughout all portions of Development Estuary Districts. A Special Use Permit may be approved according to the procedures set forth in Chapter I of this Title upon affirmative findings that the use is consistent with the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):

1. All uses permitted through a Special Use Permit in Natural and Conservation Estuary Districts.

E. Conditional Uses in Areas Managed for Water Dependent Activities: The following uses are allowed in the estuary in Areas Managed for Water Dependent Activities with approval of a Conditional Use Permit (Type III review), subject to the applicable criteria. A Conditional Use Permit may be approved according to the procedures set forth in Chapters 1 and 4 of this Title upon affirmative findings that the use is consistent with the purposes of the DE District and the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):

1. Navigation where dredging is involved.

2. Water-dependent commercial and industrial uses, and dredging and fill necessary to support these uses, subject to the applicable criteria below. Examples of water-dependent commercial and industrial uses include, but are not limited to, the following (for additional water-dependent commercial and industrial uses, see the Definition of this term in FCC 10-1):

a) Docks and piers, provided they are necessary to support water-dependent commercial and industrial uses

b) Flood and erosion control structures such as jetties, bulkheads, seawalls, and groin construction, may be installed and maintained, and riprap may be installed and expanded; provided all such uses are needed to protect water-dependent commercial and industrial uses

c) Flow-lane disposal of dredged material, where consistent with the Dredged Materials Disposal Plan, and monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected Natural and Conservation MUs

d) Water storage areas where needed for products used in or resulting from industry, commerce, and recreation

e) Marinas

f) Temporary alterations, subject to the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan as defined in the Definitions in the Introduction to this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition

g) Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill.

F. Conditional Uses: Outside of Areas Managed for Water Dependent Activities, the following uses and activities are allowed in the estuary with a Conditional Use Permit (Type III review), subject to the applicable criteria. A Conditional Use Permit may be approved according to the procedures set forth in Chapters 1 and 4 of this Title upon affirmative findings that: the use or activity is consistent with the purposes of the DE District; it must not be detrimental to natural characteristics or values in the adjacent estuary; and it must comply with the specific criteria below, and the applicable criteria in I and either G or H (if dredging or fill is required, the requirements in G apply; if the use will otherwise alter the estuary, the requirements in H apply):

1. Dredge or fill.

2. Flood and erosion control structures such as jetties, bulkheads, seawalls, and groin construction, may be installed and maintained, and riprap may be installed and expanded; provided all such uses are needed to protect existing uses or uses specifically allowed in this Code section

3. Navigation and water-dependent commercial enterprises and activities, including docks and piers to support existing uses or uses specifically permitted in this Code section.

4. Water transport channels where dredging may be necessary.

5. Flow-lane disposal of dredged material, where consistent with the Dredged Materials Disposal Plan, and monitored to assure that estuarine sedimentation is consistent with the resource capabilities and purposes of affected Natural and Conservation Districts.

6. Water storage areas where needed for products used in or resulting from industry, commerce, and recreation

7. Marinas.

8. Temporary alterations, subject to the following additional criteria: the alteration shall support a use expressly allowed in this MU in this Comprehensive Plan as defined in the Definitions in the Introduction to this Comprehensive Plan; it shall be for a specified short period of time, not to exceed three years; and the area and affected resources shall be restored to their original condition.

9. Short-term fills for temporary alterations provided the estuarine areas impacted shall be restored following removal of the fill.

10. Water-related uses, non-water-dependent uses, and non-water-related uses, provided no dredge or fill is involved and it is not possible to locate the use on an upland site. Non-water-dependent and non-water-related uses and structures that existed as of July 7, 2009 will retain their non-conforming status for five years from the date the use is abandoned or the structure is destroyed; and the existing structure for the same use may be replaced; the provisions of non-conforming uses in the Florence City Code notwithstanding.

G. Dredging projects, other than maintenance dredging as permitted in C, above, and any project which requires fill in the estuary, shall be allowed only if the project or activity complies with all of the following criteria:

1. The dredging or fill is expressly permitted in sections D, E, or F, above, or is necessary to support a use expressly permitted in D, E or F, above;
2. A substantial public benefit is demonstrated and the activity does not unreasonably interfere with public trust rights;
3. No alternative upland locations are feasible;
4. Adverse impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary allowed in D, E, or F, above, are minimized;
5. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in B through F, above, erosion control structures such as jetties, bulkheads, seawalls, groin construction and riprap; and fill, whether located in the waterways or on shorelands above the ordinary high water mark, shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.
6. Dredge or fill activities, as otherwise approved, must be mitigated, if found to be subject to the mitigation requirement in state law, by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality.
7. All federal and state permit requirements, including mitigation requirements, are met as a condition of approval.

H. Activities or uses which could potentially alter the estuary that do not involve dredge or fill shall only be allowed in Development Estuary MUs when the use or activity complies with all of the following criteria:

1. the activity or use is expressly permitted in sections D, E, or F, above;
2. no feasible alternative upland locations are feasible;
3. the activity minimizes impacts on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, and other uses of the estuary allowed in B through F, above;
4. Land use management practices and non-structural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and as allowed in B through F, above, erosion control structures such as jetties, bulkheads, seawalls, groin construction and riprap shall be designed to minimize adverse impacts on water currents, erosion, and accretion patterns.

I. Public and private piers and docks, shall meet the following additional criteria:

1. The size and shape shall be limited to that required for the intended use.
2. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.
3. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

## 10-19-5: COASTAL SHORELANDS OVERLAY DISTRICT ADMINISTRATION

A. Coastal Shorelands Overlay Districts are applied to Coastal Shorelands within city limits as classified on the City of Florence Coastal Overlay Zoning Map.

B. As lands are annexed over time, Coastal Shorelands shall include all lands contiguous with the ocean, the Siuslaw Estuary, and four lake areas: Munsel Lake, Heceta Junction Lake, South Heceta Junction Seasonal Lakes, and North Jetty Lake. Upon annexation, Coastal Shorelands Overlay Zoning Districts are applied to the properties depicted on the Map 17-1 *Estuary and Coastal Shoreland Management Units in the Florence* UGB in the Comprehensive Plan. In addition, the Comprehensive Plan designates two sites in the UGB "Water Dependent," which are zoned Marine (Code Chapter 18) and Waterfront Marine (Code Chapter 24).

C. These overlay districts implement policies in the Florence Comprehensive Plan and corresponding "management units." In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 17, Coastal Shorelands: Ocean, Estuary, and Lake Shorelands. Where there are conflicts between the two, the stricter requirements shall apply.

The requirements of the adjacent Estuary District shall supersede the requirements for Coastal Shorelands; and the provisions of the adjacent Estuary District shall be reviewed for any additional uses or requirements that may apply to the respective Coastal Shoreland District. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the applicant may be required to submit a supplementary report containing findings prepared by an engineer, hydrologist, environmental scientist, geologist, biologist, or other qualified consultant.

E. Uses Subject to State and Federal Permits

1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.
2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary .
3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.
4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the State Parks and Recreation Department.

F. The requirements imposed by the overlay districts shall be in addition to those imposed by the base zoning district, or, if the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements apply.

## 10-19-6: SHORELAND RESIDENTIAL OVERLAY DISTRICT /SR

A. Purpose: The Shoreland Residential Overlay District (/SR) is applied to residential development management units in the Comprehensive Plan along the Siuslaw River Estuary and Munsel Lake (a Coastal Lake). It is the purpose of the /SR Overlay District to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal water. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

The /SR District is specifically designed to carry out the following purposes:

1. Protection of such natural resources as soil and such natural systems as drainage courses and waterways.
2. Enhancement of renewable resources such as the coastal fisheries.
3. Allow for recreation and public access to coastal water.

B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses, and no others, are permitted outright when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F:

1. Harvesting of wild crops.
2. Low intensity recreational activities.
3. Uses and buildings permitted outright in the base zoning district.
4. In or adjacent to lake: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
5. In or adjacent to lake: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
6. In or adjacent to lake: maintenance of existing riprap which is currently serviceable and was previously installed in accordance with all local, state, and federal regulations and permits. Such maintenance shall not increase the size, extent, or scope of the riprap, and shall not otherwise alter the lake. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
7. In lake: Mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.
8. Public boat launching ramps in lake. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

C. Special Uses Approved by Type II Review: In addition to Special Uses specifically allowed in the adjacent Estuary District, the following uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title, upon affirmative findings of consistency with all of the requirements of an adjacent Estuary District and applicable site development requirements listed in subsections E and F and upon satisfaction of the following applicable criteria.

1. Uses and buildings permitted in the base zoning district where existing parcel size is insufficient for the proposal to meet the development, setback and area requirements set forth in subsections E and F, subject to the following additional criteria:

   a. The said parcel existed prior to July 24, 1980.

   b. The structures shall not occupy more than thirty percent (30%) of lot area.

   c. All applicable height restrictions are observed.

   d. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance is minimized.

   e. All otherwise applicable requirements of this Section are met.

2. Dredged material disposal when the /SR is used in conjunction with the /DMS Overlay District.

D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted, subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F and upon satisfaction of the following applicable criteria.

1. All buildings and uses allowed conditionally or by special permit in the base zoning district, except where expressly prohibited by this Section, subject to the following criteria:

   a. All applicable criteria provided within the base district are met.

   .

   b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

2. In Coastal Lakes, public and private docks and piers, provided the following criteria are met and the use does not conflict with other requirements of this Code. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

   a. The size and shape shall be limited to that required for the intended use;

   b. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.

   c. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

d. the use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:

1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

2) Impacts on water quality and fish and wildlife habitat must be minimized.

3) The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory."

3. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

a. The stabilization is necessary to protect uses allowed in the base zoning district.

b. They are necessary because land use management practices and non-structural solutions cannot be used.

c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:

1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

2) Impacts on water quality and fish and wildlife habitat must be minimized.

3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

4. Fill in coastal lakes adjacent to the /SR District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.

1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

2) Impacts on water quality and fish and wildlife habitat must be minimized.

3) The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

E. Site Development Requirements: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.

1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section F only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

2. Development on shorelands within dune areas shall not result in clearance of a parcel's existing vegetation in excess of what is necessary for the construction of the proposed structure or structures, accessory buildings, necessary access, and fire safety requirements.

3. In all cases, vegetative cover shall be retained on lands within the shoreland area. Construction activities shall occur in such a manner as to avoid unnecessary excavation and removal of native vegetation unless cleared vegetation is to be replaced immediately following the construction activity. Interim soil stabilization methods shall be required during the construction phase of any project.

4. A minimum fifty foot (50') buffer zone of native vegetation shall be maintained along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water).

5. The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowed:

    a) Foot paths

    b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.

    c) Replanting of the area or other areas which have been previously cleared.

6. All mature trees must be retained in the 50' buffer zone, unless they are an obvious hazard or determined by an arborist to be diseased or damaged beyond repair. If a mature tree is removed, it shall be replaced with a tree from the City's suggested tree list.

F. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional setback requirements specified herein.

1. In addition to the yard setbacks required in the Base zoning district, a 50 foot buffer zone is required along the estuary (as measured from the mean high tide) and Coastal Lakes (as measured from the average high water). Use of this 50 foot buffer zone shall be as specified in 10-19-6-E.

## 10-19-7: MIXED DEVELOPMENT OVERLAY DISTRICT (/MD):

A. Purpose: The Mixed Development Overlay District (/MD) is applied to those coastal shorelands which are recognized in the City Comprehensive Plan and supportive technical data as being all or partially committed to commercial, industrial and public uses. The proximity of these lands to the dredged channel of the Siuslaw River dictates that opportunities shall be provided to preserve and expand existing water-dependent and water- related commercial, industrial or public uses. . If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

In addition, the /MD District is specifically intended to carry out the following purposes:

1. Provision, adjacent to deep water environments, of shorelands sites for use by water-dependent and water- related commercial and industrial uses.
2. Protection of previously-existing water-dependent and water-related commercial and industrial sites in shorelands areas.
3. Provision of opportunities for non-water-dependent and non-water-related uses where designated in the Comprehensive Plan.
4. Protection of coastal waters and avoidance of geographic and hydrologic hazards.

B. Permitted Uses: In addition to uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright, provided they are consistent with the requirements of the adjacent Estuary District.

1. Dryland storage.

2. Shore-secured floating moorage facilities, mooring buoys, and launch ramps.

C. Special Uses Approved by Type II Review: In addition to Special Uses specifically allowed in the adjacent Estuary District, the following uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:

1. All permitted buildings and uses permitted outright in the base zoning district, provided the requirements of the base zoning district are met.

2. Water-dependent and water-related commercial, industrial and public uses, subject to the following criteria and conditions:

   a. The site has the potential for water-dependent and water-related uses.

   b. Maintain or encourage riparian vegetation for erosion control and temperature and general aesthetics where feasible.

D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, provided they are consistent with the requirements of the adjacent Estuary District and upon satisfaction of the applicable criteria in Section F and below:

1. All buildings and uses permitted Conditionally or by Special Use Permit in the base zoning district, provided the requirements of the base zoning district are met.

E. Determination of Land Suitable for Water-Dependent Uses: Land suitable for water –dependent uses has been designated in the Florence Comprehensive Plan and classified on the Zoning Map as the sites zoned Waterfront Marine and Marine. The zoning provisions in these districts protect these sites for water-dependent uses.

F. Site and Development Requirements for Special and Conditional Uses: The development requirements specified herein shall be in addition to those provided by the base zoning district. See also Chapter 7, Special Development Standards for any applicable requirements.

1. A 50 foot buffer of riparian vegetation measured from the mean high tide shall be maintained to promote bank stabilization, maintain water quality and temperature, reduce erosion and for general aesthetics, except where unfeasible in connection with a water-dependent or water-related use.

2. The applicant must submit an analysis of all physical and biological impacts upon the shorelands area and upon coastal waters and water resources. The report shall consider at a minimum the critical relationships which exist between coastal shorelands and coastal water resources and the potential for geological and hydrological hazards.

3. The benefits of the proposed activity to the long term economic development or improved public recreational use shall outweigh the negative impacts on water quality, temperature and resources, bank stabilization, erosion control and general aesthetics.

4. For existing lots which are too small to accommodate the buffer zone, development will be allowed within the buffer zone only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

## 10-19-8: DREDGE MATERIAL/MITIGATION SITE OVERLAY DISTRICT /DMS

A. PURPOSE: The Dredge Material/Mitigation Site Overlay District (/DMS) is intended for application to both dredge material disposal sites and dredge mitigation sites on Siuslaw Estuary Shorelands as identified in the Florence Coastal Overlay Zoning Map. The purpose of the (/DMS) District is to protect designated dredged material disposal sites and mitigation sites. In addition to the requirements in this section, the requirements of the Comprehensive Plan, the base zoning district, the Coastal Overlay District, and the adjacent Estuary District apply. Where there are conflicts among provisions of this Code and between this Code and the Comprehensive Plan, the stricter requirements shall apply. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code.

B. PERMITTED USES AND BUILDINGS. In addition to uses specifically allowed in an adjacent Estuary District, the following uses are permitted outright, provided they are consistent with the requirements of the adjacent Estuary District, the Coastal Overlay District, and subject to the criteria below and in Section C and D:

1. Dredged Material Deposition. Dredge disposal is limited to those sites specifically identified for dredged material disposal in the Lane County Dredged Materials Disposal Plan, as amended and co-adopted by the City of Florence.

2. The use of Mitigation Sites for disposal of dredged materials is expressly prohibited.

3. Mitigation. Mitigation is limited to those sites specifically identified as mitigation sites in the Lane County Dredged Materials Disposal Plan, as amended and co-adopted by the City of Florence. Mitigation shall comply with the criteria in Section C.

C. Dredging and Mitigation Site Criteria:

1. Dredge and fill activities, if found to be subject to the mitigation requirement in state law, must be mitigated by creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary such as its natural biological productivity, habitats and species diversity, unique features and water quality.

2. When dredge or fill activities are permitted in intertidal or tidal marsh areas, their effect shall be mitigated by creation, restoration or enhancement of another area to ensure that the integrity of the estuarine ecosystem is maintained or findings shall be adopted demonstrating that it is not possible to do so.

3. Responsibility to Acquire Mitigation/Restoration Sites: It shall not be the responsibility of the City to acquire sites to mitigate for actions for which other agencies are responsible including the dredging of the navigation channel and development of the estuary.

D. Dredged Material Disposal Site Criteria:

1. In order to protect the navigability of the river, sites (with the exception of designated "stockpile" sites) included in the adopted Siuslaw River Dredged Material Disposal Plan shall be retained for that use until such time as the filling capacity has been reached, such determination to be based upon recommendation of the Army Corps of Engineers and other interested agencies and persons, or the site is removed from the adopted, revised Siuslaw River Dredged Material Disposal Plan. However, sites that have reached their filling capacity which can be reconfigured to accept more material shall continue to be retained. A determination that fill capacity has been reached shall be based upon the recommendation of the Army Corps of Engineers and other interested agencies and persons.

2. The re-classification of any applicable dredge material disposal site protection overlay zoning shall require positive findings that one or both of the conditions in Criteria #1 are met, following public hearing. Following removal of the overlay zone, the permitted uses on the site will be the same as those allowed in the base zoning district. Rezoning of the base zoning district may be considered at the same time as removal

3. Stabilization of Dredged Materials: It shall be the responsibility of the Port of Siuslaw, the Corps of Engineers or other lead agency to stabilize any dredged materials deposited on a site. Stabilization shall be done with appropriate vegetation after the materials are appropriately drained. These requirements for stabilization are not applicable to in- water or beach nourishment sites designed to be erosive/dispersive.

4. Sites designated for "stockpile" use, where the spoils will be hauled away and the site used again for spoils, shall be retained and zoned as a disposal site until such time as an appropriate alternative for disposal is zoned and the "stockpile" site is deleted in the adopted, revised Siuslaw River Dredged Material Disposal Plan for the estuary.

5. Temporary use of dredged material disposal sites shall be permitted, providing no permanent facilities or structures are constructed or no man-made alterations take place which would prevent the use of the land as a disposal site, and the use is consistent with other policies contained in the Comprehensive Plan and Florence City Code.

6. Dredge spoil disposal must provide adequate run-off protection and, wherever possible, maintenance of a riparian strip along the water.

E. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District and in the Coastal Overlay District, the Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following when found to be consistent with the requirements of the Coastal Overlay District and adjacent Estuary District and the criteria below.

1. Temporary uses permitted outright or conditionally in the base district, provided they meet the following additional criteria:

   a. No use shall be permitted which would interfere with the timely availability of sites for deposition of dredged materials.

   b. Stock pile sites shall remain open and available for removal as well as deposition of dredged material.

   c. Recommendations of the Port of Siuslaw shall be weighed heavily in consideration of proposed use.

F. Notification of Port of Siuslaw: Applications for permits or actions on designated sites for dredged material disposal or mitigation/restoration shall require notification in writing to the Port of Siuslaw within ten (10) days of receipt of application. Application for permits or actions including, but not necessarily limited to, the following shall require notification:

1. Land division.
2. Conditional use permit.
3. Special use.
4. Building permit.
5. Rezoning.

G. Responsibility to Acquire Mitigation/Restoration Sites: It shall not be the responsibility of the City to acquire sites to mitigate for actions for which other agencies are responsible including the dredging of the navigation channel and development of the estuary.

H. Stabilization of Dredged Materials: It shall be the responsibility of the Port of Siuslaw, the Corps of Engineers or other lead agency to stabilize any dredged materials deposited on a site. Stabilization shall be done with appropriate vegetation after the materials are appropriately drained. (Ord. 669, 5-17-82)

**10-19-9: PRIME WILDLIFE OVERLAY DISTRICT /PW**

A. Purpose and Application:

Purpose: The purpose of the /PW District is to protect areas in and adjacent to the North Jetty Lake and the South Heceta Junction Seasonal Lakes that have native vegetation and habitats of specific species of concern and to protect wildlife habitat, water quality, bank stability and provide flood control. The requirements imposed by the /PW District shall be in addition to those imposed by the base zoning district. Where the requirements of the /PW District conflict with the requirements of the base zoning district or the Comprehensive Plan, the more restrictive requirements shall apply.

Application: The Prime Wildlife Overlay District (/PW) is applied within the Florence city limits to Coastal Lake Shorelands identified in inventory information and designated in the Comprehensive Plan as possessing areas of unique biological assemblages, habitats of rare or endangered species, or a diversity of wildlife species. The /PW Overlay applies to the North Jetty Lake Shorelands as shown on the Florence Coastal Overlay Zoning Map. The extent of the /PW Overlay application for the South Heceta Junction Seasonal Lakes shall be determined through a Preliminary Investigation as specified below.

Preliminary Investigation: Any land use or building permit application within the /PW District as it applies to the South Heceta Junction Seasonal Lakes shall require a preliminary investigation by the Planning Director to determine the specific area to which the requirements of the district shall apply. The requirements of the district shall apply in an area generally identified on the Florence Coastal Overlay Zoning Map and, specifically, in the site-specific information submitted by an applicant to determine whether the site possesses areas of unique biological assemblages, habitats of rare or endangered species, or a diversity of wildlife species identified in the Coastal Resources Inventory, or function to provide or affect water quality, bank stability or flood control.

B. Permitted Uses. The following structures and uses and no others are permitted outright, as hereinafter specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of vegetation adjacent to the lakes shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "significant wildlife habitat." These areas will be specially evaluated prior to approval of vegetation removal plans to ensure the habitat has been adequately considered.

1. Harvesting of wild crops.

2. Low-intensity recreation.

3. Shore-secured floating moorages, mooring buoys, and other moorage facilities not physically anchored in adjacent lakes.

C. Special Uses Approved by Type II Review: The following specified uses are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be given 14 days to review and comment on the impact of development on critical habitats and shall be requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.

1. Single family homes, mobile homes and such accessory buildings as allowed in the base zoning district.

2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in City Code Section 10-19-9-F, G, & H, subject to the following criteria and conditions:

   a. The said parcel existed prior to July 24, 1980.

   b. The structures shall not occupy more than 30% of the lot area.

   c. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

   d. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

   e. All otherwise applicable requirements of this section are met.

3. All buildings and uses permitted outright in the respective base zoning district, except as expressly prohibited by 10-19-9-E, and subject to meeting all of the following criteria:

   a. Maintain the natural quality of surface and subsurface waters.

   b. Maintain bank stability.

   c. Avoid sedimentation of coastal waters including the lakes.

d. Maintain a buffer zone at least comparable to that required in Code Section 10-19-9 F through H, below or greater if necessary to provide flood control and preserve important wildlife habitat.

e. Avoid disturbance of the remainder of the vegetation cover beyond a point where the disturbance would be a detriment to the wildlife community which utilizes this area.

f. Any other applicable criteria provided within the base District.

g. All requirements set forth in Code Section 10-19-9-F, G, & H.

D. Conditional Uses: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, provided all criteria below and the requirements set forth in 10-19-9-F, G, and H are met, unless specifically exempted below. The Oregon Department of Fish and Wildlife shall be given 14-days to review and comment on the impact of development on critical habitats and should requested to make suggestions concerning ways to avoid or mitigate identified adverse impacts.

1. Riprap and other erosion control structures, provided the following additional criteria are met.

a. The stabilization is necessary to protect uses allowed in the base zoning district.

b. They are necessary because land use management practices and non-structural solutions cannot be used.

c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:

1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

2) Impacts on water quality and fish and wildlife habitat must be minimized.

3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

2. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-9-E below, and subject to the following criteria and the criteria in sections F, G, and H:

a. Maintain the natural quality of surface and subsurface waters.

b. Maintain bank stability.

c. Avoid sedimentation of coastal waters including lakes.

d. Maintain a buffer zone at least comparable to that required in 10-19-9-F, G, & H below or greater if necessary to provide flood control and preserve important wildlife habitat.

e. Avoid disturbance of the remainder of the vegetation cover beyond a point where the disturbance would be a detriment to the wildlife community which utilizes this area.

f. Any other applicable criteria provided within the base zoning district.

g. All requirements set forth in 10-19-9-F, G, & H.

E. Prohibited Uses: the following uses are specifically prohibited:

1. Fill in coastal lakes.
2. Fill in freshwater marsh areas.
3. Dredged material disposal.

F. Site and Development Requirements: The below specified development requirements shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.

1. Existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone and the construction of a residence and other development requirements will be allowed to build in this total setback providing clearance of vegetation on the remainder of the lot is kept to an absolute minimum and other requirements are met and hazard to life and property is minimal and acceptable.

2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.

3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.

4. Outside the setback area, construction activities shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for public facilities. Where vegetation removal beyond that allowed in 10-18-9-F cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal lakes. The vegetation shall be of native species in order to maintain the natural character of the area.

5. No topographic modification is permitted within 100-foot of the shore.

6. A 100 foot minimum buffer zone must be left in native vegetation, except where unsurfaced trails are provided.

7. All mature trees must be retained within buffer zone except where removal is subject to requirements of Code Section 4-6.

8. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.

9. The exterior building materials shall blend in color, hue and texture to the maximum among feasible with the surrounding vegetation and landscape.

G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.

1. In addition to the yard setbacks required in the base zoning district, a 100 foot buffer zone shall be required. Use of this 100 feet shall be as specified in 10-19-9-F.

H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /PW District. These criteria are in addition to minimum area requirements of any base zoning district.

1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, and not increase hazard to life or property.

2. The use will not result in loss of significant wildlife habitat or aesthetic values as identified in the Comprehensive Plan.

3. Minimum area requirements for the division of land shall be five acres.

**10-19-10: Natural Resource Conservation Overlay District (/NRC)**

A. Purpose: The Natural Resource Conservation Overlay District (/NRC) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Coastal Resources Management Plan as possessing a combination of unique physical social or biological characteristics requiring protection from intensive human disturbance. Those areas serve multiple purposes, among which are education, preservation of habitat diversity, water quality maintenance and provision of intangible aesthetic benefits. The /NRC District is applied to prominent aesthetic features such as coastal headlands and open sand expanses in proximity to coastal waters, sensitive municipal watersheds and significant freshwater marsh areas. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

Intent. The requirements imposed by the /NRC District shall be in addition to those imposed by the base zoning district. Where the requirements of the /NRC District conflict with the requirements of the base zoning district the more restrictive requirements shall apply. The requirements of the adjacent Estuary District shall supersede the requirements of this Section of the Code.

B. Permitted Uses: In addition to the uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright as specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat." These areas will be specially evaluated prior to approval of plans to ensure the habitat has been adequately considered. The following uses are allowed if consistent with the applicable requirements of the adjacent Estuary District.

1. Harvesting of wild crops.

2. Low intensity recreation.

3. In or adjacent to lakes: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. This use as it pertains to the estuary is regulated by the applicable Estuary District.

4. In or adjacent to lakes: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources, as provided in the Conditional Use requirements in section D. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, refer to the applicable Estuary District requirements.

5. In or adjacent to lakes: mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

C. Special Uses Approved by Type II Review: In addition to the Special Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title upon satisfaction of the applicable criteria set forth in 10-19-10 F, G, & H, except as expressly exempted below and except as expressly prohibited by 10-19-10-E, and provided they are consistent with the requirements of the adjacent Estuary District.

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1. Single family homes, mobile homes, and such accessory buildings as allowed in the base zoning district.

2. Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in 10-19-10-F, G, & H, provided the following criteria are met:

   a. The said parcel existed prior to July 24, 1980.

   b. The structures shall not occupy more than 30% of the lot area.

   a. All applicable height restrictions are observed.

   b. The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.

   f. Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.

   g. All otherwise applicable requirements of this section are met.

3. All buildings and uses allowed as permitted uses in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following additional criteria:

   a. The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Comprehensive Plan.

   b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

4. Dredged material disposal when the /NRC District is used in conjunction with the /DMS Overlay District, subject to the requirements of the /DMS Overlay District.

D. Conditional Uses: In addition to the Conditional Uses specifically allowed in the adjacent Estuary District, the Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, upon satisfaction of the applicable criteria, provided all applicable requirements set forth in 10-19-10-F, G, & H are met and they are found to be are consistent with the requirements of the adjacent Estuary District.

1. All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following criteria:

   a. All applicable criteria provided within the base district are met.

   b. The use will not adversely affect the aesthetic and biological characteristics of the site as identified in the Comprehensive Plan.

   c. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.

2. In Coastal Lakes: public and private docks and piers, provided the following criteria are met and the use does not conflict with other requirements of this Code. For this use in or adjacent to the estuary, the requirements of the Estuary Districts shall apply.

   a. The size and shape shall be limited to that required for the intended use.

   b. The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.

   c. For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.

   d. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:

      1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use by a person or team of persons qualified by education and experience to conduct such studies.

      2) Impacts on water quality and fish and wildlife habitat must be minimized.

      3) The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

3. Fill in coastal lakes adjacent to the /NRC District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.

   a. The applicant must submit an analysis of the physical and biological impacts of the proposed fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

   b. Cumulative and direct impacts on water quality and fish and wildlife must be minimized.

   c. The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

4. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.

   a. The stabilization is necessary to protect uses allowed in the base zoning district.

   b. They are necessary because land use management practices and non-structural solutions cannot be used.

   c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:

      1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.

      2) Impacts on water quality and fish and wildlife habitat must be minimized.

3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

E. Prohibited Uses: The following uses are specifically prohibited:

1. Fill in freshwater marsh areas.

F. Site and Development Requirements. The following specified development requirements shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.

1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section G only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).

2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.

3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.

4. Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in 10-19-10-F, where vegetation removal beyond that allowed above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of native species in order to maintain the natural character of the area.

5. The requirements for parking and vision clearance shall be as provided by the respective base zoning district.

6. No topographic modification is permitted within the 50 foot buffer zone specified by 10-19-10-G.

7. The area within the 50’ buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50’ of native vegetation, the following kinds of modifications are allowable:

   a) Foot paths

   b) Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.

   c) Replanting of the area or other areas which have been previously cleared.

8. All mature trees must be retained within the setback area specified by 10-19-G, except where removal is subject to requirements of the Oregon Forest Practices Act.

9. Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.

10. The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.

G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.

1. In addition to the yard setbacks required in the base zoning district, a 50 foot buffer zone shall be required. The buffer zone is measured from the mean high tide for the ocean and estuary and from the average high water for coastal lakes. Use of this 50 foot buffer zone shall be as specified in 10-19-10-F.

2. Building setbacks on ocean front parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure. At a minimum, structures must be set back from the mean higher high tide at least 100 feet measured horizontally.

H. Special Land Division Requirements: The following criteria shall be met for land divisions on property within the /NRC District. These criteria are in addition to minimum area requirements of any base zoning district.

1. Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, and not increase hazard to life or property.

**Code Section 10-19-11: Beaches and Dunes Overlay District**

**FCC 10-19-11: BEACHES AND DUNES OVERLAY DISTRICT ADMINISTRATION**

A. Coastal areas within the Florence city limits subject to this Section of Florence City Code shall include beaches, active foredunes, and other foredunes which are conditionally stable and which are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding. These areas, as they apply within the Florence city limits are shown on the City of Florence Coastal Overlay Zoning Map.

B. The City of Florence Beaches and Dunes Overlay District implements policies in the Florence Comprehensive Plan. In addition to findings of consistency with this Code, findings are required for consistency with the Florence Comprehensive Plan Chapter 18, Beaches and Dunes.

C. Site Investigation Report: All land use and development permit reviews in an area where the Beaches and Dunes Overlay District applies shall meet the requirements for a Site Investigation Report in FCC Chapter 7 and the requirements in the Oregon Coastal Zone Management Association's Beaches and Dunes Handbook for the Oregon Coast, Appendix 18 of the Florence Comprehensive Plan, unless specifically exempted in this code.

D. Consultant's Reports: Should it be determined by the Planning Director that additional information is required on any of the criteria specified herein, the application may be required to submit a supplementary report containing findings prepared by engineer, geologist, biologist, or other qualified consultant.

E. Uses Subject to State and Federal Permits

1. When State or Federal permits, leases, easements or similar types of authorization are also required for use, information required as part of the State or Federal permit process may be required to be made available to the City for the determination that applicable criteria are satisfied.

2. Applicants shall provide proof of application for all requisite State and/or Federal permits, leases, or similar type of authorization as part of any application for to the city in order to avoid unnecessary delays caused by the unavailability of State or Federal processing information which may be deemed necessary.

3. Any use authorized by the provisions of this District shall also require the securing of any necessary State or Federal permit, lease, easement or similar type of authorization.

4. Improvements to ocean shore areas (as defined in ORS 390.605) are subject to a permit from the State Parks and Recreation Department

F. The requirements of the Beaches and Dunes Overlay District shall be in addition to those imposed by the base zoning district. If the overlay district conflicts with the requirements of the base zoning district, the more restrictive requirements shall apply.

**10-19-12: BEACHES AND DUNES OVERLAY DISTRICT (/BD)**

A. Purpose: The Beaches and Dunes Overlay District (/BD) is intended to:

1. Ensure the protection and conservation of coastal beach and dune resources.

2. Prevent economic loss by encouraging development consistent with the natural capability of beach and dune landforms.

3. Provide for clear procedures by which the natural capability of dune landforms can be assessed prior to development.

4. Prevent cumulative damage to coastal dune resources due to the incremental effects of development.

5. Provide for such protection of beach and dune resources above and beyond that provided by the base zoning District.

B. Prohibited Development:

1. Residential, commercial, and industrial development shall be prohibited on beaches, active foredunes, on other foredunes which are conditionally stable and which are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding identified on the Coastal Overlay Zoning Map and as further defined determined through a Phase I Site Investigation Report. “Development,” in this context, refers to houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through constructioin of streets and provsion of utilities to the lot and includes areas where a Statewide Planning Goal 18 exception to the requirement in Code Section B.1 has been approved.

2. All development on slopes in excess of 25%;

3. Buried fuel tanks.

C. Permitted Uses: No uses are permitted outright in this Overlay District.

D. Conditional Uses Approved by the Planning Commission: Development other than that identified in Section B shall be allowed that is permitted in the base zoning district, subject to Type III approval by the Planning Commission, upon satisfaction of all of the following criteria.

1. Affirmative findings are adopted demonstrating that the proposed development is:

a. adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

b. designed to minimize adverse environmental effects.

2. The type of use is consistent with the requirements in the Florence Comprehensive Plan and the purpose of this Overlay District;

3. The use will have minimal adverse effects on the site and adjacent areas;

4. Temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation meet the requirements of this Code and the Florence Comprehensive Plan;

5. The proposal includes proven methods for protecting the surrounding area from any adverse effects of the development; and

6. No hazards to life, public and private property, and the natural environment may be caused by the proposed use.

7. Archaeological resources and other resources identified in Comprehensive Plan Chapters 5, 16, and 17, and respective inventories and studies shall be protected.

8. Erosion shall be minimized that is caused by the destruction of desirable vegetation, including inadvertent destruction by moisture loss or root damage; the exposure of stable and conditionally stable areas to erosion; and construction of shore structures which modify current or wave patterns leading to beach erosion.

9. Groundwater shall be protected from drawdown which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies.

10. Sand removal shall be prohibited in the foredune area of the beach except that foredunes may be breached only to replenish sand supply in interdune areas, or, on a temporary basis in an emergency (e.g., fire control, cleaning up oil spills, draining farm lands, and alleviating flood hazards), and only if the breaching and restoration after breaching is consistent with sound principles of conservation.

11. Due to the sandy soils and the fragile nature of the vegetative covering, care shall be taken during any proposed construction in beaches and dune areas to minimize the amount of grading, excavation, removal of trees and other vegetation in order to insure the stability of the soils. All open sand area (pre-existing or newly created) shall be planted or stabilized as soon as practicable after construction is completed. Using accepted re-vegetation techniques, sand areas shall be returned to their previous level of stability, following completion of construction. For large parcels or tracts, stabilization of the entire area may not be necessary as determined after consideration of a Site Investigation Report.

12. During extended construction periods, temporary sand stabilization measures shall be employed to minimize sand movement and erosion caused by the removal of groundcover and soil.

13. Permits for beachfront protective structures shall be issued only where development existed on January 1, 1977. "Development" in this context refers to houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Statewide Planning Goal 18 exception to the requirement in Code Section B.1. has been approved. The proposed use must meet all of the following additional criteria:

    a. Visual impacts are minimized

    b. Necessary access to the beach is maintained

    c. Negative impacts on adjacent property are minimized

    d. Long-term or recurring costs to the public area avoided.

E. Coastal Shore Setback Requirements: Building setbacks on oceanfront parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure. At a minimum, structures must be set back from the mean high tide line at least 100 feet measured horizontally.

F. Additional Site and Development Requirements: The following additional requirements apply to all development:

1. Development shall not result in the clearance of natural vegetation in excess of that which is necessary for the structures, required access, and fire safety requirements.

2. Vegetation-free areas which are suitable for development shall be used instead of sites which must be artificially cleared.

3. Areas cleared of vegetation during construction shall be replanted within nine months of the termination of major construction activity.

4. Sand stabilization shall be required during all phases of construction

5. Development shall result in the least topographic modification of the site as is possible.

6. Significant structural loads or structural fills to be placed on dune areas where, based on the Development Hazards Checklist, compressible subsurface areas are suspected, shall be allowed only after a thorough foundation check and positive findings are reported.

7. The requirements for yards, setback, area, vision clearance and parking spaces shall be as provided in the base zoning district unless specifically provided otherwise by the provision of the /BD District.

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Amended 2-9-88 Ord. 3, Series 1988
Amended 12-16-88 Ord. 19, Series 1988
Amended 6-17-91 Ord. 9, Series 1991
Amended 1-6-98 Ord. 1, Series 1999
Entire Chapter replaced per Ord. 10, Series 2009
Sections 10-19-6, 10-19-7, and 10-19-10 amended by Ord. 18, Series 2011 effective September 19, 2011
Sections 10-19-6 amended by Ord. 3, Series 2013, see Exhibit B (effective 7-31-13)
Sections 10-19-1 through 10-19-12 amended by Ord. 11, Series 2016 (effective 11-16-16)

TITLE 10
CHAPTER 20

# LIMITED INDUSTRIAL DISTRICT (LI)

SECTION:


10-20-1: Purpose
10-20-2: Permitted Buildings and Uses
10-20-3: Buildings and Uses Permitted Conditionally
10-20-4: Lot and Yard Provisions
10-20-5: Site and Development Provisions


**10-20-1: PURPOSE:** The Limited Industrial District is intended to provide areas for manufacturing, assembly, packaging, warehousing and related activities that do not create a significant detrimental impact on adjacent districts.

**10-20-2: PERMITTED BUILDINGS AND USES:** For the purpose of this Title, terms are defined in Title 10 Chapter 1 Section 5, "Land Use Category Definitions". If any permitted building or use has the potential to be hazardous, obnoxious, offensive or unsightly by reason of emission of odor, sound, vibration, radioactivity, electrical interference, flare, liquid or solid wastes, smoke or other air pollutants, said buildings or uses shall be required to obtain a conditional use permit issued by the Planning Commission subject to the procedures and conditions in Chapter 4 of this Title.

**Industrial Uses:**

Industrial Service

Manufacturing and Production

Plant Nurseries and similar Horticulture

Warehouse, Freight Movement and Distribution

Wholesale Sales

**Commercial Uses:**

Animal Clinic or Grooming Facility

Offices

Parking Facility (when not an accessory use)

Quick Vehicle Servicing

Restaurants, Cafes or Delicatessens, only in conjunction with an allowed commercial or industrial use and no greater than 15% of the total building floor area on site.

Retail Service and Repair

Storage (household goods, business inventories, boats, RVs, including outdoor storage)

Vehicle Repair

**Industrial and Civic Uses:**

Basic Utilities

Community Services

Parks and Open Areas, accessory only

Public Buildings and Facilities, other than City-owned (no schools allowed in this district)

**Other Uses:**

Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Section.

Radio Frequency Transmission Facilities, if approved by the FAA.

Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the buildings and uses specifically listed; provided, that retail sales uses, unless specifically listed, shall only be incidental and directly related to the operation of permitted industrial uses.

Medical and recreational marijuana production, wholesaling, processing and testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority; subject to the criteria listed in FCC 10-4-12-I.

**10-20-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

Animal Daycare and Overnight Boarding Facility (excludes breeding kennels)

City-owned Public Buildings (no schools allowed in this district)

Liquid fuel storage.

Residential unit, maximum of 1,000 square feet, for a caretaker or superintendent whenever it is determined by the Planning Commission that the business requires the on-site residence of such a person.

Municipal Waste-Related Industrial Use

Regional Utility Corridors and Rail Lines

**10-20-4: LOT AND YARD PROVISIONS:**

A. **Minimum Lot Area**: The minimum lot area shall be seven thousand five hundred (7,500) square feet.

B. **Minimum Lot Dimensions**: The minimum lot width shall be fifty feet (50').

C. **Maximum Lot Coverage**: Up to eighty-five percent (85%) coverage by buildings and impervious surface, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

D. **Yard Regulations**:

1. Front yards are not required except where setbacks have been established for road widening or other purposes.

2. Side and rear yards are not required except:

a. Where setbacks have been established for road widening or other purposes.

b. Where the commercial or industrial use abuts a residential district, see FCC 10-34-3-7-D.

c. Where a building is not constructed on the property line, a three foot (3') minimum setback is required.

**10-20-5: SITE AND DEVELOPMENT PROVISIONS:**

A. Building and Structural Height Limitations:

1. The maximum building height shall be thirty eight feet (38').

2. Towers, spires, chimneys, machinery penthouses, water tanks, radio aerials and similar structures and mechanical appurtenances shall not exceed sixty feet (60') in height, only if approved by the FAA and shall not be used for any commercial, residential or advertising purpose.

B. Fences, Hedges, Walls or Landscaping: Refer to 10-34 of this Title for general requirements. Landscaping and trees shall not obstruct the airport's approach path.

C. Outdoor Storage: All outdoor storage shall be enclosed within a sight-obscuring fence or wall.

D. Parking and Loading Space: Refer to Chapter 3 of this Title for specific parking requirements. (Ord. 625, 6-30-80; amd. Ord. 669, 5-17-82)

E. Vision Clearance: Refer to Section 10-1-4 and 10-35-2-13 of this Title for definition and requirements.

F. Signs: Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

G. Access and Circulation: Refer to Section 10-35 of this Title for requirements.

H. Public Facilities: Refer to Section 10-36 of this Title for requirements.

I. All trash receptacles shall be located inside structures or in a trash enclosure that is fully screened by a sight-obscuring fence or wall not less than 5' in height. Trash receptacle areas shall be kept clean. Trash shall not be allowed to blow about the site nor onto neighboring sites, nor shall any trash be stored in a manner to attract rodents.

J. Administrative Review: All permitted uses in the Limited Industrial District shall be subject to administrative review, Section 10-1-1-6 of this Title.

K. Airport Overlay Zone: Refer to Section 10-21-2 of this Title for specific requirements of the Public Use Airport Safety and Compatibility Overlay Zone.

L. Lighting: Refer to Section 10-37 of this Title for requirements.

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Amended by Ordinance No. 15, Series 1988
Section 10-20-5, D, E - Amended by Ordinance No. 26, Series 2008
Sections 10-20-4 and 10-20-5 Amended by Ord. No. 9, Series 2009
Sections 10-20-2, 10-20-3, 10-20-4, and 10-20-5 amended by Ord. 4, Series 2010 (effective 4/5/10)
Sections 10-20-5-F amended by Ord. 4, Series 2011 (effective 4/22/11)
Section 10-20-5-L amended by Ord. No. 12, Series 2014 (effective 12/31/14)
Section 10-20-3 amended by Ord. No. 12, Series 2015 (effective 1/1/16)
Section 10-20-2 amended by Ord. 3, Series 2019 (effective 4/17/19)

TITLE 10
CHAPTER 21

# PUBLIC USE AIRPORT ZONE

SECTION:


10-21-1: Airport Development District (AD)
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10-21-1-2: Application
10-21-1-3: Conformance with Airport Overlay Zones
10-21-1-4: Definitions
10-21-1-5: Uses Permitted Outright
10-21-1-6: Uses Permitted Subject to the Acceptance of the Airport Sponsor
10-21-1-7: Uses Permitted Under Prescribed Conditions
10-21-1-8: Uses Permitted Conditionally
10-21-2: Public use Airport Safety and Compatibility Overlay Zone
10-21-2-1: Purpose
10-21-2-2: Definitions
10-21-2-3: Imaginary Surface and Noise Impact Boundary Delineation
10-21-2-4: Notice of Land Use and Permit Applications within Overlay Zone Area
10-21-2-5: Height Limitations on Allowed Uses in Underlying Zone
10-21-2-6: Procedures
10-21-2-7: Land Use Compatibility Requirements
10-21-2-8: Water Impoundments within Approach Surfaces and Airport Direct and Secondary Impact Boundaries
10-21-2-9: Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surfaces and Airport Direct and Secondary Impact Boundaries
10-21-2-10: Nonconforming Uses
10-21-2-11: Avigation Easement


## 10-21-1: PUBLIC USE AIRPORT ZONE:

**10-21-1-1: PURPOSE:** The purpose of the Public Use Airport Zone is to encourage and support the continued operation and vitality of the Florence Municipal Airport by allowing certain airport-related commercial and recreational uses in accordance with state law.

**10-21-1-2: APPLICATION:** This zoning district applies to the Florence Municipal Airport, a publicly owned airport that was registered, licensed or otherwise recognized by the Oregon Department of Transportation on or before December 31, 1994, and that, in 1994, were the base for three or more aircraft.

**10-21-1-3: CONFORMANCE WITH AIRPORT OVERLAY ZONES:** All uses, activities, facilities and structures allowed in the Public Use Airport Zone shall comply with the requirements of the Public Use Airport Safety and Compatibility Overlay Zone. In the event of a conflict between the requirements of this zone and those of the PUASC Overlay Zone, the requirements of the Overlay Zone shall control.

**10-21-1-4: DEFINITIONS:**

A. Aircraft: Includes airplanes and helicopters, but not hot air balloons or ultralights.

B. Airport Sponsor: The owner, manager, person or entity designated to represent the interests of an airport, in this case, the City of Florence.

**10-21-1-5: USES PERMITTED OUTRIGHT:** The following uses and activities are permitted outright in the Public Use Airport District. Such uses should be in conformance with the Florence Municipal Airport, Airport Master Plan Update Final Report, February 2010. All structures require Design Review approval by the Planning Commission/Design Review Board, with the exception of aircraft hangars which may be approved by the Planning Director. Applicant shall complete FAA Form 7460 -1 – Notice of Proposed Construction or Alteration prior to approval of ground lease.

A. Customary and usual aviation-related activities, including but not limited to takeoffs and landings, aircraft hangars and tie-downs, construction and maintenance of airport facilities, fixed base operator facilities, a residence for an airport manager, caretaker or security officer, hangars and other activities incidental to the normal operation of an airport. Except as provided in this zone, "customary and usual aviation-related activities" do not include non-aviation related residential, commercial, industrial, manufacturing and other uses.

B. Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

C. Emergency medical flight services, including activities, aircraft. Accessory structures and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services do not include hospitals, medical offices, medical labs, medical equipment sales, and other similar uses.

D. Law enforcement and firefighting activities, including aircraft and ground based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies. Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

E. Flight instruction, including activities, facilities and accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

F. Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personal use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

G. Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

H. Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing or aircraft or aircraft-related products for sale to the public.

I. Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include, but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agricultural, forestry or rangeland management setting.

J. Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as "farm use" as defined in ORS 215.203 or "farming practices" as defined in ORS 30.930.

**10-21-1-6: Uses Permitted subject to the Acceptance of the Airport Sponsor.** The following uses and activities and their associated facilities and accessory structures are permitted in the Public Use Airport Zone upon demonstration of acceptance by the airport sponsor and approval of related structures by the Planning Commission/Design Review Board. Applicant shall complete FAA Form 7460 -1 – Notice of Proposed Construction or Alteration prior to approval of ground lease.

A. Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight. Aeronautic recreation and sporting activities authorized under this paragraph include, but are not limited to: fly-ins, glider flights, hot air ballooning, ultralight aircraft flights, displays of aircraft, aeronautic flight skills contests, and gyrocopter flights, but do not include flights carrying parachutists or parachute drops (including all forms of skydiving).

B. Flights carrying parachutists, and parachute drops, (including all forms of skydiving) onto an airport, but only upon the demonstration that the parachutist business has secured approval to use a drop zone that is at least 10 contiguous acres. The configuration of the drop zone shall roughly approximate a square or circle and may contain structures, trees or other obstacles only is the remainder of the drop zone provides adequate areas for parachutists to land safely.

**10-21-1-7: Uses Permitted Under Prescribed Conditions:** The following uses and activities and their associated facilities are permitted in the Public Use Airport Zone upon approval by the airport sponsor, the Oregon Department of Aviation and the City of Florence Design Review Board. Such uses shall be compatible with the Florence Realization 2020 Comprehensive Plan, the Florence Municipal Airport, Airport Master Plan Update Final Report, February 2010, FCC Title 10, Chapter 6 – Design Review, and shall not create a safety hazard or otherwise limit approved airport uses. Applicant shall complete FAA Form 7460 -1 – Notice of Proposed Construction or Alteration and it shall have been reviewed by the Oregon Department of Aviation and the Federal Aviation Administration prior to approval of ground lease.

A. Light industrial uses, especially those requiring through-the-fence access as an integral part of their operation.

**10-21-1-8: Uses Permitted Conditionally:** The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

A. Recreational and Medical Marijuana production, processing and wholesale.

## 10-21-2: PUBLIC USE AIRPORT SAFETY ANDCOMPATIBILITY OVERLAY ZONE

**10-21-2-1: PURPOSE:** The purpose of this overlay zone is to encourage and support the continued operation and vitality of the Florence Municipal Airport by establishing compatibility and safety standards to promote air navigational safety at the airport and to reduce potential safety hazards for persons living, working or recreating near the airport.

**10-21-2-2: DEFINITITIONS:**

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| AIRPORT | The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses. |
| AIRPORT DIRECT IMPACT AREA | The area located within 5,000 feet of the airport runway, excluding lands within the runway protection zone and approach surface. |
| AIRPORT ELEVATION | The highest point of the airport's useable runway, measured in feet above mean sea level. |

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| AIRPORT IMAGINARY SURFACES | Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface, and are delineated in Federal Air Regulations (FAR) Part 77 shown in Florence Municipal Airport, Airport Master Plan Update Final Report, February 2010 and summarized in Figures 4-4 and 4-5 of that Plan on file in the Florence Planning Department. |
| AIRPORT NOISE IMPACT BOUNDARY | Areas located within 1,500 feet of the airport runway or within established nose contour boundaries exceeding 55 Ldn. |
| AIRPORT SECONDARY IMPACT AREA | The area located between 5,000 and 10,000 feet from an airport runway. |
| AIRPORT SPONSOR | The owner, manager, or other person or entity designated to represent the interests of an airport, in this case, the City of Florence. |
| APPROACH SURFACE | A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. For the Florence Municipal Airport, the inner edge of the approach surface is the same width as the primary surface, which is 250 feet. It expands uniformly to a width of 1,250 feet for a utility runway, the applicable classification for the Florence Municipal Airport runway. The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward. |
| CONICAL SURFACE | A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. |
| DEPARTMENT OF AVIATION | The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation |
| FAA | The Federal Aviation Administration |
| FAA'S TECHNICAL REPRESENTATIVE | As used in this ordinance, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS – Wildlife Services. |
| HEIGHT | The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level. |
| HORIZONTAL SURFACE | A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connective the adjacent arcs by lines tangent to those arcs. The radius of each arc is 5,000 feet. |
| OBSTRUCTION | Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface. |
| PRIMARY SURFACE | A surface longitudinally centered on a runway. For the Florence Municipal Airport, the primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface for the Florence Municipal Airport, a utility runway, is 250 feet. |

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| PUBLIC ASSEMBLY FACILITY | A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots of bus stops. |
| RUNWAY | A defined area on an airport prepared for landing and takeoff of aircraft along its length. |
| RUNWAY PROTECTION ZONE (RPZ) | An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ for the Florence Municipal Airport is 450 feet as specified in OAR 660, Division 13, Exhibit 4. The RPZ extends from each end of the primary surface for a horizontal distance of :1,000 feet. |
| SIGNIFICANT | As it relates to bird strike hazards, “significant” means a level of increased flight activity by birds across an approach surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity. |
| STRUCTURE | Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas. |
| TRANSITIONAL SURFACE | Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline. |
| UTILITY RUNWAY | A runway that is constructed for, and intended to be used by, propeller driven aircraft of 12,500 pounds maximum gross weight or less. |
| WATER IMPOUNDMENT | Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance. |

**10-21-2-3: IMAGINARY SURFACE AND NOISE IMPACT BOUNDARY DELINEATION:** The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface are delineated in the Florence Municipal Airport, Airport Master Plan Update Final Report, February 2010 and shall be made part of the Official Zoning Map. All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone.

**10-21-2-4: NOTICE OF LAND USE AND PERMIT APPLICATIONS WITHIN OVERLAY ZONE AREA:** Except as otherwise provided herein, written notice of applications for land use of limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications.

A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 5,000 feet of the sides or ends of a runway.

B. Notice of land use and limited land use applications shall be provided within the following timelines.

1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.

2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.

3. Notice of the decision on the land use or limited land use application shall also be provided to the airport sponsor within the same timelines that notice is provided to parties to the proceeding.

C. Notices required under Paragraphs A, B-1-2-3 of this section need not be provided to the airport sponsor or the Department of Aviation where the land use or limited land use application meets all of the following criteria:

1. Would only allow structures of less than 35 feet in height above ground level.

2. Involves property located entirely outside the approach surface;

3. Does not involve industrial uses, mining or similar uses that emit smoke dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and

4. Does not involve wetland mitigation, creation, enhancement or restoration.

D. Applicant must file FAA form 7460-1 to the FAA and Department of Aviation and provide the City with the written “Determination of No Hazard”.

**10-21-2-5: HEIGHT LIMITATIONS ON ALLOWED USES IN UNDERLYING ZONE.**
All uses permitted by the underlying zone shall comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall control.

A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface.

B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height above ground level.

C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation and the FAA. Applications for height variances shall follow the procedures for other variances and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

**10-21-2-6: PROCEDURES:** An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The Planning Department shall provide the applicant with appropriate base maps upon which to locate the property.

B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

C. If a height variance is requested, letters of support from the airport sponsor the Department of Aviation and the FAA.

**10-21-2-7: LAND USE COMPATIBILITY REQUIREMENTS**: Applications for zone changes and land use for properties within the boundaries of this overlay zone shall comply with the requirements of ORS 836 and this chapter as provided herein. Building permits shall also be required to conform to the requirements of this chapter.

A. Noise. The Noise Contour Map for the Florence Municipal Airport is included in the Florence Municipal Airport, Airport Master Plan Update Final Report, February 2010 – Figure 8-1: Noise Contours, which is incorporated herein, and which shall remain on file in the Florence Community Development Department. Within the airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 DNL, prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 DNL.

B. Outdoor Lighting. No industrial, commercial or recreational use shall project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses shall be in accordance with FCC 10-37. No use shall reflect light towards airport approach surfaces, imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.

C. Glare. No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

D. Industrial Emissions. No new industrial, mining or similar use, or expansion of an existing industrial, mining or similar use, shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority shall impose such conditions as necessary to ensure that the use does not obscure visibility.

E. Communications Facilities and Electrical Interference. No use shall cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security may be required to ensure this result.

F. Use Prohibitions in RPZ. Notwithstanding the underlying zoning, the following uses are prohibited in the RPZ.

1. New residential development.

2. Public assembly facilities.

G. Landfills. No new sanitary landfills, sewage lagoons, sewage sludge disposal facilities or similar facilities shall be permitted within 5,000 feet from any airport runway used by only piston-type aircraft or within 10,000 feet of any airport runway used by turbojet aircraft. Expansions of existing landfill or sewage treatment or disposal facilities within these distances shall be permitted only upon demonstration that the landfills or sewage treatment or disposal facilities are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion shall be provided to the airport sponsor, Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.

H. FAA Form 7460-1. Prior to Design Review approval, applicant shall consult with the FAA Seattle Airports District Office to determine if completion of FAA Form 7460-1 – Notice of Proposed Construction or Alteration is required. If so, it shall be completed and reviewed by the Oregon Department of Aviation and the Federal Aviation Administration prior to approval of ground leases and issuance of building permits.

**10-21-2-8: Water Impoundments within Approach Surfaces and Airport Direct and Secondary Impact Boundaries:** Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section.

A. No new or expanded water impoundments of one-quarter acre in size or larger are permitted:

1. Within an approach surface and within 5,000 feet from the end of a runway; or

2. On land owned by the airport sponsor that is necessary for airport operations.

**10-21-2-9: WETLAND MITIGATION, CREATION, ENHANCEMENT AND RESTORATION WITHIN APPROACH SURFACES AND AIRPORT DIRECT AND SECONDARY IMPACT BOUNDARIES:**

A. Notwithstanding the requirements of Section 10-21-3-8, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Section 10-21-3-8 shall be allowed upon demonstration of compliance with the requirements of this Section.

B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Section 10-21-3-8 are recognized as lawfully existing uses.

C. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces and areas regulated under Section 10-21-3-8 is encouraged.

D. Applications to expand wetland mitigation projects in existence as of the effective date of this ordinance, and new wetland mitigation projects, that are proposed within areas regulated under Section 10-21-3-8 shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. It is not practicable to provide off-site mitigation; or

2. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.

E. Wetland mitigation permitted under subsection D. of this Section shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.

F. Applications to create, enhance or restore wetlands that are proposed to be located within approach surfaces or within areas regulated under Section 10-21-3-8, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be permitted upon demonstration that:

1. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and

2. The wetland creation, enhancement or restoration is designed and will be in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.

G. Proposals for new or expanded wetland mitigation, creation, enhancement or restoration projects regulated under this Section shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Division of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.

H. A decision approving an application under this Section shall require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

**10-21-2-10: NONCONFORMING USES:**

A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this overlay zone.

B. Notwithstanding subsection A. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

C. No land use or limited land use approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this overlay zone.

**10-21-2-11: AVIGATION EASEMENT:** Within this overlay zone, the owners of properties that are the subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1000 square feet, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be signed and recorded in the deed records of the County. The avigation easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

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Established by Ordinance No. 18, and 19, Series 2003
Sections 10-21-1-5 to 7, 10-21-2-2 to 7 amended by Ordinance No. 5, Series 2012 – effective 1-16-13
Section 10-21-2-7-B amended by Ord. No. 12, Series 2014 – effective 12-31-14
Section 10-21-1-8 added by Ord. No. 12, Series 2015 (effective 1-1-16)

TITLE 10
CHAPTER 22

# OPEN SPACE DISTRICT (OS)

SECTION:


10-22-1: Purpose
10-22-2: Permitted Buildings and Uses
10-22-3: Buildings and Uses Permitted Conditionally
10-22-4: Conditional Use Approval Criteria and Conditions


**10-22-1: PURPOSE:** The Open Space District is intended to protect urban open space buffers, park and recreation lands, natural resource lands and lands reserved for later development. This District is intended to be used in conjunction with the Comprehensive Plan. Where, for example, the Plan designates an area for urban development, the application of this District would be interim; when the land became available for development, a rezoning could be considered. Where this Open Space District is consistent with the Plan's land use designation, it is intended that this District would preserve such land permanently in open space use.

**10-22-2: PERMITTED BUILDINGS AND USES:**

Parks for low intensity recreation.

Open space.

Wildlife habitat.

Forestry.

Agriculture.

Aquaculture.

City well-field.

Any structures which are necessary to the functioning of the above uses.

**10-22-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Parks with intensely developed facilities.

Golf courses.

Other private recreation facilities.

Communications and electric power transmission facilities.

Reservoirs and water tanks.

Uses allowed in any applicable management unit as shown in the Comprehensive Plan.

Wind, solar or wave power generating facilities.

**10-22-4: CONDITIONAL USE APPROVAL CRITERIA AND CONDITIONS:** The Planning Commission shall require that the following approval criteria and conditions of approval be met:

A. Approval Criteria:

1. The proposed use is consistent with the preservation of managed use of the open space resource identified, if any, on the subject property in the Comprehensive Plan.

2. Where the subject property is designated for urban development in the Comprehensive Plan, the proposed use must clearly be interim in nature or consistent with the ultimate planned use.

3. A site investigation report may be required to determine the extent and location of the resource.

4. An impact assessment may be required for wind, solar or wave power generating facilities.

B. Conditions of Approval:

1. Conditions may be imposed to implement the recommendations and findings of a site investigation report.

2. Design review may be required.

3. General conditions listed in Chapter 4 of this Title may be applied.

4. Conditions may be imposed to implement the recommendations and findings of an impact assessment. (Ord. 625, 6-30-80).

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Section 10-22-2 amended by Ordinance No. 3, Series 2013, see Exhibit B (effective 7-31-13)
Section 10-22-3 amended by Ordinance No. 11, Series 2016 (effective 11-16-16)

TITLE 10
CHAPTER 23

# PLANNED UNIT DEVELOPMENT (PUD)

SECTION:


10-23-1: Purpose
10-23-2: Definitions
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10-23-5: Development Standards
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**10-23-1: PURPOSE:** The Planned Unit Development authorization is intended to:

A. Encourage the coordinated development of unplatted land.

B. Encourage innovative land utilization through a flexible application of zoning regulations.

C. Preserve the natural amenities of land and water.

D. Create opportunities for a wide variety of life styles by creating a variety of dwelling types that help meet the needs of all income groups in the community.

E. Provide for the efficient use of public utilities, services and facilities.

F. Result in a comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development, in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, circulation facilities, off-street parking areas and other facilities.

**10-23-2: DEFINITIONS:** As used in this chapter, the following words shall mean:

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|---|---|
| COMMON IMPROVEMENTS: | Include utilities and other facilities reserved in common ownership. |
| NET DEVELOPMENT AREA: | Area of property exclusive of public or private roads, or parkland. |
| PUBLIC IMPROVEMENTS: | Improvements that include utilities, parklands, and facilities that will be dedicated to the public and maintained by the City. |
| PLANNED UNIT DEVELOPMENT: | Development of a unified site design for an area of land that allows deviation from specific site development standards while observing general purposes of the zoning regulations. |

**10-23-3: DEVELOPMENT OPTIONS:** A PUD may include any of the following land uses, either singly or in combinations when they are compatible with each other and blend harmoniously with adjacent uses:

A. For the Low Density Residential District:

1. All uses permitted in the designated zoning district including uses requiring design review.

2. Single family attached dwellings

3. Duplexes, triplexes and quadplexes,

4. Multi-family dwellings

5. Open space and Parklands

B. For all other districts:

1. All permitted uses in the designated zoning district including uses requiring design review

2. Triplexes, quadplexes and multiple-family dwellings

3. Open Space and Parklands (Ord. No. 2, Series 2011)

4. Commercial uses

5. Temporary use of vacant lots for RV use

**10-23-4: GENERAL CRITERIA:** Applicant must demonstrate that the development conforms to all the following criteria:

A. The proposed development shall be compatible with the general purpose and intent of the Comprehensive Plan.

B. The location, design and size are such that the development can be well integrated with its surroundings or will adequately reduce the impact where there is a departure from the character of adjacent land uses.

C. The location, design, size and land uses are such that traffic generated by the development will be accommodated safely and without congestion on existing or planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets.

D. The location, design, size and land uses are such that the residents or establishments to be accommodated will be adequately served by existing or planned utilities and services.

E. The location, design, size and uses will result in an attractive, healthful, efficient and stable environment.

**10-23-5: DEVELOPMENT STANDARDS:** To ensure that a PUD fulfills the intent of this Chapter, the following standards and those of FCC 10-36 shall apply.

A. Minimum Size: Two (2) acres of contiguous land is the minimum for a PUD, unless the Planning Commission finds that a particular parcel of land less than two (2) acres is suitable as a planned unit development by virtue of its unique character, topography, landscape features, or by virtue of its qualifying as a special problem area.

B. Perimeter Yards: The Planning Commission may require a yard at least as deep as that required by the front yard regulations of the district adjacent to the PUD on any, or all, sides of the PUD. Such a perimeter yard does not qualify as open space unless the Planning Commission finds that such a dual purpose use of land is desirable.

C. Off-Street Parking: The requirements for off-street parking and loading shall be in accordance with Chapter 3 of this Title. The Planning Commission may allow one parking space for single family dwellings in a PUD. Parking spaces or garages may be grouped together when the Planning Commission determines that such grouping of parking spaces, and the location thereof, will be accessible and useful to the residents, guests and patrons of the PUD. (Ord 12, 1998)

D. Underground Utilities: All electrical, telephone, cable television, fire alarm, street light and other wiring, conduits and similar utility facilities and accessories shall be placed underground by the developer.

E. Open Space: A minimum of 20% of the net development area shall be open space and must be platted for that purpose. (Easements are not acceptable). At least 25% of the 20% shall include an area designated and intended for recreation use and enjoyment. The required recreation area may be provided as:

- Public dedication for use by public in general, and/or
- Property owned by the Home Owners Association (or other legal entity) for use by residents of the development.

The recreation area may provide for passive and/or active recreational activities. Examples of passive and/or active recreational use include, but are not limited to, community gardens, commons with amenities, and private parks. Recreation areas shall include high-quality and durable amenities and incorporate ADA accessibility features such as, but not limited to:

- Indoor or outdoor recreation area
- Play fields or outdoor playgrounds
- Indoor or outdoor sports courts
- Swimming pools
- Walking or running fitness courses
- Pedestrian and bicycle amenities meeting park industry durability standards
- Other recreational amenities determined by the Planning Commission to fulfill the purpose of this Chapter

The recreational area is required to be developed to satisfy one or more recreational needs identified in the latest Florence Parks and Recreation Master Plan. If the Master Plan or Comprehensive Plan shows a need for public recreation area in the location of the PUD (such as a trail connection or neighborhood park), the recreation area shall be dedicated to the public. If the recreation area is not meeting a need for public recreation, the city may choose not to accept dedication of the recreation area. (Ord. No. 2, Series 2011)

1. Open space will be suitably improved for its intended use, except that common open space (outside the required 25% of recreation use area) containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements to be permitted in the common open spaces shall be appropriate to the uses, which are authorized for the open space.

2. The development schedule which is part of the development plan shall coordinate the improvement of the open space and the construction of buildings and other structures in the open space with the construction of residential dwellings in the planned unit development.

3. If buildings, structures or other improvements are to be made in the open space, City may require that the development provide a bond or other adequate assurance that the buildings, structures and improvements will be completed. In this case, the City Council shall release the bond or other assurances when the buildings, structures and other improvements have been completed according to the development plan.

4. The following areas are not acceptable for recreation area required as part of a PUD: (Ord. 2, 2011)

   a. Hillsides over five (5) percent slope; (Ord. 7, 2019)

   b. Land in the floodway, floodplain, or required riparian or wetland buffer, unless trails, benches, picnic tables and similar above are incorporated;

   c. Roadside ditches;

   d. Monument entry areas and central landscaped boulevards;

   e. Stormwater retention or detention ponds that are designed to hold stormwater runoff from less than one hundred (100) year events;

   f. Parking areas and road rights-of-way that are located within the parkland, open space, or common area, except for parking that is required specifically for use of the parkland;

   g. Yards, court areas, setbacks, or other open areas required by the zoning and building ordinances and regulations shall not be included in the computation.

5. A portion not to exceed 50% of open space and recreation area requirements may be met with a fee-in-lieu if the proposed PUD is within one quarter (1/4) mile of underdeveloped parkland as measured on public rights-of-way with reasonable pedestrian and bicycle connections to the parkland. The fee for open space shall be calculated by multiplying the sq. ft. of open space area being met with fee-in-lieu multiplied by the average square foot value of abutting real property as shown on the current Lane County assessment roll, less a percentage for easement retained for public use. The fee for recreation area will include the open space methodology and additional fee for improvements planned for the underdeveloped parkland as identified in the Parks and Recreation Master Plan or in a City Council approved community park plan for that park.

F. Natural Resource Protection and Unique Land Forms: Development plans shall incorporate measures to preserve, enhance or protect significant natural resources or unique land forms where identified as part of a Phase 1 site investigation report. Areas designated for preservation or protection may count towards meeting the open space requirement but may not count towards meeting the recreation area requirement.

G. Mixed Uses, Unit Types, and Density: Where supported by the zoning district, development plans shall incorporate a mix of dwelling unit types and densities consistent with the base zone as well as a mix of residential, commercial, and recreational uses.

H. The project shall meet the development standards for the underlying zone including but not limited to height, density, coverage, setbacks, lot area. However, the applicant may propose modifications to those standards as part of the PUD application without the need for a separate variance or adjustment application subject to FCC 10-5. For all proposed modifications, the applicant shall submit application and show how the proposed modification achieves the following:

   1. High quality building design using Old Town and Mainstreet Architectural Standards or higher standards

   2. Incorporation of unique land forms into the final PUD design

   3. More recreation space than the minimum required

   4. On-site amenities reflecting the value of both active and passive recreational facilities

5. Natural resource protection, where identified as part of a preliminary site investigation report

6. A mix of dwelling unit types and densities

7. A mix of residential, commercial, and recreational uses, where zoning permits

**10-23-6: DEDICATION AND MAINTENANCE OF FACILITIES:** The City may require that space be set aside, improved, conveyed or dedicated for the following uses:

A. Easement necessary to accommodate existing or proposed public utilities.

B. Streets, bikeways and pedestrian paths necessary for the proper development of either the PUD or adjacent properties.

C. Common open space, recreation facilities, parks and playgrounds necessary and appropriate for the owners, residents, patrons and employees of the PUD. Maintenance, repair, insurance and related obligations are the responsibility of either:

1. The developer; or

2. An association of owners or tenants, created as a nonprofit corporation under the laws of the state, which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.

**10-23-7: PROFESSIONAL DESIGN:** The developer is required to employ a design team to ensure that the project is well planned, and to coordinate the process of application. The design team shall include an Architect or Engineer, a Landscape Architect, a Planner, a Surveyor, and in some cases, a Soils Engineer. Designation of a professional coordinator doesn't prohibit the owner from taking part in the process.

**10-23-8: GENERAL PROCEDURES:** There shall be a three-stage review process for all PUD's. The first step is the application conference, followed by preliminary development review and approval and final review.

**10-23-9: APPLICATION CONFERENCE:** An outline development plan accompanied by the application fee, shall be submitted to the Planning Commission by the owner(s) of the properties to be developed. The developer, or the designated professional coordinator, shall meet one or more times together with the Planning Commission's staff and determine whether the requirements of this Chapter have been fulfilled.

Outline Development Plan: An outline development plan shall include both maps and a written statement as described in this section. The information shall deal with enough of the area surrounding the proposed planned unit development to demonstrate the relationship of the planned unit development to adjoining uses, both existing and allowable.

1. The maps which are part of the outline plan may be in general schematic form, and shall contain the following information:

   a. The existing topographic character of the land.

   b. Existing and proposed land uses and the approximate location of buildings and other structures.

   c. The character and approximate density of the proposed buildings.

   d. The approximate location of major thoroughfares.

e. General traffic flow patterns within the PUD.

f. Public uses, including schools, parks, playgrounds and other public open spaces.

g. Common open spaces and a description of the proposed use of these spaces.

2. The written statement which is part of the outline development plan shall contain the following information:

a. An explanation of the character of the planned unit development and the manner in which it has been planned to take advantage of the planned unit development regulations.

b. A statement of the present ownership of all the land included within the planned unit development.

c. A general indication of the expected schedule of development.

d. A preliminary site investigation report.

**10-23-10: PRELIMINARY APPROVAL:** The Planning Commission shall hold a public hearing, and any continuance thereof, to discuss the PUD proposal. The public hearing shall not be held until the complete information listed below has been available for review by the Planning Commission's staff for at least thirty (30) days.

Preliminary Development Plan: A preliminary development plan shall be prepared and shall include the following information:

1. A map showing street systems, lot or partition lines and other divisions of land for management, use or allocation purposes.

2. Areas proposed to be conveyed, dedicated or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings and similar public and semi-public uses.

3. A plot plan for each building site and common open space area, showing the approximate location of buildings, structures, and other improvements and indicating the open spaces around buildings and structures, excepting private single-family lots in a residential PUD.

4. Elevation and perspective drawings of proposed structures.

5. A development schedule indicating:

a. The approximate date when construction of the project can be expected to begin.

b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin.

c. The anticipated rate of development.

d. The approximate dates when each stage in the development will be completed.

e. The area, location and degree of development of common open space that will be provided at each stage.

6. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open space areas.

7. The following plans and diagrams, insofar as the reviewing body finds that the planned unit development creates special problems of traffic, parking and landscaping.

   a. An off-street parking and loading plan.

   b. A circulation diagram indicating proposed movement of vehicles, goods and pedestrians within the planned unit development and to and from thoroughfares. Any special engineering features and traffic regulation devices needed to facilitate or ensure the safety of this circulation pattern shall be shown.

   c. A landscaping and tree plan.

After the public hearing, the Planning Commission shall determine whether the criteria and general intent of this section have been fulfilled. The Planning Commission may require such changes and impose such conditions as they determine to be prudent and desirable. The Planning Commission may, at its discretion, authorize submission of the final plan in stages, corresponding to the different phases or elements of the development, after receiving evidence assuring completion of the entire project on schedule.

**10-23-11: APPROVAL OF THE FINAL DEVELOPMENT PLAN:**

1. Within one year following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in final form the information required in the preliminary plan. The Planning Commission may grant a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

   a. The request for an extension is made in writing prior to the expiration of the original approval.

   b. There are special or unusual circumstances that exist which warrant an extension.

   c. No material changes of surrounding land uses or zoning has occurred.

   The planning Commission may deny the request for an extension if new land use regulations have been adopted that affect the applicant's proposal.

2. Final development plans shall include plans for proposed:

   a. Storm drainage.

   b. Sewer and water utilities.

   c. Streets, pedestrian ways, trails and paths.

   d. Preliminary subdivision plan, if property is proposed to be divided.

   e. Open Space and Parklands to be dedicated to the public or held in Homeowner Association ownership. (Ord. No. 2, Series 2011)

3. Plans for public improvements shall be prepared by a Registered Engineer and shall be approved by City staff before final approval by the Planning Commission.

4. If the Planning Commission finds evidence of a material deviation from the preliminary development plan, the Planning Commission shall advise the applicant to submit an application for amendment of the planned unit development. An amendment shall be considered in the same manner as an original application.

**10-23-12: ADHERENCE TO APPROVED PLAN:** The final development plan shall continue to control the planned unit development after it is finished and the following shall apply:

1. The use of the land and the construction, modification or alteration of a building or structure within the planned unit development shall be governed by the approved final development plan.

2. An amendment to a completed planned unit development may be approved if it is required for the continued success of the planned unit development, if it is appropriate because of changes in condition that have occurred since the final development plan was approved or because there have been changes in the development policy of the community as reflected by the comprehensive plan or related land use regulations.

3. No modification or amendment to a completed planned unit development is to be considered as a waiver of the covenants limiting the use of the land, buildings, structures and improvements within the area of the planned unit development.

**10-23-13: GUARANTEE OF PERFORMANCE:** For public improvements, the City may require that a cash deposit, surety bond or other similar guarantee be posted to insure the full and faithful performance by the parties involved, not to exceed a period of two years after required improvements are completed.

**10-23-14: EXPIRATION OF APPROVAL FOR A PUD:**

A. If the PUD includes creation of a subdivision, and approval of the subdivision has expired or is rejected as provided in Chapter 11-4 of this Code, the PUD approval is revoked as of the expiration or rejection date for the proposed subdivision.

B. If substantial construction or development of the PUD has not occurred in accordance with the approved final development schedule, said approval shall lapse at two (2) years from the date of approval and shall no longer be in effect. The Planning Commission may, upon showing of good cause by applicant, extend approval for a period not to exceed two (2) years.

**10-23-15: PHASED PLANNED UNIT DEVELOPMENT:** A Planned Unit Development may be phased. No building permit shall be issued without receiving preliminary development plan approval as set forth in this section. When a PUD is phased, one preliminary development plan is approved by Planning Commission for the entire development, and final development plan for each individual phase is reviewed separately. Planning Commission shall approve a phased preliminary development plan, provided affirmative findings can be made that:

A. The proposed PUD meets the preliminary development plan requirements outlined in 10-23-1 through 10-23-10.

B. The proposed PUD includes the following elements:

1. A phasing plan that indicates the tentative boundaries of each phase, the sequencing of the phases, the tentative configuration of lots in each phase, and a plan for the construction of all required city infrastructure in each phase.

2. Connectivity for streets and City utilities between each phase ensures the orderly and efficient construction of required public improvements among all phases.

3. Each phase will have public improvements that meet the infrastructure capacity requirements for the development and meet the requirements of City Code and city design standards.

4. Each phase is designed in such a manner that each phase supports the infrastructure requirements for the phased development as a whole.

C. If the approval of a final development plan for a phase of a phased PUD requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the phasing plan for the preliminary development plan shall be modified prior to approval of the final development plan.

D. If a phased PUD includes creation of a subdivision, the application may be processed concurrently.

E. PUDs approved for multi-phased development may apply for final development plan approval by phase, in the following manner:

1. The first phase of development shall apply for final development plan approval within two (2) years from the date of the preliminary development plan approval;

2. The second phase of development shall apply for final development plan approval within two (2) years after the final development plan approval of the first phase;

3. Subsequent phases shall file for final development plan approval within two (2) years after the final development plan approval for the preceding phase, with all phases filed within eight (8) years of the preliminary development plan approval.

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Amended by Ord. No. 21, Series 1988, effective 12-16-88
Amended by Ord. No. 12, Series 1998, effective 1-21-99
Amended by Ord. No. 2, Series 2011, effective 3-11-11
Section 10-23-11 amended by Ord. No. 3, Series 2013, See Exhibit B (effective 7-31-13)
Section 10-23-5(A) amended by Ord. No. 8, Series 2017, effective 7-12-17
Sections 10-23-1-D, 10-23-3, 10-23-5, 10-23-14-B amended by, and Section 10-23-15 added by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 10
CHAPTER 24

# WATERFRONT/MARINE DISTRICT WF/M

SECTION:

10-24-1: Purpose
10-24-2: Permitted Buildings and Uses
10-24-3: Buildings and Uses Permitted Conditionally
10-24-4: Site and Development Provisions

10-24-1: PURPOSE: The Waterfront/Marine District applies to areas designated a Water Dependent Site in the Florence Comprehensive Plan. The District is intended to allow a mix of water-dependent, water-related and water-oriented uses along the Siuslaw River Estuary. The WF/M zone, while allowing up to 50% of the zone to be used for non-water-dependent or non-water related uses, will continue to be the community's center for water-dependent and water-related activities and will continue to provide access for such uses to the Siuslaw River Estuary in Florence.

10-24-2: PERMITTED BUILDINGS AND USES: No uses are permitted, all uses are allowed conditionally per 10-24-3.

10-24-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: In the WF/M District, the Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a Conditional Use Permit for any use listed in the Marine District (50% of the Zone) and Old Town District Area A (50% of the Zone), with affirmative findings that the criteria in section 10-24-4 are met.

10-24-4: SITE AND DEVELOPMENT PROVISIONS AND OTHER CRITERIA:

A. Fifty percent (50%) of the Waterfront Marine District shall be maintained and protected for Water Dependent and Water Related Uses as permitted with a Conditional Use Permit in the Marine District. The uses, site and development standards, and other criteria in the Marine District shall apply to these uses.

B. The uses, site and development standards, and other criteria in the Old Town District A shall apply to the remaining fifty percent (50%) of the Waterfront Marine District.

C. In addition to the standards defined in subsections A and B, all development proposals in the Waterfront/Marine District must demonstrate that the development will retain at least 50% of the zone to be used for-water-dependent or water related uses, as specified in Chapter 18: Marine District.

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Ordinance No. 6, Series 1996, Effective 7-3-96
Amended by Ord. No 1, Series 2008, Effective 2-4-08
Amended by Ord. No. 10, Series 2009
Section 10-24-2 amended by Ordinance No. 3, Series 2013, See Exhibit B (7-31-13)

TITLE 10
CHAPTER 25

## PROFESSIONAL OFFICE/INSTITUTIONAL ZONING DISTRICT

SECTION:


10-25-1: Purpose
10-25-2: Permitted Buildings and Uses
10-25-3: Buildings and Uses Permitted Conditionally
10-25-4: Development Standards
10-25-5: Design Criteria


**10-25-1: PURPOSE:** The Professional Office/Institutional Zoning District is intended to enhance the work place environment by providing for the establishment of offices, medical and other institutional uses, limited accessory services for worker's convenience and public space. It is intended to promote attractive office developments which are compatible with one another and adjoining residential zoning or uses. A medium to high density residential option is available when such can be achieved through innovative design and include significant natural resource protection.

**10-25-2: PERMITTED BUILDINGS AND USES:** The following buildings and uses shall be permitted subject to the procedures and conditions set forth in Chapter 6 (Design Review) of this Title:

1. Funeral homes and mortuaries, excluding crematoriums
2. Hospitals, clinics and medical complexes
3. Laboratories, medical and dental
4. Professional office buildings
5. Pharmacy and drug stores (excluding drive-thru)
6. In Sub Area 2 residential planned unit development, subject to this Chapter and to Chapter 23 of Title 10 of the Florence City Code.
7. Public parks, playgrounds, community centers and recreational facilities
8. Restaurants and deli's, both sit-down and take-out, but excluding drive-in.
9. Accessory residential units, provided that a dwelling does not occupy the front twenty-five (25') of the building's ground floor facing the principal commercial street, except that one six foot (6') wide entrance to the residential uses may be allowed off the principal commercial street at the ground floor.
10. Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter.
11. Other uses as determined by the Planning Commission to be similar to those listed is this Section and which conform with the intent and purpose of this chapter.
12. Medium and high density residential in all Sub Areas excepting Sub Area 2.
13. Animal clinics or grooming facilities (not abutting a residential district).
14. Marijuana Testing Facilities licensed by Oregon Liquor Control Commission or accredited by the Oregon Health Authority and subject to the Conditional Use criteria in FCC 10-4-12-I.

**10-25-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title may grant a conditional use permit for the following uses, provided that they are proposed in conjunction with an upper level residential apartment or condominium permitted under Section 10-25-2, accessory residential uses, which is not less than fifty percent (50%) of the total gross floor area of the building, or, as part of a commercial planned unit development:

1. Catering services
2. Dry cleaners, pickup and delivery only
3. Printing and copy shops
4. Stationery stores
5. Travel agencies
6. Beauty/barber shops

The following uses may be permitted, subject to the procedures and conditions set forth in Chapters 1 and 4 in this Title, and are not required to contain a residential component:

1. Day care centers and preschools
2. Pharmacy, drive-thru
3. Fitness/health centers
4. Heliports
5. Bank branch, excluding drive-thru
6. Medical Marijuana Dispensaries

**10-25-4: DEVELOPMENT STANDARDS:**

A. Minimum lot area: The minimum lot area shall be 15,000 square feet.

B. Minimum lot dimensions: The minimum lot width shall be 100 feet.

C. Minimum residential density achievable through a planned unit development (PUD).

1. Five (5) dwelling units per acre.
2. Minimum lot size for PUD is one acre.

D. Minimum yard requirements:

1. Front yards and street side yards shall be a minimum of 20 feet.
2. Side yards, and rear yards abutting a residential district shall be fifteen (15) feet. Otherwise, no side or rear yard is required.
3. Zero lot line developments shall be considered as part of a planned united development pursuant to Chapter 23 of this Title.

E. Height limitations: The maximum building or structure height shall be thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

F. Landscaping and Visual Buffers: Refer to 10-34 of this Title for requirements.

1. Except where the entire area between a street and a building is landscaped, a minimum of three (3') feet high landscaped berm, hedge, natural vegetation or dense landscaped planting shall be provided along the street frontage.

2. A minimum of fifteen (15%) percent of the developed site shall be landscaped, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

3. Ten (10') foot setback along the property adjacent to Greentrees.

G. Parking shall be in accordance with Chapter 3 of this Title.

H. Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

I. Screening: Any trash or waste receptacle stored outside of an enclosed building shall be located within a trash enclosure constructed of a minimum of five (5') feet high solid screening wall of the same or compatible materials as the building, with a solid wood or metal gate. Chain link fencing with slats is not acceptable. Colors of these elements shall be compatible wit the theme of the building.

J. Access and Circulation: Refer to Section 10-35 of this Title for Requirements.

K. Public Facilities: Refer to Section 10-36 of this Title for Requirements.

**L.** Lighting: Refer to Section 10-37 of this Title for Requirements.

**10-25-5: DESIGN CRITERIA**

A. Buildings shall generally relate in scale and design features to the surrounding buildings. All visibly exposed sides shall be attractively detailed with regard to style, materials, colors and details. Building wall offsets, including projections, recesses and changes in floor level shall be used in order to add architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

B. Buildings on corner lots shall be considered especially significant structures, since they have at least two front facades visibly exposed to streets. Such buildings shall be designed with additional architectural detail and embellishments to emphasize their significant location.

C. Buildings facing internal open space or in public view shall be architecturally emphasized through window treatment, entrance treatment, and details. Blank walls or service area treatments of side and/or rear elevations visible from the public viewshed are prohibited.

D. Architectural embellishments that serve a function and add visual interest to roofs, such as dormers, masonry or wood chimneys, cupolas, towers and other similar elements are encouraged.

E. Facades shall be lit from the exterior and lights shall be concealed through shielding, or recessed behind architectural features. Low pressure sodium, fluorescent of mercury vapor lighting either attached to buildings or used to light the exterior of buildings or parking shall be prohibited. Mounting brackets and associated hardware must be inconspicuous.

F. All HVAC systems, exhaust pipes or stacks, satellite dishes or other telecommunications receiving devices shall be thoroughly screened from view from both the public right-of-way and adjacent properties by using walls, fencing, roof elements, or landscaping, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516. Such screening devices shall be compatible with building materials and/or adjacent area landscape treatments.

Ordinance No. 15, Series 1999, Effective 9-16-99
Sections 10-25-4 and 10-25-5 amended by Ord. No. 9, Series 2009 Section
10-25-4-H amended by Ord. No. 4, Series 2011 (effective 4/22/11)
Sections 10-25-2, 10-25-3, and 10-25-5 amended by Ordinance No. 3, 2013, see Exhibit B, (effective 7-31-13) Section
10-25-4-L amended by Ord. No. 12, Series 2014 – effective 12-31-14
Section 10-25-3 amended by Ord. No. 1, Series 2015 – effective 3-17-15
Section 10-25-2-3 and 10-25-2-6 amended by Ord. No. 12, Series 2015 – effective 1-1-16
Sections 10-25-2 and 10-25-3 amended by Ord. No. 11, Series 2016 – effective 11-16-16
Section 10-25-4-E amended by Ord. 9, Series 2020 – effective 9-16-20

**TITLE 10**
**CHAPTER 26**

# MURAL REGULATIONS

SECTION:


10-26-1: Purpose, General Provisions
10-26-2: Definitions
10-26-3: Prohibited Murals
10-26-4: Exemption from Permit Requirement
10-26-5: Mural Permit Application
10-26-6: Mural Permit Criteria
10-26-7: Structural Review
10-26-8: Suspension or Revocation
10-26-9: Inspections and Expiration of Permit
10-26-10: Maintenance of a Permitted Mural
10-26-11: Alterations to a Permitted Mural
10-26-12: Removal of a Permitted Mural
10-26-13: Enforcement
10-26-14: Appeals


**10-26-1: PURPOSE, GENERAL PROVISIONS:** The purpose of this chapter is to allow for murals on a content-neutral basis while maintaining specific standards with regard to the location, size, quantity and installation. Murals provide benefits distinct from signs, such as improved aesthetics and community identity if they are located at heights and scales visible to pedestrians.

**10-26-2: DEFINITIONS:**

| | |
|---|---|
| ALTERATION | Any change to a permitted mural, including but not limited to any change to the image(s), materials, colors or size of the mural. "Alteration" does not include maintenance or repair of a permitted mural. |
| COMMUNITY DEVELOPMENT DIRECTOR | The Florence Community Development Director or his or her designee. For the ease of reference in this section, the Community Development Director shall be referred to by the term "Director." |
| MURAL | A work of visual art which is tiled or painted directly upon, or affixed directly to a fence, wall or an exterior wall of a building and exceeds the maximum size of wall sign allowed in a sign district. Visual art that is intended to communicate an informational message is not considered a mural and is regulated under the sign code. |
| PERMITTED MURAL | A mural for which a permit has been issued by the City of Florence pursuant to this chapter. |

**10-26-3: PROHIBITED MURALS:**

A. Murals that include any of the following are prohibited and are nuisances. A mural shall not include:

1. Electrical or mechanical components; or

2. Changing images.

**10-26-4: PROHIBITED MURALS:**

A mural that is not visible from the public right-of-way and not visible from public property is allowed without a mural permit.

**10-26-5: MURAL PERMIT APPLICATION:**

A. A mural permit application shall be considered by the City Council and shall proceed under the procedures of FCC 10-1-1-5, "Land Use Hearings."

B. The general application requirements of FCC 10-4-1-4 shall apply, except for the submittal information required under FCC 10-1-1-4-B-2 and B-3. An application for a mural permit must contain the following information:

1. Authorization from the property owner of the location where the mural is to be installed and agreement to maintain the mural for the life of the mural, unless the mural is removed under the circumstances specified in Section 10-26-11 of this Title.

2. A site plan drawn to scale that shows the location of existing structures and where the mural is to be installed, location of property lines, abutting right-of-way, names of streets, information of other murals on abutting properties and north arrow.

3. A map (e.g. tax map or aerial map) that shows the existing land use on-site and the surrounding land uses within three-hundred feet (300') of the site.

4. A color image of the proposed mural with dimensions drawn to scale.

5. A building elevation depicted to scale showing the proposed building area where the mural is to be installed. Information detailing the existing building materials and architectural features, as well as proposed mural materials, construction size, and depth.

6. Information regarding the expected life span of the mural and maintenance plan for the life of the mural. The maintenance plan shall specify the frequency of maintenance and provisions to address fading and vandalism (i.e. durable exterior paints, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed).

**10-26-6: MURAL PERMIT CRITERIA:** No person may commence mural installation on a site without first obtaining a mural permit. Murals without a mural permit are signs regulated by Title 4, Chapter 7. Use of murals does not affect the amount or type of signage otherwise allowed by the sign regulations of Title 4 Chapter 7. For approval, a mural permit application must meet the following criteria.

A. The Mural is compatible with the aesthetic appearance of adjacent buildings and the surrounding community character.

In evaluating this criterion, the following are examples of factors that can be used to measure compatibility and community character.

1. The mural is harmonious with or integrates aspects of special architectural and design features of surrounding buildings or the larger neighborhood.

2. The mural may reflect the diversity of the world.

3. The mural may reflect historic, cultural, or natural heritage.

4. The mural respects the original character of the building and surrounding buildings

B. The mural will enhance the building appearance and overall visual attractiveness of the City. The overall objective is for viewers of all ages to experience a sensation of engagement, humor, wonder or delight, or all of these emotions.

In evaluating this criterion, the following are examples of factors that can be used to measure appearance and attractiveness.

1. The mural will not adversely dominate the building or surrounding area.

2. The mural will not create traffic or safety hazards.

3. The mural is harmonious with the scale, color, details, materials, and proportion of the building.

C. Internal illumination of a mural is not permitted. External illumination is allowed and shall be consistent with the illumination standards of Section 4-7-25 of this Code.

D. Murals are permitted only on the flat planes of walls and may extend no more than six inches (6") from the plane of the wall, unless approved by the City Council.

E. Murals shall be installed for durability and maintained for the life of the mural or until the mural is removed. Murals shall consist of materials that have proven performance for withstanding the coastal climate.

F. The Mural shall use materials, coatings, or other protective techniques that will be resistive to vandalism and graffiti.

G. The creator/artist is under contract or other obligation to complete the Mural.

H. The Mural is an original work of art

I. If a mural installation includes any changes to a building that would otherwise require Design Review as described in Title 10 Chapter 6, those changes must be approved through the Design Review process simultaneous with approval of the Mural Permit. Murals may not otherwise result in the site property or structure becoming out of compliance with other land use code provisions, prior land use approvals, or prior conditions of approval governing the building or property on which the mural is to be located.

In applying the above criteria, the City shall make its decision in accordance with applicable constitutional requirements.

**10-26-7: STRUCTURAL REVIEW:** Murals with any element that weighs more than 7 pounds per square foot or in total weigh more than 400 pounds require structural review.

**10-26-8: SUSPENSION OR REVOCATION:**

A. The Director may suspend or revoke a permit issued under the provisions of Title 10. The Director will inform the permit holder of the suspension or revocation in writing. Permits may be suspended or revoked upon a finding that:

1. The permit issued on the basis of incorrect information supplied by the applicant; or

2. The permit is issued in violation of any provisions of Title 10.

**10-26-9: INSPECTIONS AND EXPIRATION OF PERMIT:**

A. Inspections: The Director will conduct inspection of murals for which a permit has been issued. The permit holder must notify the Director when the work is ready for inspection.

The inspection shall verify that the mural is in conformance with the application and in conformance with the provisions of this Chapter. Structural inspections shall be completed in conjunction with any required building or structural permits and shall verify the applicable requirements from the applicable codes. The inspector shall take at least one photo to be kept on file to document the site, mural size, mural location and mural image consistency.

The Director may conduct inspections whenever it is necessary to enforce any provision of the City Code, to determine compliance with the City Code, or whenever the Director has reasonable cause to believe there exists any violation of the City Code.

B. Expiration of Permit: If inspection approval has not been obtained by the applicant within twelve months of issuance of a mural permit, the permit is void, and no further work on the mural may be done at the premises until a new permit has been secured and a new fee paid.

C. Extensions of Permit: The Director may extend a permit for one period of twelve months upon finding the following criteria have been met.

1. The request for an extension is made in writing prior to expiration of the original approval.

2. There are special or unusual circumstances that exist which warrant an extension.

3. No material changes of surrounding land uses or zoning has occurred.

The Director may deny the request for an extension of the mural permit if new land use regulations have been adopted that affect the applicant's proposal.

**10-26-10: MAINTENANCE OF A PERMITTED MURAL:** For any mural approved after March 21, 2011, the building owner is responsible for ensuring that a permitted mural is maintained in good condition, fading is addressed and the mural is repaired in the case of vandalism or accidental destruction in accordance with the approved maintenance plan.

**10-26-11: ALTERATIONS TO A PERMITTED MURAL:** Alterations of the mural must be approved by obtaining a new permit through the process described in Section 10-26-3 of this Chapter.

**10-26-12: REMOVAL OF A PERMITTED MURAL:**

Prior to removal of a mural the property owner must notify the Community Development Department at least 30 days prior to its removal with a letter stating the intent to remove the mural. Any associated materials that were used to affix or secure the mural to the wall must be removed at the time of the removal of the mural or incorporated into a new mural application. This includes, but is not limited to mounting hardware or brackets, caulk or grout, and adhesives or glues.

**10-26-13: ENFORCEMENT:**

A. Violations: It is unlawful to violate any provisions of this Chapter. This applies to any person undertaking an application for a Mural Permit, to the building tenant or owner of the Mural site. For the ease of reference in this section, all of these persons are referred by the term "operator".

B. Notice of violations: The Community Development Director must give written notice of any violation of the City Code to the operator. Failure of the operator to receive the notice of the violation does not invalidate any enforcement actions taken by the City.

C. Responsibility for enforcement: The regulations of this Chapter may be enforced by the Director pursuant to Florence City Code 10-1-1-8.

**10-26-14: APPEALS:** Under this Chapter, any quasi-judicial decision of the City Council may be appealed to the Land Use Board of Appeals in accordance with state law.

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Amended by Ordinance 6, Series 1999 effective 4-19-99
Amended by Ordinance 17, Series 1999 effective 1-7-2000
Amended by Ordinance, Series 2000 effective 7-21-2000
Amended by Ordinance 16 Series 2009 effective 10-12-2009
Section 10-26-6 Amended by Ord. No. 9, Series 2009
Sections 10-26-3-1, 10-26-32, 10-26-4, 10-26-5, 10-26-6, 10-26-7, 10-7-8 and 10-26-9 Deleted, and Sections 10-26-1, 10-26-2, 10-26-3, and Title Amended by Ord. No. 4, Series 2011 effective April 22, 2011
Sections 10-26-1, 10-26-2, and 10-26-3 Amended, and Sections 10-26-4 through 10-26-14 Added by Ord. No. 5, Series 2011 effective April 22, 2011

TITLE 10
CHAPTER 27

# MAINSTREET DISTRICT

SECTION

**10-27-1** **Purpose**
**10-27-2** **Permitted Buildings and Uses**
**10-27-3** **Buildings and Uses Permitted Conditionally**
**10-27-4** **Lot and Yard Requirements**
**10-27-5** **Site and Development Provisions**
**10-27-6** **General Provisions**

**10-27-1** **Purpose.** The Mainstreet District is intended to provide an area for small and medium sized commercial uses that are appropriate in a traditional, historic downtown. It is also intended to encourage revitalization of the downtown area, and to maintain adequate traffic flows on Highway 101, while providing a pedestrian friendly environment.

**10-27-2** **Permitted Buildings and Uses**

a. antique stores
b. appliance sales and service
c. art supplies
d. artist studios
e. auction sales carried on totally within a closed building
f. automobile parts and accessories stores
g. bakeries, retail
h. banks
i. barber and beauty shops
j. bars, taverns and nightclubs
k. bicycle shops
l. blueprinting
m. bookstores
n. building maintenance services
o. bus, taxi and transit depots
p. camera and photography supply stores
q. catering services
r. clothing and apparel shops
s. clubs, lodges, meeting halls
t. confectionery stores, with or without fountains
u. curio shops
v. data processing centers
w. day nurseries
x. delicatessens
y. department stores

z. drapery stores

aa. dress and millinery shops

bb. dry cleaning establishments

cc. electrical and electronic supplies, retail

dd. floor covering stores

ee. florist shops

ff. furniture stores

gg. galleries and frame shops

hh. garden supply stores, with limited outdoor display

ii. gift shops

jj. grocery stores, markets and supermarkets

kk. hardware stores, with limited outdoor display

ll. health studios and reducing salons

mm. home occupations

nn. hobby shops

oo. hotel, motel

pp. interior decorator studio

qq. jewelry stores

rr. laboratories, medical and dental

ss. Laundromats, non-industrial

tt. Leather goods stores

uu. Liquor stores, package

vv. Locksmith shops

ww. Movie theaters

xx. Museums

yy. Music stores

zz. Newspaper printing establishments

aaa. Offices for the following:

- Accountants
- Attorneys
- Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics
- General administration
- Physicians, osteopaths, dentists, optometrists, opticians, chiropractors, and others licensed by the State of Oregon to practice healing arts
- Offices similar to the above but not specifically listed

bbb. insurance brokers

ccc. lumber brokers

ddd. office supplies and equipment stores

eee. paint and wallpaper stores

fff. parking areas, public and private

ggg. parking garages, public and private

hhh. pet stores

iii. pharmacy and drug stores

jjj. photographers studios

kkk. photographic film processing, photoengraving

lll. photocopy shops

mmm. planned unit developments

nnn. post offices

ooo. printing shops, retail only

ppp. public buildings and uses similar to buildings and uses listed in this section

qqq. radio and TV broadcasting studios

rrr. real estate sales

sss. restaurants, sit-down or walk-up, including cocktail lounges

ttt. sale of secondhand goods, if located wholly within enclosed buildings

uuu. savings and loans

vvv. sewing machine sales and service

www. shoe sales and repair

xxx. sporting goods stores

yyy. tailor shops

zzz. telephone and telegraph exchanges

a1. telephone answering services

a2. theaters

a3. tobacco shops

a4. toy stores

a5. travel agencies

a6. upholstery shops

a7. variety stores

a8. accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter.

a9. Other buildings and uses determined to be similar to those listed in this section and which do not have a different or more detrimental effect upon the adjoining uses than those buildings and uses specifically permitted.

a10. Animal clinics or grooming facilities (not abutting a residential district)

**10-27-3 Buildings and Uses Permitted Conditionally**

The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

a. amusement establishments such as arcades, indoor courts, and other such uses for the general public, including children or youth

b. churches, excluding rescue missions or temporary revivals

c. funeral homes

d. service stations

e. automobile repair garage

f. pawnshops

g. public and private elementary and secondary schools

h. public buildings and facilities not similar to those listed as permitted uses

i. residential units, provided that the building contains a commercial business and that the dwelling unit not occupy the front 25' of the ground floor, and not more than 50% of the ground floor facing a principal commercial street. If access to the dwelling unit(s) is from the principal commercial street, it shall be a separate entrance not more than 6' wide or as required by ADA.

j. Restaurants, drive-in (including drive-thru and drive-up)

k. Single family dwellings

l. Woodworking and cabinet shops, provided that the business includes retail sales of products produced on the premises

m. Medical Marijuana Dispensaries

n. Marijuana Retailers

o. Marijuana testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority

**10-27-4 Lot and Yard Dimensions**

A. Minimum Lot dimensions: The minimum lot width shall be 25'.

B. Minimum Lot Area: The minimum lot area shall be 2500 square feet.

C. Lot coverage: Up to a maximum of 90% lot coverage by buildings and other impervious surfaces.

D. Yard Regulations:
Area "A":

1. Front yards: Front yards may vary from 0' to 10' from back of property line. Ten percent of the frontage, or a minimum of 6', may be utilized for pedestrian walkways connecting to interior parking lots. Upper story windows, balconies, benches and tables and awnings may encroach into the sidewalk area as long as a minimum 8' wide pedestrian way is maintained within the sidewalk area.

2. Side and rear yards: Buildings may be zero lot line, provided that all Building Code requirements are met. In each block, there will be at least one opening for public access to interior parking lots. Where a commercial use abuts a residential district, a fifteen foot (15') buffer may be required.

Area "B": Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

## 10-27-5 Site and Development Provisions

A. Building or Structural Height Limitations

Area "A":

Buildings shall be a minimum of 20' in height. This measurement may include a building façade as opposed to a total building height of 20'. If a façade is used, it must be designed so that it is not readily apparent that it is only a façade. The maximum height shall be 38' for a building or structure without an approved fire extinguishing system unless otherwise approved by the Planning Commission. The Planning Commission may allow heights up to 50 feet/four stories provided that:

1. The building or structure has an approved fire extinguishing system.
2. The building or structure is in scale with and/or complements surrounding structures.
3. The building façade and roof line are designed to provide architectural interest and avoid a façade which proposes large expanses of straight planes with little or no architectural relief or inclusion of architectural features which are not in character with Old Town.
4. The building will contain mixed uses with retail at the street level.
5. The site has physical constraints/opportunities which are best addressed by a taller building.
6. Additional setbacks or stepbacks may be required to reduce the impacts of the greater heights.

Area "B":

Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

B. Fences, Hedges, Walls and Landscaping: Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

Area "A" as shown on the following page:
A minimum of 10% landscaping is required. The calculation of the required minimum may include street trees installed and maintained by the applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the 10% calculation must be installed and maintained by the applicant or his/her successors.

Interior parking lots may be separated from rear courtyards by walls, fences or hedges 4' in height or less. Eating establishments may separate outdoor eating areas from parking lots and adjacent buildings or structures by a fence, wall or hedge not to exceed 6' in height. Pedestrian walkways may be separated from abutting uses by plantings or fences which allow visual surveillance of the walkway and surrounding areas.

Where a commercial use abuts a residential district, see FCC 10-34-3-7-D.

Area "B":
Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

C. Access and Circulation. Refer to Section 10-35 Access and Circulation of this Title for Requirements.

1. Access Management Plan: All access points to Highway 101 shall be governed by the Access Management Plan for Highway 101 in Downtown Florence.

2. Sidewalks abutting buildings on Highway 101, Highway 126, and local streets within the Mainstreet District shall be at least 8' in width, except collector streets within the Mainstreet District without on-street parking as described below. Sidewalk area beyond the standard 6' sidewalk width may be surfaced with pavers, brick or other similar materials. Maintenance and repair of pavers, brick, etc. are the responsibility of the business/property owner.

   a. Sidewalks on collector streets within the Mainstreet District may be reduced to 6' in width with 6' of clear walkway if there is no on-street parking on that side of the street.

3. Access to all floors of all commercial buildings and structures shall meet ADA requirements.

D. Parking and Loading Spaces

Area "A":

Parking spaces may be located on-street in front of the front yard of the lot (if approved by ODOT on Highways 101/126) and/or may be in interior shared parking lots within the block where the applicant's lot is located, or in a shared lot in another block. Business/property owners are strongly encouraged to cooperate in proposing joint parking agreement areas as part of development or redevelopment proposals. Parking will not be permitted in front yards. The Planning Commission may grant parking under a temporary arrangement if an interior or off-site shared parking lot is planned and approved, but not yet constructed, and/or may require the applicant or owner to sign a non-remonstrance agreement for parking improvements. Parking standards in Chapter 3 of this Title shall be used as a guideline for determining parking need.

Bicycle racks shall be provided either in the interior parking lot, or by an entrance if located outside the required minimum 6' pedestrian walkway.

Area "B":

Single family residential uses shall meet the standards of the Single Family Residential District. Multi-family units shall meet the standards of the Multi-family district. Conversion to mixed use or commercial use shall conform to Mainstreet District standards.

E. Vision Clearance.
Refer to Section 10-2-13 and 10-35-2-14 of this Title for definitions and requirements.

F. Signs.
Shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

G. Lighting.
Street lighting, building lighting and lighting of parking lots and walkways shall conform to the following lighting standards:

1. Light fixtures shall conform to the lighting styles in the Architectural Guidelines.

2. Lighting shall be pedestrian scaled.

3. Refer to Section 10-37 of this Title for additional requirements.

4. Wiring for historic fixtures shall be underground. Other overhead wiring shall be placed underground, where possible.

H. Design Review.

All uses except single family and residential duplex units shall be subject to Design Review criteria contained within FCC 10-6 to insure compatibility and integration with the Mainstreet character, and to encourage revitalization. Architectural design shall be reviewed against the Architectural Design code contained within FCC 10-6-6 to determine compatibility, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516.

I. Trash Enclosures.

All trash enclosures shall be located in side or rear yards, and shall be screened from street or pedestrian courtyard view with a permanent solid fence or wall at least 6' high. Service shall be from an abutting alley or interior parking lot where possible. Gates opening to non-street faces may be slatted chain link.

J. General Provisions.

1. Outdoor storage of materials and display of merchandise for sale shall be subject to approval by the Planning Commission.

2. Where there is manufacturing, compounding, processing or treatment of products for wholesale, the front twenty-five (25) feet of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.

3. Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.

K. Public Facilities: Refer to Section 10-36 of this Title for requirements.

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Amended by Ordinance No. 5, Series 2003, effective April 17, 2003
Section 10-27-5, E - Amended by Ordinance No. 26, Series 2008
Section 10-27-5 C 2- Amended by Ordinance No. 14, Series 2009 (effective Oct 15, 2009)
Sections 10-27-4 and 10-27-5 Amended by Ordinance No. 9, Series 2009
Section 10-27-5-F amended by Ordinance No. 4, Series 2011 (effective April 22, 2011)
Sections 10-27-25, 10-27-3, 10-27-4, and 10-27-5 amended by Ord. No. 3, Series 2013 (effective 7-31-13)
Section 10-27-5-G-3 amended by Ord. No. 12, Series 2014 (effective 12-31-14)
Section 10-27-3 amended by Ord. No. 1, Series 2015 (effective 3-17-15)
Section 10-27-3 amended by Ord. No. 12, Series 2015 (effective 1-1-16)
Sections 10-27-2 through 10-27-5 amended by Ord. No. 11, Series 2016 (effective 11-16-16)

TITLE 10
CHAPTER 28

# PACIFIC VIEW BUSINESS PARK DISTRICT

SECTION
10-28-1: Purpose
10-28-2: Permitted Buildings and Uses
10-28-3: Buildings and Uses Permitted Conditionally
10-28-4: Lot and Yard Provisions
10-28-5: Site and Development Provisions

**10-28-1: PURPOSE:** The Pacific View Business Park District is intended to provide areas for offices, service businesses, light industrial and manufacturing, and research and development facilities with the goal of providing businesses and industries that provide family-wage year-round employment.

## 10-28-2: PERMITTED BUILDINGS AND USES:

For the purpose of this Title terms are defined in Title 10 Chapter 2 Section 14, "Land Use Category Definitions." If any permitted building or use has the potential to be hazardous, obnoxious, offensive or unsightly by reason of emission of odor, sound, vibration, radioactivity, electrical interference, flare, liquid or solid wastes, smoke or other air pollutants, said buildings or uses shall be required to obtain a conditional use permit issued by the Planning Commission subject to the procedures and conditions in Chapters 1 and 4 of this Title.

**Industrial Uses:**

Industrial Service

Manufacturing and Production

Plant Nurseries and similar Horticulture

Warehouse, Freight Movement and Distribution

Wholesale Sales

**Commercial Uses:**

Animal Clinic or Grooming Facility

Educational Services (e.g. tutoring or training center)

Offices

Call Centers, data centers, and other similar telecommunications or internet businesses (Ord. 4, 2011)

Restaurants, Cafes or Delicatessens, only in conjunction with an allowed commercial or industrial use and no greater than 15% of the total building floor area on site.

Retail Service and Repair

Retail Sales – only in conjunction with an allowed commercial or industrial use and no greater than 15% of the total building floor area on site.

Retail Entertainment – only in conjunction with an allowed commercial or industrial use and no greater than 15% of the total building floor area on site.

**Institutional and Civic Uses:**

Basic Utilities

Parks and Open Areas, accessory only

Public Buildings and Facilities, other than City-owned (no schools allowed in this district)

**Other Uses:**

Accessory Structures (with a permitted use)

Crematories and Associated Mortuaries and Funeral Homes

Planned Unit Developments, non-residential

Radio Frequency Transmission Facilities, if approved by the FAA

Medical and recreational marijuana, production, wholesaling, processing and testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority; subject to the criteria listed in FCC 10-4-12-I.

**10-28-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:**

The Planning Commission, subject to procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Residential unit, maximum of 1,000 square feet for a caretaker or superintendent whenever it is determined by the Planning Commission that the business requires the on-site residence of such a person.

Animal Daycare and Overnight Boarding Facility (excludes breeding kennels)

Community Services

City-owned Public buildings (no schools allowed in this district)

Daycare – on-site child day care serving their employees, accessory only

Drive-Up/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities)

Parking Facility (when not an accessory use)

Regional Utility Corridors and Rail Lines

Municipal Waste-Related Industrial

**10-28-4: LOT AND YARD PROVISIONS:**

A. Minimum Lot Area: The minimum lot area shall be seven thousand five hundred (7,500) square feet.

B. Minimum Lot Dimensions: The minimum lot width shall be fifty feet (50').

C. Maximum Lot Coverage: Up to eighty-five percent (85%) coverage by buildings and impervious surface, unless preservation credit is achieved in accordance with FCC 10-34-2-4.

D. Minimum Setbacks:

1. Front yards shall be a minimum of fifteen feet (15').

2. Side and rear yards shall be a minimum of five feet (5'), except no side yard is required between attached units.

3. Where the commercial or industrial use abuts a residential district, see FCC 10-34-3-7-D for general requirements, except a minimum of a 20-foot buffer shall be required where a commercial or industrial use abuts a residential district.

**10-28-5: SITE AND DEVELOPMENT PROVISIONS;**

A. Type of Structure: Wood siding, brick, textured block, concrete and concrete aggregate, and other similar building exterior materials are preferred. Buildings may be metal clad if the following provisions are met and approved by the City.

1. Metal clad structures shall be colored with muted earth-tones to blend with the rest of the structure in a compatible and unified way. Earth-tones include lighter shades of clay, brown, olive or tan; darker earth-tone colors may be used as trim; and

2. All building elevations that face a street shall be constructed with alternative building materials, such as wood siding, brick, textured block, concrete and concrete aggregate, or other similar building materials.

B. Location of Business Activities: All manufacturing, processing, assembly and other business activity shall be located entirely within the building or buildings on a site.

C. Building and Structural Height Limitations:

1. Maximum Height: Buildings and structures may not exceed 38' in height. Building and equipment heights must also comply with any applicable Airport Districts.

D. Public Facilities: Public facilities and infrastructure shall be in accordance with Section 10-36 of this Title.

E. Fences, Hedges, Walls or Landscaping: Refer to Section 10-34 of this Title for general requirements. Dangerous or hazardous materials and equipment shall be enclosed within a secure fenced area. The area between the property line and the curb/sidewalk must be landscaped and maintained by the abutting property owner. Landscaping and trees shall not obstruct the airport's approach path. A minimum of a 20-foot buffer shall be required where a commercial or industrial use abuts a residential district.

F. Outdoor Storage: All other storage shall be enclosed within a solid fence and/or wall a minimum of six feet (6') in height. Dangerous or hazardous materials and equipment shall be enclosed within a secure fenced area.

G. Port Property Buffer: An undisturbed buffer of at least 100 feet is required on the 40-acre property owned by the Port of Siuslaw between industrial uses and adjoining residential developments on the north, measured from the property line. Reductions in buffers up to 50% may be granted if the following compatibility provisions are met and approved by the City;

1. Land uses located between 50 feet and 100 feet from the residential property line shall be limited to research and development or office use;

2. Buildings located between 50 feet and 100 feet from the residential property line shall be no taller than one story and 25 feet in height and no larger than 3,000 square feet in size;

3. Building architecture located between 50 feet and 100 feet from the residential property line shall be constructed with alternative building materials, such as wood siding, brick, textured block, concrete and concrete aggregate, or other similar building materials; and

4. A visual and noise buffer strip not less than 20 feet in width shall be established and maintained immediately adjacent to the residential property line. The buffer strip shall include existing vegetation, supplemented with landscape plantings, evergreen hedge, berm, fence, and/or wall components, such that the buffer screens at least 70 percent of the view between districts within five (5) years. Fence and wall structures shall be not less than 6 feet and no more than 8 feet in height (see also Section 10-34-5). Significant vegetation in these buffer

strips may be preserved in accordance with Section 10-34-2, and replanting of local native vegetation is encouraged.

H. Parking and Loading: Buildings and uses must comply with the requirements of Chapter 3 of this Title. No on-street parking or loading is permitted along Kingwood Street.

I. Vision clearance: The requirements of Sections 10-2-13 and 10-35-2-14 of this Title must be met by all uses and development. (Ord. 26, 2008)

J. Lighting: Refer to Section 10-37 of this Title for Requirements.

K. All trash receptacles shall be located inside structures or in a trash enclosure that is fully screened by a solid fence or wall not less than 5' in height. Trash receptacle areas shall be kept clean. Trash shall not be allowed to blow about the site nor onto neighboring sites, nor shall any trash be stored in a manner to attract rodents.

L. Signs: Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

M. Noise, Odors, Vibration: Any noise, odors or vibrations shall be mitigated to avoid unnecessary noise or creation of a public nuisance per Title 6 of this Code.

N. Access and Circulation: Refer to Section 10-35 of this Title for requirements.

O. Type II Review: All permitted uses in the Pacific View Industrial Park District shall be subject to Type II (administrative) review, Section 10-1-1-6-2 of this Title.

P. Airport Overlay Zone: Refer to Section 10-21-2 of this Title for specific requirements of the Public Use Airport Safety and Compatibility Overlay Zone.

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Adopted by Ordinance No. 6, 2003, effective April 17, 2003
Section 10-28-5, H, Amended by Ordinance 26, 2008
Section 10-28-5 Amended by Ordinance No. 9, Series 2009
Sections 10-28-1 through 10-28-5 amended by Ord. 4, Series 2010 (effective 4/5/10)
Sections 10-28-2, 10-28-5-L amended by Ord. 4, Series 2011 (effective 4/22/11)
Section 10-28-5-J amended by Ord. No. 12, Series 2014 (effective 12/31/14)
Section 10-28-3 amended by Ord. No. 12, Series 2015 (effective 1/1/16)
Sections 10-28-2, 10-28-3, and 10-28-5 amended by Ord. No. 11, Series 2016 (effective 11/16/16)

TITLE 10
CHAPTER 29

# COAST VILLAGE DISTRICT (CV)

SECTION:


10-29-1: Purpose
10-29-2: Definitions
10-29-3: Permitted Buildings and Uses
10-29-4: Prohibited Buildings and Uses
10-29-5: Lot and Yard Provisions
10-29-6: Site Development Provisions


**10-29-1: PURPOSE:** The Coast Village District is intended to provide a quality environment for residential uses and other compatible land uses within the Coast Village development. Coast Village began as a campground and has evolved into a residential community that accommodates permanent and seasonal residents; it is a unique residential community that allows a blend of recreational vehicles and conventional single-family homes, surrounded by greenbelt buffers between each lot to maintain a park-like setting.

**10-29-2: DEFINITIONS:**

GREENBELT — An area on a lot extending five feet (5') from the side and rear property lines for "natural vegetation" to grow, to serve as a visual screen and to protect privacy between adjacent lots.

HEIGHT — The height of a structure is the vertical distance between the average finished grade at the base of the structure to the peak or crest of the roof of the structure.

LOT — Any private land platted numerical lot within Coast Village, excepting Lot 4 Block 1 of Coast Village which shall not constitute a buildable lot for residential purposes; all numerical lots modified by lot line adjustment recorded prior to the effective date of this chapter and the following listed properties in which two parcels combined shall constitute one lot hereunder:

Coast Village First Addition: Lot 32, Block 2, and that real property described as PARCEL II in deed recorded at Reel 1489R, Reception #8752204 in Lane County Official Records (tax lots 200 and 301)

Coast Village Second Addition: Lots 12 & 13, Block 10 (tax lots 22200 and 22300); Lots 15 & 16, Block 10, (tax lots 21900 and 22000); Lots 12 and 13, Block 11 (tax lots 16500 and 16600); Lots 40 and 41, Block 2, (tax lots 17800 and 17900); Lots 42 and 43, Block 2, (tax lots 17600 and 17700); and

Coast Village Third Addition: Lots 14 and Lot C, (tax lots 1907 and 1908) and Lots 6 and Lot B, (tax lot 1905)

NATURAL VEGETATION — Vegetation indigenous to the Florence region or other drought-tolerant species, which includes: Shore Pine, Fir, Hemlock, Spruce, Cedar, Rhododendron, Wax Myrtle, Manzanita, Madrone, Kinnikinic and Salal or as provided for in the City's plant list.

PERMANENT DWELLING — Site-built single-family dwelling; manufactured home, modular home, or other pre-manufactured home (no minimum floor area size); or mobile structures such as park models, recreational vehicles and motor homes that cannot be easily driven or pulled from the site. Permanent dwellings may be occupied year-round or less.

| | |
|---|---|
| SCREENING OR BUFFERING | Screening or buffering shall consist of sight-obscuring natural vegetation at least six feet (6') high, except as required by vision clearance. |
| TEMPORARY DWELLING | Mobile structures such as park model, recreational vehicle and motor home that can easily be driven or pulled from the site (i.e. wheels and tongue still attached). There shall be no obstructions that would prevent the easy removal of the structure. Obstructions include but are not limited to: attached accessory structures, accessory structures placed to block the mobile structure, in-ground vegetation or landscaping, retaining or landscaping walls, foundation, hard-wired utilities, and hard-piped utilities. Temporary structures may be occupied year-round or less. |

**10-29-3: PERMITTED BUILDINGS AND USES:**

A. One permanent or temporary dwelling per lot.

B. In addition to the dwelling allowed by A (above), one mobile structure may be permitted for use as guest quarters for up to six months in a twelve month period, if there are at least two parking spaces on a lot in addition to the parking area for the mobile structure.

C. Accessory structures such as ramadas, cabanas, patio slab, carport or garage and multi-purpose/storage buildings, when built on a lot in conjunction with A above.

D. Gardens and greenhouses for the raising and harvesting of fruit, vegetables and flowers for noncommercial use.

E. Recreation and community facilities for use of Coast Village residents or guests and management staff.

F. Home occupations that do not require customer roadway traffic within Coast Village.

**10-29-4: PROHIBITED BUILDINGS AND USES:**

A. Accessory Dwelling Units

**10-29-5: LOT AND YARD PROVISIONS:**

A. No partitions or lot line adjustments are allowed.

B. Lot Coverage: The maximum coverage by all enclosed structures shall not exceed thirty five percent (35%) of the lot area. The maximum coverage by all impervious areas, including all structures and paved surfaces (excepting Home Owner Association streets and roads encroaching on private lots) shall not exceed sixty five percent (65%) of the lot area.

C. Yard and Buffer Regulations: Unless a variance is granted in accordance with Chapter 5 of this Title, minimum setbacks and buffer regulations shall be indicated below:

1. Front Yards: All dwellings and structures shall be set back at least twenty feet (20') from the front property line unless the street pavement encroaches onto the lot, then the dwelling portion of the structure may be setback a minimum of ten feet (10') from the closest edge of pavement and the garage or carport shall be set back twenty feet (20') from the closest edge of pavement.

2. Side Yards: A greenbelt buffer of not less than five feet (5') shall be maintained on each side of the lot. All dwelling units shall be set back not less than eight feet (8') from the side property line, and a three foot (3') clearance shall be maintained between the greenbelt and dwelling for fire safety. Non-residential accessory structures shall be set back not less than five feet (5') from the side property line.

3. Rear Yards: A greenbelt buffer of not less five foot (5') shall be maintained on the rear yard of a lot. All dwelling units shall be set back not less than ten feet (10') from the rear property line, and a three foot (3') clearance shall be maintained between the greenbelt and dwelling for fire safety. Non-residential accessory structures shall be set back not less than five feet (5') from the rear property line.

4. Propane Tank Setbacks: Unless otherwise stipulated by the fire code, propane tanks shall be set back not less than three feet (3') from all greenbelts and vegetation.

**10-29-6: SITE DEVELOPMENT PROVISIONS:**

A. Building or Structural Height Limitations: All structures are limited to a single story and shall not exceed sixteen feet (16') in height.

B. Fences: Coast Village development perimeter fencing shall comply with Code Section 10-34-5 of this Title.

C. Vision Clearance: Shall be ten feet (10'). Refer to Section 10-2-13 and 10-35-2-14 of this Title for definition, and requirements.

D. Off-Street Parking: Dwellings shall have at least two (2) permanent parking spaces on-site. Such a parking space area, garage or carport shall provide for the ingress and egress of standard size automobiles at least nineteen feet long and nine and one-half feet wide (19' x 9 ½'). The Building Official may allow one permanent parking space if he determines a second parking space is not physically feasible. The required on-site parking space may be uncovered and gravel driveways and parking spaces are allowed. Regular off-street parking is allowed within the front yard setback. These requirements supersede any conflicting requirements in Section 10-3 of this Title.

E. Signs: Signs shall be in accordance with Title 4, Chapter 7 of this Title.

F. Landscaping: A five foot (5') greenbelt buffer consisting of natural vegetation shall be maintained on the side and rear yards of a lot in order to provide screening and privacy between adjacent lots. The green belt buffer shall consist of sight-obscuring natural vegetation at least six feet (6') high, except as necessary to accommodate vision clearance requirements.

G. Applicable Building and Fire Codes shall be met.

H. Lighting: Refer to Section 10-37 of this Title for Requirements.

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Enacted by Ord. No. 21, Series 2011 – effective January 5, 2012
Section 10-29-6-H amended by Ord. No. 12, Series 2014 – effective December 31, 2014
Section 10-26-6-C amended by Ord. No. 11, Series 2016 – effective November 16, 2016

TITLE 10
CHAPTER 30

# NORTH COMMERCIAL DISTRICT

SECTION


10-30-1 Purpose
10-30-2 Permitted Buildings and Uses
10-30-3 Buildings and Uses Permitted Conditionally
10-30-4 Prohibited Uses
10-30-5 Development Standards
10-30-6 Design Criteria


**10-30-1: PURPOSE:** The North Commercial District is intended to provide opportunities for commercial uses of a larger scale within planned commercial developments. Uses are intended to serve the traveling public and the needs of residents for major retail shopping opportunities. This district, while recognizing pre-existing development on existing parcels, encourages consolidation of parcels to promote planned commercial developments and discourages uses that require substantial outdoor display or storage.

**10-30-2: PERMITTED BUILDINGS AND USES:**

The following buildings and uses shall be permitted subject to the procedures and conditions set forth in Chapters 1 and 6 (Design Review) of this Title:

Animal clinics or grooming facilities (not abutting a residential district)
Appliance sales and service
Art sales
Artist studios
Automobile parts and supply stores
Bakeries, retail
Banks
Barber and beauty shops
Bicycle shops
Book store, new books only
Camera store
Cafes and coffee shops
Catering services
Clothing, apparel shops
Confectionery stores
Data processing center
Day nurseries
Delicatessen stores
Department stores
Drapery stores
Dress and millenary shops
Drugstores
Dry cleaners
Electrical and electronic supplies and service
Fabric store
Floor covering and carpet stores
Florist shops
Furniture stores
General merchandise store
Gift shop
Grocery and produce stores and supermarkets
Hardware and garden supply stores
Health clubs and studios
Hobby shops
Home furnishings
Home electronics such as televisions, stereos and computers
Hotels and motels
Interior decorator studios
Jewelry stores
Laboratories, medical and dental
Laundromat, self service only
Leather goods store
Locksmith shop
Meat and fish market
Movie theaters
Museums
Music stores
Novelty shops
Office supplies and equipment stores
Optometry and optical sales and service
Paint and wallpaper stores
Parking areas, public and private
Parking garages, public and private
Personal services
Pet shops
Pharmacies
Photography studios and photo processing
Planned unit development – commercial
Planned unit development – mixed use.
Printing and copy shops
Professional offices
Radio and television broadcasting studios

Reducing salons
Residential unit(s), provided that the building contains a non-residential use of uses permitted conditionally on the ground floor, and that the unit(s) shall not occupy the front twenty five feet (25') of the ground floor of the building or site facing the street; if access to the swelling is from the principal commercial street, it shall be a separate entrance and not more than ten feet (10') wide.
Restaurants, sit down and fast food with no drive-thru window
Sewing machine sales and service
Shoe sales and repair
Sporting goods stores
Stationary stores
Tobacco shops
Tailor shops
Theaters
Toy stores
Travel agencies
Variety stores
Video stores
Video rental shops
Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter
Other uses as determined to be similar to those listed in this Section and which conform with the intent and purpose of this Chapter.

**10-30-3: BUILDINGS AND USES PERMITTED CONDITIONALLY**

The Planning Commission, subject to the procedures and conditions set forth in Chapters 1, 4 and 6 of this Title, may grant a conditional use permit for the following:

Any use permitted by this Chapter that includes ancillary outdoor display or storage
Automobile fuel or service stations
Automobiles sales, new car dealerships with ancillary used car sales only
Amusement or recreation establishments including bowling alleys, game arcades, pool halls, activity centers and amusement parks
Antique and secondhand shops
Bars, taverns, cocktail lounges and night clubs
Car washes
Medical Marijuana Dispensaries
Marijuana Retailers
Marijuana testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority
Public and quasi-public buildings and facilities
Restaurants with drive-thru window (includes drive-ups and drive-ins)

**10-30-4: PROHIBITED USES**

Single family detached housing

**10-30-5: DEVELOPMENT STANDARDS:**

A. Building Setback from Highway and Other Arterials (measured from right-of-way line): Minimum of 25', the front 15' of which shall be landscaped

B. Setback from Side Streets: Minimum of 15', the front 10' of which shall be landscaped.

C. Setback from Abutting Property: No setback is required except where property abuts a residential district, in which case, the following setback provisions shall apply:

1. When the abutting district is zoned Low Density Residential, Medium Density Residential or Mobile / Manufactured Home Residential, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation may be located within the 35' setback.

2. When the abutting district is zoned High Density Residential, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation facilities may be located within the 35' setback.

D. Landscaping and Visual Buffers shall comply with Section 10-34 of this Title.

1. Except where the entire area between a street and building is landscaped, a minimum 3' high landscaped berm, hedge, natural vegetation, or heavy landscape planting shall be provided along the street frontage.

2. A minimum of 15 percent of the developed site shall be landscaped, unless a preservation credit is achieved in accordance with FCC 10-34-2-4.

3. When the abutting district is zoned Low Density Residential, Medium Density Residential or Mobile/Manufactured Home Residential District, an 8' solid fence shall be constructed for the entire length of the abutting residential district, excepting that Department of State Lands Removal/Fill permit conditions will be honored in location of fence or wall within or abutting a delineated wetland.

E. Parking: Shall be in accordance with Chapter 3 of this Title.

F. Signs: Shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

G. Lot dimensions: Minimum lot width shall be 100 feet for new subdivisions. Minimum lot depth shall be 100 feet for new subdivisions.

H. Lot Area: Minimum lot size shall be 20,000 square feet for new subdivisions.

I. Height Limitations: The maximum building or structural height shall be 40', except that the maximum height for structures immediately abutting any Low Density Residential District, Medium Density Residential District or Mobile/Manufactured Home Residential District shall be 35'. Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for building height and structural standards.

J. Vision Clearance: The requirements of Section 10-35-2-14 of this Title must be met.

K. Screening:

1. Areas approved for outdoor storage shall be screened by a combination of landscaping and a solid fence or wall a minimum of 6' in height. Chain link with slats is not acceptable.

2. Any trash or waste receptacle stored outside of an enclosed building shall be located within a trash enclosure constructed of a minimum 5' high solid wood fence or block wall with a solid wood or metal gate. Chain link with slats is not acceptable.

L. Access: shall comply with Section 10-35 of this Title, except as modified by the following specific standard:

1. Driveway access from Highway 101 shall be limited to street intersections only, unless the property does not abut a side street or the property has at least 500 feet of highway frontage. In any case, shared driveway access between adjacent lots shall be required whenever practicable.

M. Public Facilities: Refer to Section 10-36 of this Title for requirements.

N. Open Space is required for residential developments of 4 or more units as follows:

1. An area on the site measuring a minimum of 100 square feet per dwelling unit shall be designated and permanently reserved as common open space.

2. In meeting the open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.

3. To receive credit under this section, a common open space area shall have an average length that is not less than twenty feet (20').

4. Any common areas shall be owned as common property and maintained by a homeowners associations or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

O. Lighting: Refer to Section 10-37 if this Title for requirements.

P. Residential Development: Residential development must meet the provisions for Multi-Family Dwellings listed in FCC 10-10-9.

**10-30-6: DESIGN CRITERIA FOR NONRESIDENTIAL STRUCTURES**

A. Applicability: The criteria in this section do not apply to residential or mixed-use buildings with a residential component. See FCC 10-10 for applicable residential design criteria.

B. Facades: Building facades shall be articulated to avoid long, unbroken surfaces. This may be accomplished by varying the setback of the building façade, adding tower elements to the building, providing bay windows or covered walkways, or providing other vertical or horizontal structural treatments to the building façade.

C. Roofs: Hipped or gabled roofs are recommended. Flat roofs are permitted only if the roof line is either broken up with vertical treatments such as tower elements or decorative parapets and cornice treatments are provided. Mansard roofs are not permitted. HVAC equipment and other roof-mounted equipment shall be adequately screened or hidden from view from adjacent streets and property, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516.

D. Materials: Exterior materials on buildings shall be masonry, horizontal wood siding or shingles, stucco or similar material. Sheet metal and cinder block are discouraged as primary exterior wall material. T1-11 may be used in conjunction with horizontal siding if approved by the Design Review Board.

E. Colors: Predominant roof and building colors shall be consistent with the City's desired coastal village atmosphere. Compatible colors consist of earth tones and soft pastels. Incompatible roof and body colors include any colors used where the intent is to attract attention instead of complementing and accentuating the building design.

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Ordinance No. 11, Series 2003, effective August 7, 2003
Section 10-30-5, J - Amended by Ord. 26, 2008
Section 10-30-5 Amended by Ord. No. 9, 2009
Section 10-30-5-N – Amended by Ord. No. 2, Series 2011 – effective March 11, 2011
Section 10-30-5-F – Amended by Ord. No. 4, Series 2011 – effective April 22, 2011
Sections 10-30-2, 10-30-3, and 10-30-6 amended by Ord. No. 3, 2013 – effective 7-31-13
Section 10-30-5-O added by Ord. No. 12, Series 2014 – effective 12-31-14
Section 10-30-3 amended by Ord. No. 1, Series 2015 – effective 3-17-15
Section 10-30-3 amended by Ord. No. 12, Series 2015 – effective 1-1-16
Sections 10-30-2, 10-30-3, and 10-30-5 amended by Ord. No. 11, Series 2016 – effective 11-16-16
Sections 10-30-2, 10-30-5-N & P, and 10-30-6 amended by Ord. No. 7, Series 2019 – effective 12-18-19
Sections 10-30-5-C(1), (2), D(3), and I amended by Ord. 9, Series 2020 – effective 9-16-20

**TITLE 10**
**CHAPTER 31**

# SERVICE INDUSTRIAL DISTRICT

SECTION:

10-31-1: Purpose
10-32-2: Permitted Buildings and Uses:
10-31-3: Buildings and Uses Permitted Conditionally
10-31-4: Lot and Yard Provisions
10-31-5: Site Design Criteria
10-31-6: Parking
10-31-7: Signs

**10-31-1: Purpose**: The purpose of this District is to provide an area within the City for large-lot industrial uses, particularly those associated with construction and development, while providing a visually pleasing north entrance into Florence, and maintaining through traffic flow on Highway 101.

**10-31-2: Buildings and Uses:**

1. Construction contractors
2. Excavation businesses
3. Mini-storage units
4. Plant nurseries – wholesale and retail
5. Building supply facilities limited to enclosed retail space not to exceed 8,000 square feet in area.
6. Caretaker's unit
7. Animal Daycare and Overnight Boarding Facility (excludes breeding kennels)
8. Accessory buildings and uses normal and incidental to the buildings and uses permitted in this Chapter.
9. Other buildings and uses determined to be similar to those listed in this section, which meet the purpose of this District and which do not have a different or more detrimental effect upon adjoining areas than those buildings and uses specifically permitted.

**10-31-3: Building and Uses Permitted Conditionally:**

1. Sand and aggregate operations
2. Concrete ready-mix businesses
3. Wrecking yards
4. Solid waste facilities
5. Composting operations
6. Manufacturing, including medical marijuana processing sites and recreational marijuana processors
7. Auto body repair
8. Non-motorized recreation facilities related to the dunal and public lands resources located to the west of this district.
9. Other buildings and uses determined to be similar to those listed in this section, which meet the purpose of this District and which do not have a different or more detrimental effect upon adjoining areas than those buildings and uses specifically permitted.
10. Medical Marijuana production sites and marijuana producers

**10-31-4: Lot and Yard Provisions:**

A. Minimum lot frontage: 200 feet

B. Lot coverage: Maximum of 85%, buildings and impervious surfaces

C. Setback/yards regulations:

Front: On Highway 101 – 25' minimum
On Oak, Spruce or other abutting streets - 20'

Side: Internal side yards - 15'
Side yards abutting other districts - 20'

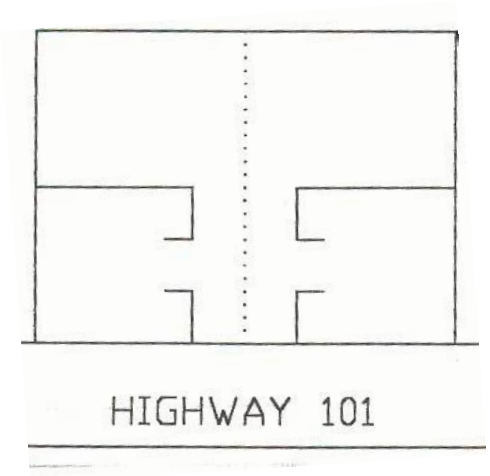
Rear: Internal rear yards - 15'
Rear yards abutting other districts - 20'

Where an industrial use abuts a residential use, additional screening may be required, as determined by the Planning Commission/Design Review Board.

D. Height: Not to exceed 38', except as provided by FCC 10-2-4.

**10-31-5: Site Design Criteria:**

1. Access: Access and circulation shall be in accordance with FCC 10-35, except as modified by the following specific standard: Access to Highway 101 shall be via combined driveways as shown on the diagram below:




Access and circulation shall be designed to allow future access by trucks/heavy equipment from Oak Street or Spruce Street via traffic signals at Munsel Lake Road and Heceta Beach Road and Highway 101, when those signals are installed. Businesses who will access via these signals shall contribute proportionately to the costs of the signals.

2. Landscaping and Screening

a. Landscaping and screening shall meet the requirements of Section 10-34 of this Title.

b. Businesses which include outdoor storage of business vehicles, product or raw materials shall screen those storage and or production areas from Highway 101 by providing a visual screen consisting of a berm planted with evergreen shrubs/trees which maintain a permanent year-round vegetative screen at least 15' above the top of the berm at maturity. The Planning Commission/Design Review Board may require a taller berm or other plantings if necessary to fully screen outdoor storage,

machinery and/or operational activities from Highway 101. Fences may not be substituted for berms.

c. Where an industrial use abuts a residential use, see FCC 10-34-3-7-D.

3. Building Design:

a. Consistent with the purpose of this district to maintain a visually pleasing entrance to Florence, the main office/administrative building on a parcel should be designed to be attractive, and should be placed on the Highway 101 side of the vegetated berm. Wood or good quality vinyl siding, patterned block or other similar materials are preferred. Metal-clad office/administrative buildings are discouraged.

b. Colors and design shall be consistent with general community practice. The Planning Commission/Design Review Board may disapprove buildings inconsistent with general community practice, including colors and design features which incorporate company logos or other like identification.

4. Lighting.

a. Lighting shall be in accordance with Section 10-37 of this Title.

b. Lighting on the Highway 101, Oak or Spruce frontage shall be carefully integrated into the overall site design.

5. Public Facilities: Refer to Section 10-36 of this Title for requirements.

**10-31-6: Parking:** Parking and loading spaces shall be provided as required by the City's parking standards (FCC 10-3). On lots abutting Highway 101, or those abutting residential zoning, parking shall not be located in yards abutting streets. Businesses sharing an access may also share parking according to the shared parking provisions of FCC 10-3.

**10-31-7: Signs:** Signs shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)

Ordinance No. 12, Series 2003, effective August 7, 2003
Sections 10-31-4 and 10-31-5 amended by Ord. No. 9, Series 2009
Section 10-31-7 amended by Ord. No. 4, Series 2011 – effective 4/22/11
Section 10-31-2 amended by Ord. No. 3, Series 2013 – effective 7-31-13
Section 10-31-5-4 amended by Ord. No. 12, Series 2014 – effective 12-31-14
Section 10-31-3 amended by Ord. No. 12, Series 2015 – effective 1-1-16

TITLE 10

CHAPTER 32

# DRINKING WATER PROTECTION OVERLAY DISTRICT

SECTION:


10-32-1: Purpose
10-32-2: Applicability
10-32-3: Warning and Waiver of Liability
10-32-4: Time of Travel Zones (TOTZ)
10-32-5: Review
10-32-6: Exemptions
10-32-7: Standards for Hazardous Materials within TOTZ
10-32-8: Conditions
10-32-9: Appeals


## 10-32-1: PURPOSE:

A. The Drinking Water Protection (DWP) Overlay District is established to protect from contamination the North Florence Sole Source Dunal Aquifer, used as the sole potable water supply source by the City. This Section establishes procedures and standards for the physical use of hazardous or other materials harmful to groundwater within TOTZ by new and existing land uses requiring development approval. The provisions of this Section are designed to:

1. Protect the City's drinking water supply, which is obtained from groundwater resources, from impacts by facilities that store, handle, treat, use, produce, or otherwise have on premises substances that pose a hazard to groundwater quality; and

2. Provide standards for hazardous or other materials that pose a risk to groundwater within the TOTZ.

B. In order to accomplish this purpose, the DWP Overlay District includes methods and provisions to:

1. Restrict or prohibit the use of hazardous or other materials which are potential groundwater contaminants;

2. Set standards for the storage, use, handling, treatment, and production of hazardous or other materials that pose a risk to groundwater within TOTZ; and

3. Review new or expanded uses of hazardous or other materials that pose a risk to groundwater

**10-32-2: APPLICABILITY:** This DWP Overlay District applies to industrial and commercial land uses within the Drinking Water Protection Area (DWPA) for the proposed wellfield. As of October 5, 2013, all areas in an industrial or commercial zoning district within the specified wellhead TOTZ are automatically rezoned to add the DWP Overlay District to the underlying zoning district. The areas to which the DWP Overlay District is applied are shown on the Drinking Water Protection Overlay Map, on file in the Community Development Department and incorporated in this Section by reference.

**10-32-3: WARNING AND WAIVER OF LIABILITY:** The degree of aquifer protection required by this Section in the areas designated in Section 10-32-2 is based on scientific and engineering considerations. The nature of these considerations is that the exact boundaries of Time of Travel Zones (TOTZ) have an associated uncertainty that renders conclusions based on them to be estimates. Under no conditions should this Section be construed to guarantee the purity of the ambient ground water or guarantee the prevention of ground water contamination. Therefore, this Section shall not create liability on the part of the City, or any City personnel, for any contamination that may result from reliance on this Section or any administrative decision made under this Section.

**10-32-4: TIME OF TRAVEL ZONES (TOTZ):**

B. The DWP Overlay District includes 3 TOTZ for the proposed wellfield: 5-10 years; 10-20 years; and 20-30 years. The Overlay District does not include the 0-5 year TOTZ because there are no industrial or commercial properties or zones in that TOTZ. The locations of the TOTZ for the proposed wellfield are shown on the Drinking Water Protection Area Map for the Proposed Wellfield on file with the City's Planning Department; Public Works Department; the Siuslaw Valley Fire and Rescue Agency; and Heceta Water District (HWD).

C. The areas within specified wellhead TOTZ are those drinking water protection areas for which the Oregon Health Authority issued a "provisional delineation," stating, "OHA approves the use of this delineation for protection of possible future drinking water resources," under the Oregon Administrative Rules that apply to Oregon's EPA-approved Drinking Water Protection Program, in Oregon Health Authority Delineation Certification #0016, March 16, 2012.

D. In determining the location of a property within a TOTZ, the following criteria apply:

1. The Lane County Department of Assessment and Taxation maps shall be used as a base map with the addition of TOTZ boundaries.

2. That portion of a tax lot that lies within a TOTZ is governed by the restrictions applicable to that TOTZ.

3. Tax lots having parts lying within more than one TOTZ are governed by the standards of the more restrictive TOTZ.

4. EXCEPTION: The Public Works Director (Director) may waive the requirement that the more restrictive standards apply when all of the following apply:

a. Storage, use, handling, treatment, and/or production of hazardous or other materials that pose a risk to groundwater will not take place within the portion of the tax lot having the more restrictive TOTZ standards; and

b. Storage, use, handling, treatment, and/or production of hazardous or other materials that pose a risk to groundwater will not take place within 50 feet of the portion of the tax lot having more restrictive TOTZ standards; and

c. The tax lot is 20,000 square feet or larger.

5. A property owner may request the TOTZ be modified by submitting a Zone Change application to the City. Any request for modification of the TOTZ shall be accompanied by certification of the TOTZ as proposed to be modified by the Oregon Health Authority, under the Administrative Rules that apply to Oregon's EPA-approved Drinking Water Protection Program.

**10-32-5: REVIEW:**

A. A DWP Overlay District Development Application is required when all of the following criteria are met:

1. Industrial and commercial land uses that are affected by one or more of the following: a land use permit application or building permit application;

2. The action in Subsection A.1., above will:

a. Affect the storage, use, and/or production of hazardous or other materials that pose a risk to groundwater; or

b. Increase the quantity of hazardous or other materials that pose a risk to groundwater that are stored, used and/or produced.

B. Prior to the submittal of a DWP Overlay District Development Application, an exemption request may be submitted to the Director as specified in Section 10-32-6-B-1.

C. DWP Overlay District applications shall be reviewed under Type II Review procedures in 10-1-1-6-2.

D. Prior to undertaking an activity covered by Section 10-32-5-A, the owner or tenant shall submit a DWP Overlay District Application to the City for review and approval. Applications shall include the following information:

1. A Hazardous Material Inventory Statement and a Material Safety Data Sheet for any or all materials entered in the Statement unless exempted under Section 10-32-6. Hazardous material weights shall be converted to volume measurement for purposes of determining amounts; 10 pounds shall be considered equal to one gallon as specified in Florence Fire Code.

2. A list of the chemicals to be monitored through the analysis of groundwater samples and a monitoring schedule if ground water monitoring is anticipated to be required.

3. A detailed description of the activities conducted at the facility that involve the storage, handling, treatment, use or production of hazardous materials in quantities greater than the maximum allowable amounts as stated in Section 10-32-7-A;

4. A description of the primary and any secondary containment devices proposed, and, if applicable, clearly identified as to whether the devices will drain to the storm or sanitary sewer;

5. A proposed Hazardous Material Management Plan for the facility that indicates procedures to be followed to prevent, control, collect and dispose of any unauthorized release of hazardous material;

6. A description of the procedures for inspection and maintenance of containment devices and emergency equipment;

7. A description of the plan for disposition of unused hazardous materials or hazardous material waste products over the maximum allowable amounts including the type of transportation, and proposed routes.

E. The Director shall review the application and make a decision based on the standards contained in Section 10-32-7, after consulting with the Building Official, Fire Marshall, Planning Director, and the manager of Heceta Water District, as appropriate.

**10-32-6: EXEMPTIONS:** This section does not exempt any material or use from Fire Code regulations as adopted by the City.

A. Exemptions are as specified in this Section unless the Director, in consultation with the Fire Marshall, determines that a hazardous material, activity, and/or facility that are exempt pursuant to this Section has a significant or substantial potential to degrade groundwater quality. Then the Director may require compliance with the requirements of this Section related to that hazardous material, activity or facility. This determination will be based upon site and/or chemical-specific data and are eligible for appeal to the Planning Commission, as specified in Section 10-32-9.

B. Unless otherwise provided herein, the following materials are exempt from regulation hereunder:

1. Use, storage and handling of specific hazardous materials that do not present a risk to the aquifer, as determined and listed by the Director, are exempt from all regulation under this Section with the exception of the potential requirement to list these hazardous materials on the Hazardous Material Inventory Statement as found in the most recent Fire code regulations adopted by the City. A Hazardous Materials Exemption Request may be submitted to the Director for Hazardous Materials that can be demonstrated to pose no threat to the aquifer. These materials may be exempted from regulation and added to the list. The demonstration of no threat is the responsibility of the applicant seeking the exemption and will be subject to review by technical experts.

2. Hazardous materials offered for sale in their original sealed containers of 5 gallons or less are exempt from the 500-gallon storage limit specified in Section 10-32-7-A-1.

3. Hazardous materials in fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the motoring operation of that vehicle, or machinery, including, but not limited to: fuel, engine oil and coolant.

4. Fuel oil used in existing heating systems.

5. Emergency use, storage, and handling of hazardous materials by governmental organizations in the public interest.

6. Hazardous materials used and stored specifically for water treatment processes of public water systems and private systems for the same purposes when approved by the Director.

7. Hazardous materials contained in properly operating sealed units (including, but not limited to: transformers, refrigeration units) that are not opened as part of routine use.

8. Local natural gas distribution lines, when available.

9. Fuel for emergency generators located at facilities that provide essential community services (including, but not limited to: hospitals, fire/life safety, police, public shelters, and telephone systems)

10. Any commonly used office supply – including, but not limited to: correcting fluid for typewriters, toner for computer printers or cleaners for windows and bathrooms – where the supplies are purchased off-site for use on-site.

11. Aggregate quantities equal to or less than 20 gallons of hazardous materials that do not contain DNAPLs. [1]

**10-32-7: STANDARDS FOR HAZARDOUS MATERIALS WITHIN TOTZ:** Applications shall comply with the following standards. Where the following standards are more restrictive than the standards of the Florence Fire Code, the following standards shall apply:

A. Five to Ten Year TOTZ Standards.

1. The storage, handling, treatment, use, application, or production or otherwise keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater in aggregate quantities not containing DNAPLs are allowed only upon compliance with containment and safety standards specified by the most recent applicable Fire Code.

[1] DNPLs are organic substances that are relatively insoluble in water and more dense than water. DNAPLs tend to sink vertically through sand and gravel aquifers to the underlying layer. The most common are chlorinated solvents. Significant amounts of DNAPLs are present at chlorinated solvent-contaminated sites, such as manufacturing and degreasing facilities, dry cleaners, wood treators, and former manufacturing gas plants.

2. Unless exempted, all hazardous or other materials that pose a risk to groundwater shall be stored in areas with approved secondary containment in place (Fire Code).

3. All new use of DNAPLs are prohibited.

4. Any change in the type of use or an increase in maximum daily inventory quantity of any DNAPL is considered a new use and is prohibited.

5. The following certain types of facilities or changes in chemical use and/or storage of hazardous or other materials that pose a risk to groundwater are prohibited:

   a. Hazardous material product pipelines used to transport the hazardous material off of the tax lot where it is produced or used;

   b. Injection wells, except for dry wells for roof drainage;

   c. Solid waste landfills and transfer stations;

   d. Fill materials containing hazardous materials;

   e. Land uses and new facilities that will use, store, treat, handle, and/or produce DNAPLs.

6. Requirements found in the Fire Code for a monitoring program and monitoring methods to detect hazardous or other materials in the secondary containment system shall be met for all amounts of hazardous materials that pose a risk to groundwater unless exempted.

7. The following requirements for inspection and record keeping procedures for monthly in-house inspection and maintenance of containment and emergency equipment for all amounts of hazardous or other materials that pose a risk to groundwater shall be met unless exempted: Schedules and procedures for inspecting safety and monitoring and emergency equipment. The applicant shall develop and follow a written inspection procedure acceptable to the Director for inspecting the facility for events or practices which could lead to unauthorized discharges or hazardous materials. An inspection check sheet shall be developed to be used in conjunction with routine inspections. The check sheet shall provide for the date, time, and location of inspection; note problems and dates and times of corrective actions taken; and include the name of the inspector and the countersignature of the designated safety manager for the facility.

B. Ten to Twenty Year TOTZ Standards.

1. The storage, handling, treatment, use, production or otherwise keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater in aggregate quantities not containing DNAPLs is allowed upon compliance with containment and safety standards specified by the most recent Fire Code adopted by the City.

2. All hazardous or other materials that pose a risk to groundwater shall be stored in areas with approved secondary containment in place (Fire Code).

3. All new use of DNAPLs are prohibited.

4. Any change in the type of use or an increase in maximum daily inventory quantity of any DNAPL is considered a new use and is prohibited.

5. The following requirements for inspection and record keeping procedures for monthly in- house inspection and maintenance of containment and emergency equipment for all amounts of hazardous or other materials that pose a risk to groundwater shall be met unless exempted: Schedules and procedures for inspecting safety and monitoring emergency equipment. The applicant shall develop and follow a written inspection procedure acceptable to the Director for inspecting the facility for events or practices which could lead to unauthorized discharges or hazardous materials. An inspection check sheet shall be developed to be used in conjunction with routine inspections. The check sheet shall provide for the date, time, and location of inspection; note problems and dates and times of corrective actions taken; and include the name of the inspector and the countersignature of the designated safety manager for the facility.

C. Twenty to Thirty Year TOTZ Standards. The storage, handling, treatment, use, production or keeping on premises of more than 20 gallons of hazardous materials that pose a risk to groundwater in aggregate quantities is allowed only upon compliance with containment and safety standards specified by the most recent Fire Code adopted by the City.

**10-32-8: CONDITIONS:** The Director may attach conditions of approval that will minimize negative impacts of regulated substances on groundwater and ensure that the facility or the proposed development can fully meet the standards specified in Section 10-32-7. These conditions may include, but are not limited to: on-site monitoring wells, Wellhead Protection Area signs, special storm water facilities or other conditions to address specific risks associated with the proposed development.

**10-32-9: APPEALS:** The only portions of this Section that are subject to appeal are: Section 10-32-5-E, the Director's decision on a DWP application, Section 10-32-6, Exemptions, and Section 10-32-7-A-1, Waiver. The decision to the Director may be appealed as specified in Section 10-1-1-7.

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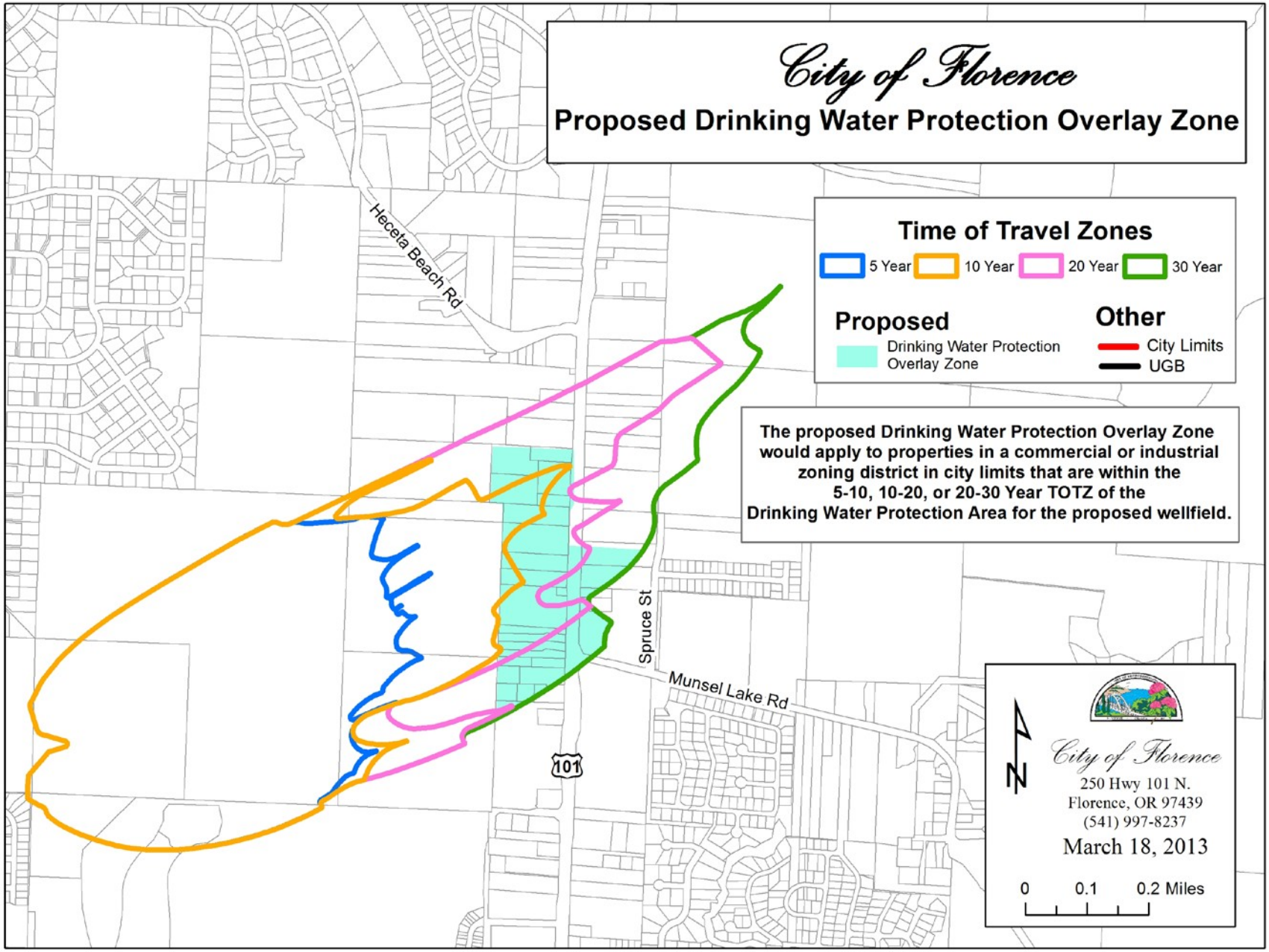
Created by Ordinance No. 2, Series 2013 (effective 10-5-13)
Section 10-32-5 amended by Ordinance No. 11, Series 2016 (effective 11-16-16)


City of Florence
Proposed Drinking Water Protection Overlay Zone
Time of Travel Zones
5 Year
10 Year
20 Year
30 Year
Proposed
Drinking Water Protection Overlay Zone
Other
City Limits
UGB
The proposed Drinking Water Protection Overlay Zone would apply to properties in a commercial or industrial zoning district in city limits that are within the 5-10, 10-20, or 20-30 Year TOTZ of the Drinking Water Protection Area for the proposed wellfield.
Heceta Beach Rd
Spruce St
Munsel Lake Rd
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City of Florence
250 Hwy 101 N.
Florence, OR 97439
(541) 997-8237
March 18, 2013
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**TITLE 10**
**CHAPTER 33**

# TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT

SECTION:

10-33-1: Purpose
10-33-2: Definitions
10-33-3: Siting Permits, Exemptions, Site Review & Conditional Uses, and Applications
10-33-4: Development Standards
10-33-5: Maintenance
10-33-6: Decommissioning
10-33-7: Severability
10-33-8: Review of Regulations

**10-33-1: PURPOSE:** The purpose of the Telecommunications Facilities Overlay District is to facilitate the location of necessary wireless telecommunications facilities, including towers, sufficient to provide service to area businesses and residents while preserving the viewsheds and character of the community, especially in residential districts.

**10-33-2: DEFINITIONS:**

A. Ancillary facilities: the structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, base stations, equipment housing structures, footings and foundations, and ventilation or other electrical or mechanical equipment.

B. Antenna: an exterior apparatus, electrical conductor or group of electrical conductors, the surface of which is designed for telephonic, radio, data, or television communications by sending and/or receiving radio frequency or electromagnetic waves, including those sent and/or received by wireless communication facilities. Antenna include, but are not limited to, the following types:

1. Ancillary antenna, which are antenna less than 12 inches in their largest dimension and are not directly used to provide wireless communication services.
2. Omni-direction (whip) antenna, which receives and transmits signals in a 360 degree pattern
3. Directional or parabolic (panel or disk) antenna, which receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
4. Satellite Dish antenna, which receives signals that are reflected from satellites

C. Attached wireless communication facility: A wireless communication facility that is affixed to an existing structure, e.g., an existing building, wall or roof, mechanical equipment or alternative tower structure.

D. Attachment: An antenna or other piece of related equipment affixed to a transmission tower.

E. Base Station: Any on-site fencing, equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with a tower. The term does not include a tower or facilities affixed to a tower.

F. Co-location: The mounting or installation of antenna on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

G. Fall zone: The area within a prescribed radius from the base of a wireless communication facility. The fall zone is the area within there might be a potential hazard from falling debris or a collapsing mount.

H. Height: The distance measured from above ground level to the highest point of a wireless communication facility, including the antenna array. For purposes of measuring height, all attachments shall be included in the measurements to determine overall combined height.

I. Roof line: The highest point of a roof, excluding chimneys, parapets, tanks, ventilating fans, towers, steeples, flagpoles, or similar structures.

J. "Substantially change the physical dimensions" means:

1. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from the inclement weather or to connect the antenna to the tower via cable; or

4. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

K. Support structure: The structure to which wireless communication antennae and other necessary hardware are mounted. For purposes of this ordinance, the terms "support structure", "tower", and "transmission tower" shall be interchangeable. Support structures include, but are not limited to:

1. Lattice tower: A freestanding support structure which consists of an open framework of crossed metal braces on three or four sides which stabilize the tower and which is built without guy wires and ground anchors.

2. Monopole: A freestanding support structure consisting of a single upright pole sunk into the ground and/or attached to a foundation and engineered to be self-supporting without guy wires or ground anchors.

3. Guyed tower: A tower which is supported, in whole or in part, by the use of cables (guy wires) and ground anchors.

L. Tower height: The distance measured vertically from the highest point when positioned for operation to the lowest point, which is defined as the bottom of the base of the structure being measured at either roof level for a roof-mounted structure or at ground level for a freestanding structure. The height of a tower shall include the height of any antenna positioned for operation attached or which may be attached to the highest point of the tower.

M. Wireless communication facilities (WCF): An unstaffed facility, and its component parts, for the transmission and reception of radio or microwave signals used for commercial communications. Wireless communication facilities include facilities that provide telecommunication service as defined by the Federal Telecommunications Act of 1996, and facilities that use technologies that currently exist or that may be developed in the future, including but not limited to cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, and similar Federal Communications Commission (FCC) licensed commercial wireless telecommunications services. Wireless communication facilities are composed of a support structure and ancillary facilities.

**10-33-3: SITING PERMITS, EXEMPTIONS, SITE REVIEW & CONDITIONAL USES, APPLICATION CONTENTS:**

A. Siting Permits Required: Except as provided in subsection B of this section, no wireless communications facility may be sited, or existing facility modified, without a sighting permit. Siting of wireless communications facilities shall be according to the following priority, by descending order of preference:

1. First Priority: Collocation or attachment of an antenna or antenna array on a support tower, support structure, or utility structure;
2. Second Priority: Replacement of a utility structure for the purpose of attachment of an antenna or antenna array.
3. Third Priority: Substantial change in the physical dimensions of a support tower or replacement with a support tower that represents a substantial change in the physical dimensions of the original support tower;
4. Fourth Priority: Construction of a new support tower.

B. Exemptions: A siting permit is not required for the following when meeting the height requirements of the district where the facility is located and the development standards of FCC 10-33-4:

1. Sighting of dish or other antenna with a diameter of 3 feet or less or height of 5 feet or less, respectively, solely for the benefit of persons residing on a property or necessary for the conduct of the business on the site of the dish or antenna.
2. Sighting of temporary wireless communications facilities that are used by a public agency or wireless carrier for emergency communications, emergency preparedness, or other public health or safety purposes or during support structure and facility replacement.
3. Amateur radio towers, also known as Ham radios, and associated equipment.
4. Ordinary or emergency maintenance or repair of a wireless communications facility that does not increase the size, footprint, or bulk of such facilities, and which otherwise comply with City, state, and federal regulations.

C. Siting Permits. Siting permits shall be processed using the following procedures.

1. Type 1 review is required for:
    a. A modification of an existing support structure or base station for the collocation of or attachment of new transmission equipment or removal or replacement of existing transmission equipment, pursuant to 47 U.S.C. § 1455, and notwithstanding any provision of this Chapter to the contrary, provided that such modification does not “substantially change the physical dimensions” of such support structure or base station from the dimensions approved as part of the original decision or building permit for the support structure or base station, that the applicant requesting a modification or expansion of a support structure or base station establishes by substantial evidence that the requested separation between antennas is the minimum necessary to avoid interference, and, to the extent feasible, that the additional equipment or modified equipment shall maintain the appearance and design of the original facility, including, but not limited to, color, screening, landscaping, stealth or camouflage design, mounting configuration, and architectural treatment.
    b. Siting of temporary wireless communications facilities which do not meet the criteria listed in FCC 10-33-3-B-2 above or that will require placement for longer than 60 days, but no longer than 120 days.

2. A Type II Review shall be required for all proposals meeting the height requirements in FCC 10-33-4-B.
3. A Type III (Conditional Use Permit) Review shall be required for all proposals which do not meet the height requirements listed in FCC 10-33-4-B and all proposals.

D. Application Contents: For a siting permit, the applicant shall submit:

1. A site plan, drawn to scale.
2. To-scale elevations of all proposed buildings and structures, together with a depiction of proposed screening.
3. A landscaping and screening plan.
4. The engineered design capacity of the WCF relative to the number and type of antenna it is designed to accommodate, at the location of such antenna in such a manner as to optimize performance, minimize visual impact, and encourage co-location.
5. A feasibility study showing why this facility is necessary, including but not limited to an alternate candidate analysis and coverage/capacity maps depicting anticipated coverage and the area to be serviced. The study shall demonstrate the priority designation of the facility and why other higher priority options under 10-33-3-A are not feasible. The study must show that co-location is unfeasible due to one or more of the following reasons: structural support limitations, safety considerations, lack of available space, failure to meet service coverage needs, consent cannot be obtained, or unreasonable economic constraints.
6. Evidence of conformance with FAA requirements.
7. Details of proposed security measures and content and location of warning signs. Such signs shall include notification of any hazardous materials onsite, and a 24/7 contact number for emergency use.
8. Evidence that the proposed WCF meets FCC electromagnetic radiation emission standards.
9. Narrative showing compliance with conditional use criteria and/or design review criteria.
10. Applications that require a Type III review shall conduct a meeting with surrounding property owners prior to the submittal of a land use application. To the greatest extent practical, the neighborhood meeting shall be held in the general vicinity of the proposed telecommunications facility.
    a. Notice of the meeting shall be sent to neighboring property owners within 300 feet of the subject parcel and the Planning Department.
    b. The applicant shall mail notice no less than 14 days prior to the date set for the meeting to owners of record including the date, time, and location of the meeting, as well as information that the topic of the meeting will be to discuss the proposed location of a telecommunications facility on the subject property. The notice shall state the assessor's map and taxlot numbers for the subject property and, if available, the address of the subject property.
    c. The application submittal shall include the following:
        i. Notice letter and any attachments;
        ii. Mailing labels;
        iii. Affidavit of mailing;
        iv. List of attendees;
        v. Summary of discussion.

**10-33-4: DEVELOPMENT STANDARDS:** WCFs shall meet the following development standards:

A. Setbacks:

1. WCFs shall not be located in front yards
2. Telecommunication facilities meeting the height requirements of the underlying district shall meet the setbacks required in that district.
3. The setback of the structure shall be governed by the setback requirements of the underlying zone. In all zoning districts, the Planning Commission may allow a variance to any required setback upon the request of the applicant if:
    a. The Applicant provides a letter stamped by a certified structural engineer documenting that the proposed structure's fall zone is less than the actual height of the structure.
    b. The Applicant can show that the proposed encroachment of the setback minimizes the potential adverse impacts through natural topography, reasonable design, landscape and/or construction practices.
    c. The setback of the structure shall be governed by the setback requirements of the underlying zone. However, the setback for a WCF from a residential dwelling not on the subject parcel shall be no less than the height of the proposed facility.
4. Additional setbacks may be required if there are lighting or noise impacts, or if protection from damage or collapse of the facility warrants additional setbacks.

B. Height Limits by District: Height limits for each district apply to all wireless telecommunication facilities, including those exempted from Siting Permits. Wireless telecommunications facilities in excess of these height limits may be permitted through a Type III review process.

1. <u>Limited Industrial, Service Industrial, Marine, Pacific View Business Park and Highway Districts:</u> All non-exempt WCF meeting the height requirements of those districts are subject to Siting Permits. Those height limits are 38' from ground-level in the Limited Industrial District, Service Industrial, Marine, and Pacific View Business Park Districts and 28' from ground-level in the Highway District. Permitted without review or siting permits are antenna mounted on a roof or side of a building where such antenna is necessary for the conduct of the business on the site of the antenna and extends no more than 8 feet above the roof line.
2. <u>Old Town, Mainstreet, Professional Office / Institutional and Commercial Districts:</u> WCF may extend 5' above the roofline.
3. <u>North Commercial District:</u> WCF may extend 5' above the roofline.
4. <u>Public and Estuary Districts:</u> WCF heights may not exceed those of the most restrictive abutting district.
5. <u>Residential Districts:</u> WCF may not exceed 5' in height above the roofline in any residential district. Towers erected for use by amateur radio operators may exceed the 5' above roofline restriction if it is demonstrated that the increased height is technically necessary to enable functional radio communications is approved through a Type II Review.
6. <u>Public Facilities:</u> Monopoles for personal communication devices attached to existing light, power, or telephone poles may not extend more than 6' in height in any zone. WCFs attached to existing public facilities may not exceed 9' in height. The owner of the facility may require screening, security measures, or liability coverage, and may control access to the facility.

7. Amateur Radio Towers: Towers erected for use by amateur radio operators may not exceed 40' in height. Amateur radio towers in excess of 40' shall be reviewed by a committee of three amateur radio operators to determine whether the additional height is technically necessary to enable functional amateur radio communications and reviewed through a Type II Review.

C. Collocation Required: All wireless communications facilities located in the right-of-way shall be collocated or attached to replacement utility structures. All wireless communications facilities located outside the right-of-way shall be collocated, unless the collocation would interfere with other wireless communications facilities located on the same structure or jeopardize the physical integrity of the structure upon which collocation will be made, consent cannot be obtained for collocation on the structure, or the available structures do not provide sufficient height to obtain coverage or capacity objectives.

D. Access: Access to commercial WCFs shall be from an arterial or a collector street.

E. General Requirements:

1. Tower sharing: WCFs shall incorporate co-location either with another existing facility, or offer the option for another entity to co-locate on the proposed facility.
2. Towers exceeding height limits: Towers which exceed district height limits shall not exceed that necessary to meet the needs of the applicant, provide reasonable service to the Florence area, and provide for future collocation of facilities to prevent the siting of additional towers.
3. Security: Antennas must be secured from public access, either by vertical or horizontal separation, fencing not less than 6 feet in height, locked access, or other measures as appropriate. Ladders, rungs, and other means of access shall be locked or removed to prevent unauthorized access to the facility.
4. Tower Color, Finish, Concealment: For towers not regulated by the Oregon Department of Aviation, or Federal Aviation Administration, a non-reflective finish (paint / surface) must be provided that reduces the visibility of the structure so as to blend in with the surrounding environment. In the alternative, the tower may be designed so as to look like some feature other than a wireless tower from the surrounding environment. Whether via color, finish, or design, the proposed WCF design shall reduce, to the extent reasonably feasible, the visibility of the proposed facility from adjacent streets, residences, parks and viewpoints.
5. Landscaping / Screening: The base of a tower and all necessary equipment or structures located at grade must be fully screened from the street and any abutting sites as follows:
    a. A landscaped area at least 5 feet deep meeting the requirements of FCC 10-34-3-7 must be provided around the base of a tower and all accessory equipment or structures located at grade.
        i. Landscaping shall be selected from the City of Florence Tree and Plant List and planted with a minimum height of 4 feet.
        ii. Plantings shall be spaced evenly apart to create adequate screening density, provided that maximum spacing shall be 36 inches on center.
        iii. Plantings shall be of a species that attain a minimum mature height of 10 feet.
        iv. Plantings shall be comprised of a minimum of three varieties of shrub species, preferably evergreen.
        v. Maintenance of landscaping shall meet the criteria of FCC 10-34-3-8.
    b. Sight Obscuring Fence: A sight-obscuring fence that is a minimum of 6 feet high and shall consist of chain link with slats, wood, masonry, or brick.

c. Equipment shelters / cabinets: All at-grade equipment shall be enclosed within equipment shelters and/or cabinets constructed of wood, metal, or masonry. Building materials shall be stained or painted in a color that is consistent and compatible with surrounding development and then sealed for weather protection. Roofing and other architectural treatments proposed for the material shall also be consistent and compatible with surrounding development. Shipping containers are not acceptable unless fully screened. Ground mounted equipment cabinets shall be of a muted, earth-tone Pacific Northwest coastal color palette.

d. The Planning Commission may approve plans which do not meet the above criteria, but serve the intended purpose through alternative means.

6. State and Federal Requirements: The site shall comply with electromagnetic radiation emission standards as established by the FCC. No WCF shall interfere with public safety telecommunications. Applicants must provide certification from a registered engineer that the proposed facility will be in compliance with FCC emission standards with the permit application. The applicant shall also provide certification from a registered engineer that the proposed facility will be in compliance with FAA and Oregon Department of Aviation standards with the permit application.

7. Lighting: No lighting shall be permitted except as required by the Oregon Department of Aviation, FAA, or as necessary to provide security to the site. Refer to Chapter 10-37 of this Title for lighting requirements.

8. Fall zone: The applicant shall provide a fall zone adequate to protect surrounding uses, especially residences, but no less than the required setback.

9. Liability Coverage: The owner / operator shall certify that they have obtained sufficient liability insurance to cover damage from tower failure or collapse.

10. Lattice towers are permitted only if utilized by essential services such as fire, police, other City services, or amateur radio operators.

11. Noise requirements: Applications to locate or replace accessory equipment in or within 50 feet of a residential zone must be accompanied by a signed and stamped acoustical engineer's report demonstrating that noise levels from the equipment are in full compliance with noise regulations contained within FCC 6-1-2-3.

12. Display: No signs, striping, graphics, or other attention getting devices, other than those required by state or federal regulations, are permitted on the transmission tower or ancillary facilities. Notwithstanding the proceeding, each sign may be no larger than 3 square feet in surface area. Such signs must be single-faced, two dimensional and unlit; commonly, such signs are used to display ownership information, a warning message, or a safety message.

**10-33-5: MAINTENANCE:** The owner(s) of any WCF shall maintain the facility and its accessory structures in a way that provides for safety and continuous compliance with any conditions of approval.

**10-33-6: DECOMMISSIONING:**

A. If an owner plans to abandon or discontinue operation of a WCF, such owner shall notify the City by certified mail of the proposed date of abandonment or discontinuance of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuance.

B. The City may require, as part of a review process, that an applicant post a bond or other financial security in the amount necessary to remove a WCF and its accessory structures in the case of discontinuance of use.

C. In the event that an owner discontinues use of a transmission facility for more than six consecutive months, the City may require that the owner remove the WCF and associated accessory structures. Failure to remove the WCF without a request for extension of use, or other application to the City for continuation of use, shall allow the City to declare the WCF a nuisance and subject to the abatement procedures of the Florence City Code. The City may utilize the bond or other financial security for abatement.

**10-33-7: SEVERABILITY:** If any section, subsection, sentence, clause, phase or portion of this code is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

**10-33-8: REVIEW OF REGULATIONS:** New federal or state standards. In the event that either the federal or state government adopts mandatory or advisory standards more stringent than those described in this chapter, the Planning staff will prepare a report and recommendation on any necessary revisions to the City's adopted standards.

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Ordinance No. 17, Series 2003
Section 10-33-7 amended by Ord. No. 12, Series 2014, effective 12-31-14
Sections 10-33-2 through 10-33-13 modified and/or deleted by Ord. No. 8, Series 2016, effective 7-20-16

**TITLE 10**
**CHAPTER 34**

# LANDSCAPING

SECTION:


10-34-1: Purpose
10-34-2: Landscape Conservation
10-34-2-1: Applicability
10-34-2-2: Native Vegetation
10-34-2-3: Significant Vegetation
10-34-2-4: Preservation Credit
10-34-3: Landscaping
10-34-3-1: Applicability
10-34-3-2: Landscaping Plan Required
10-34-3-3: Landscape Area and Planting Standards
10-34-3-4: Landscape Materials
10-34-3-5: Irrigation
10-34-3-6: Parking Lot Landscape Standards
10-34-3-7: Buffering and Screening
10-34-3-8: Maintenance
10-34-4: Street Trees
10-34-5: Fences and Walls


**10-34-1: PURPOSE:** The purpose of Chapter 34 is to promote community health, safety, and welfare by protecting natural vegetation and setting development standards for landscaping, street trees, fences, and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health, and character of the community. Landscaping plants and materials are intended to conserve, enhance and be compatible with the coastal village character of Florence, with liberal use of evergreens and native species. The Chapter is organized into the following sections:

**10-34-2: Landscape Conservation** encourages the incorporation of existing native vegetation in landscaping and provides incentives for the preservation or replacement of particularly significant vegetation.

**10-34-3: Landscaping** sets standards for and requires landscaping of all development sites. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other relevant standards are provided in each land use district for specific types of development.

**10-34-4: Street Trees** sets standards for planting of street trees for shading, water quality, and aesthetic purposes.

**10-34-5: Fences and Walls** regulate the design of fences and walls, including allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

## 10-34-2: LANDSCAPE CONSERVATION

**10-34-2-1: Applicability.** Except for single family homes and duplexes the provisions of this Section are applicable to all development sites which contain stands of Native Vegetation or specific Significant Vegetation, as defined below. “Development sites” do not include any street, alley, or public right-of-way.

**10-34-2-2: Native Vegetation.** “Native vegetation” means those plant species native to the Florence region that are listed as native on the suggested *Tree and Plant List for the City of Florence*, such as Shore Pine, Fir, Hemlock, Spruce, Native Rhododendron, Wax Myrtle, Kinnikinnick, Huckleberry and Salal. Preservation of existing native vegetation is strongly encouraged and preferred over removal of vegetation and re-planting. Existing native vegetation may be credited toward the landscape requirements of Section 10-34-3-3 if it is preserved in accordance with the following standards:

A. Living plant material covers a minimum of 70 percent of the area proposed for preservation;

B. Preservation area(s) are a minimum of 30 square feet for any one area with dimensions a minimum of 5 feet on any side to ensure adequate space for healthy plant growth;

C. Preservation area(s) are setback from new construction areas a minimum of 10 feet from new structures, and a minimum of 5 feet from new hard-surface areas (e.g. parking lot, walkways), and replanted with native vegetation if damaged during construction;

D. The preservation area is clearly marked and identified for protection on the landscaping plan as well as on-site (e.g. construction fencing) prior to site disturbance.

E. Existing noxious weeds[1] within the preservation area are removed prior to approval of the installed landscaping; and

F. Preservation areas with grade changes around the perimeter are addressed with appropriate transition or stabilization measures (e.g. retaining wall) to avoid erosion.

**10-34-2-3: Significant Vegetation.** “Significant vegetation” means:

A. Native vegetation, or

B. Plants within designated sensitive land areas such as wetlands, riparian areas, and slopes steeper than 40%, or

C. Trees having a DBH of four (4) inches or larger measured 4½ feet above ground.

[1] Noxious and invasive weeds are those identified by the current Lane County Public Works “Noxious and Invasive Weed Management List,” with additional City of Florence footnotes. If a current county list is not available, the list in the current Oregon Department of Agriculture in “Noxious Weed Policy and Classification System” will be used. Noxious weeds common to the area are Scotch Broom, English Ivy, Gorse, and Himalayan (Armenian) Blackberry.

**10-34-2-4: Preservation Credit**. The City may grant a "Preservation Credit" if existing significant vegetation on the site is preserved, in the form of a reduction of the overall landscape area and planting requirements of Sections 10-34-3-3. The City may authorize credits which effectively reduce the required landscaping if the following standards are met:

A. Significant vegetation species and areas to be preserved shall be mapped and flagged in support of the site development application. Significant trees shall be mapped individually and identified by species and diameter. Wetland resources shall have a current delineation approved by the Department of State Lands. Appropriate protection from construction damage shall be in place prior to site disturbance. For a "Burn to Learn" site, significant vegetation that can be saved shall be protected.

B. Native vegetation, wetland, riparian, and steep slope vegetation shall meet the standards set forth in Section 10-34-2-2 subsections A through F above.

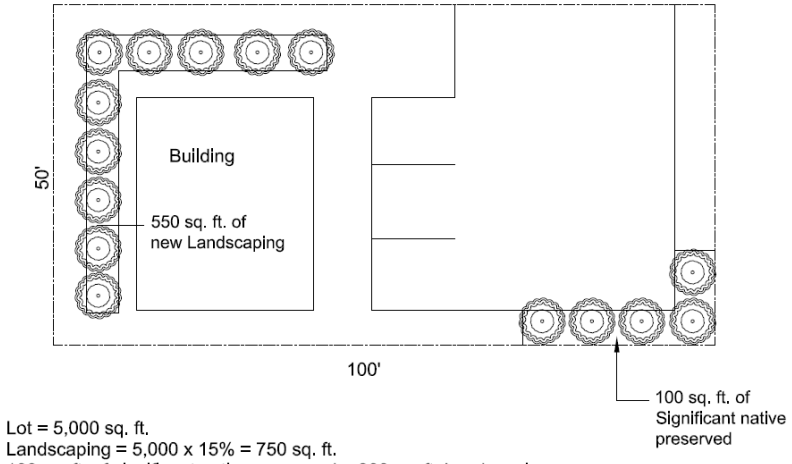
C. Dead or diseased vegetation and split, leaning, or unstable trees shall not qualify as preserved vegetation.

D. Mature vegetation shall be trimmed and pruned as appropriate by qualified personnel to form a long-term element of the site landscaping.

E. Landscape credit for preserved significant vegetation areas shall be granted at the ratio of 2 to 1 (e.g. every one square foot of preserved significant vegetation shall be counted as two square feet in meeting the total specified landscape area for a site). However, in no case shall the requirement for actual landscaped area be reduced below 2/3 of the area that would be required with no credit.

F. Landscape credit for preserved trees shall be granted at the ratio of one less new tree planting for every two (2) inches diameter of preserved significant trees (e.g. a preserved tree of six inch diameter counts as three newly planted trees). This credit can be applied against required front yard, parking island, buffer, and/or street trees. However in no case shall this credit reduce the requirement for newly planted trees below 2/3 of the number that would be required with no credit. All preserved trees shall be protected from construction compaction or grade changes of more than six inches on the surface area in relation to the crown of the tree canopy.

G. **Figure 10-34(1): Native Preservation Credit Trade-off**




Lot = 5,000 sq. ft.
Landscaping = 5,000 x 15% = 750 sq. ft.
100 sq. ft. of significant native preserved = 200 sq. ft. Landscaping
New Planting = 750 sq. ft. - 200 sq. ft. = 550 sq. ft. new Plantings.
Actual landscaped area coverage = 650 sq. ft./5,000 sq. ft. = 13%

## 10-34-3: LANDSCAPING

**10-34-3-1: Applicability.** Except for single-family and duplex dwelling uses, this Section shall apply to all new development as well as changes of use and expansions as described below, and shall apply in all districts except where superseded by specific zoning district requirements. These provisions shall be in addition to the provisions of FCC Title 9 Chapter 5 and where there are conflicts, the provisions of Title 9 Chapter 5 shall prevail.

A. For new developments, all landscaping shall meet current code requirements. (Ord. 4, 2011)

B. For modifications or additions to existing development, landscaping shall be brought up to current code requirements in the same proportion as the increase in use and/or building size. (Ord. 4, 2011)

**10-34-3-2: Landscaping Plan Required.** A landscape plan is required. All landscape plans shall include the following information:

A. The location and height of existing and proposed fences and walls, buffering or screening materials.

B. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas.

C. The location, size, and species of the new proposed plant materials (at time of planting).

D. The location(s) of areas where existing vegetation will be cleared and the location(s) of areas where existing vegetation will be preserved, delineated on a recent aerial photo or site plan drawn to scale.

E. Existing and proposed building and pavement outlines.

F. Specifications for soil at time of planting, irrigation and anticipated planting schedule.

G. Other information as deemed appropriate by the City Planning Official.

**10-34-3-3: Landscape Area and Planting Standards.** The minimum landscaping area is 15% of the lot area, unless specified otherwise in the applicable zoning district[2] for the proposed use. This required minimum landscaping area may be reduced if preservation credits are earned as specified in Section 10-34-2-4.

A. Landscaping shall include planting and maintenance of the following:

1. One tree per 30 lineal feet as measured along all lot lines that are adjacent to a street.

2. Six shrubs per 30 lineal feet as measured along all lot lines that are adjacent to a street.

3. Living plant materials shall cover a minimum of 70 percent of the required landscape area within 5 years of planting.

[2] Mainstreet District (FCC 10-27) and Old Town District, Area A and B (FCC 10-17A and 10-17B) require 10% of the gross lot area to be landscaped.

4. Except for preservation of existing significant vegetation, the required plant materials on-site shall be located in areas within the first 20 feet of any lot line that abuts a street. Exceptions may be granted where impracticable to meet this requirement or the intent is better served. Required trees may be located within the right-of-way and must comply with Section 10-34-4. Plant materials may be installed in any arrangement and do not need to be equally spaced nor linear in design. Plantings and maintenance shall comply with the vision clearance standards of FCC 10-35-2-13.

5. Pocket-planting[3] with a soil-compost blend around plants and trees shall be used to ensure healthy growth.

B. Noxious Weeds shall be removed during site development and the planting of invasive or noxious weeds is prohibited.

**10-34-3-4: Landscape Materials.** Permitted landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, existing native vegetation, outdoor hardscape features and storm water features, as described below.

A. Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used, consistent with the purpose of this Chapter. A suggested *Tree and Plant List for the City of Florence* and the *Sunset Western Garden Book* are available at City Hall. The selection of plant and tree species shall be based upon site conditions such as wind and sun exposure, space limitations, water availability, and drainage conditions. The use of indigenous plants is encouraged, and may be required where exposure, slope or soil conditions warrant.

1. Ground Cover. Ground cover may consist of separate plants or mowed grass turf. Ground cover plant species shall meet the following minimum standards: plants from 4-inch pots shall be spaced a maximum of 18 inches measured on center, and 1-2 gallon size plants shall be spaced a maximum of 3 feet measured on center.

2. Shrubs. Shrub plant species shall be planted from 3 gallon containers unless otherwise specified in the *Tree and Plant List for the City of Florence*.

3. Trees. Evergreen and deciduous tree species shall meet the following minimum standards: deciduous trees shall be a minimum of 1 ¾ inch caliper (diameter) measured 6 inches above grade, and evergreen trees shall be a minimum of 5 feet tall (Nursery Grade 5/6).

4. Non-plant Ground Covers. Bark dust, chips, aggregate, or other non-plant ground covers may be used. Non-plant ground cover located adjacent to pedestrian ways shall be confined to the material within the planting bed to avoid safety hazards by edging 4 inches above-grade or recessing from grade. Non-plant ground covers cannot be a substitute for ground cover plants.

B. Existing Native Vegetation. Preservation of existing native vegetation is encouraged and preservation credits in accordance with Section 10-34-2-4 may be used to meet the landscape requirements of this Chapter.

[3] Pocket-planting is used in conjunction with sandy soils by removing existing sand approximately twice the width and the same depth of the pot, and replacing it with a soil-compost blend.

C. Hardscape features, such as plazas, pathways, patios and other pedestrian amenities may count toward ten (10) percent of the required landscape area, except in the Old Town and Main Street districts where hardscape features may count toward 50 percent of the landscape area, provided that such features conform to the standards of those districts. Swimming pools, sports courts, decks and similar facilities may not be counted toward fulfilling the landscape requirement in any zone.

D. Storm Water Facilities. Storm water facilities, such as detention/retention ponds and swales shall be landscaped. Landscaped bio-swales are encouraged and shall count toward meeting the landscaping requirement of this section if they are designed and constructed in accordance with the standards specified in Title 9 Chapter 5, and approved by the Public Works Department. Storm water facilities shall be landscaped with water-tolerant, native plants.

**10-34-3-5: Irrigation.** Permanent, underground irrigation is required for all landscaping, except existing native vegetation that is preserved in accordance with the specifications of Section 10-34-2-2 and new drought tolerant plants which must have temporary irrigation for plant establishment. All irrigation systems require an irrigation permit and shall be installed with a backflow prevention device per FCC 9-2-3-5.

**10-34-3-6: Parking Lot Landscape Standards.** All parking lots shall meet Parking Area Improvement Standards set forth in FCC 10-3-8. Parking areas with more than twenty (20) spaces shall include interior landscaped “islands” to break up the parking area. Interior parking lot landscaping shall count toward the minimum landscaping requirement of Section 10-34-3-3. The following standards apply:

A. For every parking space, 10 square feet of interior parking lot landscaping shall be provided;

B. Parking islands shall be evenly distributed to the extent practicable with a minimum of one tree selected from the *Tree and Plant List for the City of Florence* installed per island;

C. Parking island areas shall provide a minimum of 30 square feet of planting area and any planting area dimension shall be a minimum of 5 feet on any side (excluding curb dimensions), unless reduced by the Planning Commission where a lesser distance will provide adequate space for healthy plant growth;

D. Irrigation is required for interior parking lot landscaping to ensure plant survival;

E. Living plant material shall cover a minimum of 70% of the required interior parking lot landscaping within 5 years of planting; and

F. Species selection for trees and shrubs shall consider vision clearance safety requirements and trees shall have a high graft (lowest limb a minimum of 5 feet high from the ground) to ensure pedestrian access.

**10-34-3-7: Buffering and Screening**. Buffering and screening are required under the conditions listed below. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with FCC 10-35-2-13. (See Section 10-34-5 for standards specific to fences and walls.)

A. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area is adjacent and parallel to a street or driveway, a berm; an evergreen hedge; decorative wall (masonry or similar quality material) with openings; arcade; trellis; or similar partially opaque structure 3-4 feet in height shall be established between street and driveway or parking area. See also FCC 10-3-7-D for standards specific to parking lots adjacent to the street. The required screening shall have breaks or portals to allow visibility (natural surveillance) into the site and to allow pedestrian access to any adjoining walkways. Hedges used to comply with this standard shall be a minimum of 36 inches in height at maturity, and shall be of such species, number, and spacing to provide year-round screening within five (5) years after planting. Vegetative ground cover is required on all surfaces between the wall/hedge and the street/driveway line.

B. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area or driveway is adjacent to a building, the area shall be separated from the building by a curb and a raised walkway, plaza, or landscaped buffer not less than five (5) feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles.

C. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Other Screening When Required. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas shall be screened from view from all public streets and adjacent Residential districts. When these or other areas are required to be screened, such screening shall be provided by:

1. a decorative wall (i.e., masonry or similar quality material),
2. evergreen hedge,
3. opaque or sight-obscuring fence complying with Section 10-34-5, or
4. a similar feature providing an adequate screen.

D. Abutting Land Use Buffers. When a commercial, industrial, or other non-residential use abuts a residential district or residential land use, a visual and noise buffer shall be established and maintained immediately adjacent to the residential property line, consistent with the standards listed in the table below. In no case shall the buffer strip be less than 15 feet in width unless reduced by the Planning Commission where a lesser distance will provide adequate buffering. The buffer strip may include existing vegetation, landscape plantings, evergreen hedge, berm, fence, and/or wall components. Fence and wall structures shall be not less than 6 feet and no more than 8 feet in height (see also Section 10-34-5). The landscaped buffer shall effectively screen at least 70 percent of the view between districts within five (5) years. Significant vegetation in these buffer strips may be preserved in accordance with Section 10-34-2, and replanting of local native vegetation is encouraged.

| Adjoining Land Use / Zoning | Landscaped Buffer and/or Fence or Wall |
|---|---|
| Abutting single family Zoning or use | 15 foot buffer with 6' solid wood fence or block wall<br>or<br>35 foot landscaped buffer |
| Abutting Duplex, triplex or townhouse zoning or use | 15 foot buffer with 6' solid wood fence or block wall<br>or<br>25 foot landscaped buffer |
| Abutting multiple family or condominiums | 15 foot buffer with 6' solid wood fence or block wall<br>or<br>15 foot landscaped buffer |

**10-34-3-8: Maintenance.** If the plantings fail to survive, the property owner shall replace them with an equivalent specimen (i.e., native Rhododendron replaces native Rhododendron, evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) within six (6) months of their dying or removal, whichever comes first. All man-made features required by this Code shall be maintained in good condition, or otherwise replaced by the owner within six (6) months of any such feature being removed or irreversibly damaged (whichever comes first).

**10-34-4: STREET TREES:** Street trees are trees located within the right-of-way.

A. **Street Tree List.** Trees shall be selected from the *Tree and Plant List for the City of Florence* based on climate zone, growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. Other tree species are allowed with City approval.

B. **Caliper Size.** The minimum diameter or caliper size at planting, as measured six (6) inches above grade, is one and one half (1 ½ ) inches with a high graft (lowest limb a minimum of 5 foot high from the ground) to ensure pedestrian access.

C. **Spacing and Location.** Street trees shall be planted within the street right-of-way within existing and proposed planting strips or in sidewalk tree wells on streets without planting strips, except when utility easements occupy these areas, in accordance with the requirements of FCC 10-35-2-3 and 10-36-2-16. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity and, at a minimum, the planting area shall contain sixteen (16) square feet, or typically, a four (4) foot by four (4) foot square. In general, trees shall be spaced no more than thirty (30) feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. All street trees shall be placed outside utility easements, and shall comply with the vision clearance standards of FCC 10-35-2-14.

D. **Soil Preparation, Planting and Care.** Street trees shall be planted with root guards to preserve the physical integrity of sidewalks and streets. Pocket-planting with a soil-compost blend around trees shall be used to ensure healthy growth (see footnote to FCC 10-34-3-3-A-5). The developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for three years after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first three years after planting, after which the adjacent property owners shall maintain the trees.

**10-34-5: FENCES AND WALLS:** Construction of fences and walls shall conform to all of the following requirements:

A. **General Requirements.** All fences and walls shall comply with the height limitations of the respective zoning district and the standards of this Section. The City may require installation of walls and/or fences as a condition of development approval, in accordance with land division approval, approval of a conditional use permit, or design review approval. When required through one of these types of approvals, no further land use review is required. (See also, Section 10-34-3-6 for landscape buffering and screening requirements.)

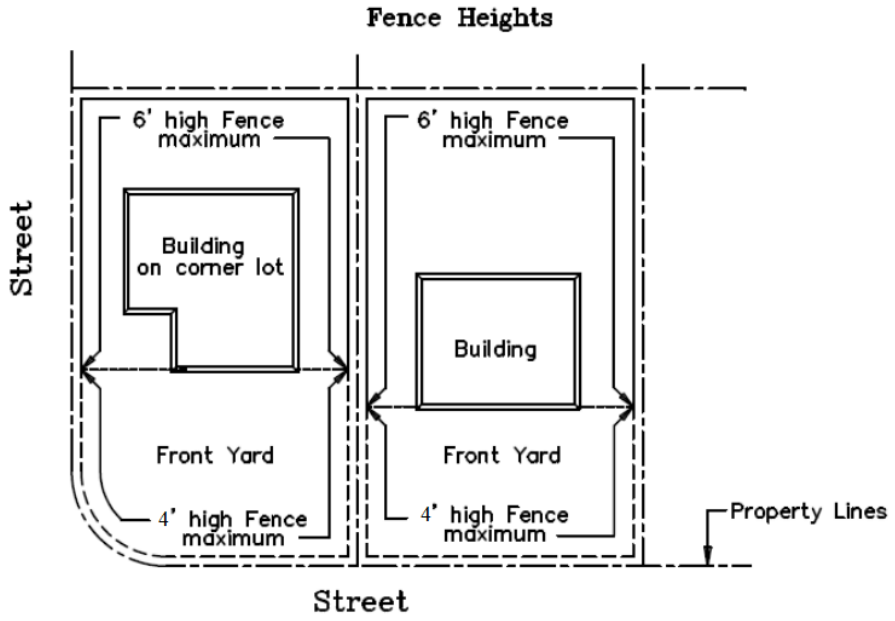
B. **Dimensions.**

1. Residential Zones: Except as provided below, the height of fences and walls between the building and the front lot line shall not exceed four (4)feet as measured from the grade and no greater than 6 feet in height in rear and side yards unless the front door is located on the longer side of the lot, in which case the fence shall not exceedfour (4) feet in height or taller fences or walls are allowed through a Type II or III Design Review approval. (See Figure 10-34(2))

2. Commercial and Industrial Zones: Except as provided below, the height of fences and walls in any required front yard shall not exceed four (4) feet as measured from the grade and no greater than eight (8) feet elsewhere on site.

**Figure 10-34(2): Residential and Commercial Fence Standard**

**Figure 10-34(2): Residential and Commercial Fence Standard**



C. **The following exceptions may be allowed through Type I, II or III Review.**

1. Specifically for RV parking in residential zones, the height of fences and walls shall not exceed eight (8) feet in the rear and side yards.

2. A retaining wall exceeding four (4) feet in height within a front yard setback which is necessary for site grading and development (see also FCC 10-34-5-D-3).

3. One arbor, gate, or similar garden structures not exceeding eight (8) feet in height and six (6) feet in width is allowed within the front yard, provided that it is not within a required clear vision area. Courtyard walls up to 6 feet in height may also be allowed in the front yard.

4. Walls and fences for swimming pools, tennis courts, and other recreational structures may exceed six (6) feet provided they are not located in the front yard.

5. Walls and fences taller than otherwise allowed if needed for screening, safety or security purposes.

D. **Specific Requirements**

1. Walls and fences to be built for required buffers shall comply with Section 10-34-3-7.

2. Fences and walls shall comply with the vision clearance standards of FCC 10-35-2-14.

3. Retaining walls exceeding four (4) feet in height and freestanding walls or fences greater than seven (7) feet in height require a building permit

4. Sheet Metal Fencing (as permitted) shall meet the following criteria:

   a. Must have appropriate weatherization coating to address vulnerability to rust in Florence's coastal climate.

   b. Must be installed and maintained as per warranties to ensure longevity. Warranty documentation must be submitted to the Planning Director before approval.

   c. Shall be maintained in good condition (rust and hole free, non-peeling, and absent of similar signs of disrepair), or otherwise replaced by the property owner.

   d. Sheet metal fencing, due to its manufacturing design, will be either horizontally or vertically dominant depending on the manner of installation. To break up the dominant vertical or horizontal orientation, the fence design along streets shall incorporate variable architectural detail. This can be accomplished through one or more of the following a minimum of every eight (8) feet;

      1. Addition of vertical siding trim strips and cap trim of colors different yet complimentary to the fence color.

      2. Change in orientation of sheet metal.

      3. Vertical offsets (staggered fence line).

E. **Maintenance.** For safety and for compliance with the purpose of this Chapter, walls and fences required as a condition of development approval shall be maintained in good condition, or otherwise replaced by the property owner.

F. **Materials.**

1. Permitted materials: wood; chain-link steel, iron, bricks, stone; stucco, or similar masonry, and non-prohibited evergreen plants.

2. Materials permitted with Administrative Design Review: Sheet metal is permitted within the Limited Industrial District with Administrative Design review Approval.

3. Prohibited materials: unfinished concrete blocks; straw bales; electric or razor wire; scrap lumber or other scrap materials; sheet metal; and hedges taller than eight (8) feet. Sheet metal is prohibited within all districts except the Limited Industrial District.

4. Barbed wire fencing may be permitted only within commercial and industrial zones or on public property subject to the criteria in FCC 6-1-7-14.

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Created by Ord. 9, Series 2009
Section 10-34-3-7-D amended by Ord. No. 4, Series 2010 (effective 4/5/10)
Sections 10-34-3-1-A, 10-34-3-1-B, 10-34-3-4-A-1, 10-34-5-B-1, and 10-34-5-B-2 amended by Ord. No. 4, Series 2011 (effective 4/22/11)
Section 10-34-3-1 amended by Ord. No. 18, Series 2011 (effective 9/19/11)
Section 10-34-3-4 amended by Ord. No. 3, Series 2013 (effective 7-31-13)
Section 10-34-5-D and F amended by Ord. 4, Series 2013 (effective 1-8-14)
Sections 10-34-4 and 10-34-5 amended by Ord. 11, Series 2016 (effective 11-16-16)

**TITLE 10**
**CHAPTER 35**

# ACCESS AND CIRCULATION

SECTION:

10-35-1: Purpose
10-35-2: Vehicular Access and Circulation
10-35-2-1: Intent and Purpose
10-35-2-2: Applicability
10-35-2-3: Access Approval Required
10-35-2-4: State and County Access Permits
10-35-2-5: Traffic Study Requirements
10-35-2-6: Conditions of Approval
10-35-2-7: Intersection Separation; Backing onto Public Streets
10-35-2-8: Access Standards
10-35-2-9: Site Circulation
10-35-2-10: Joint and Cross Access – Requirement
10-35-2-11: Joint and Cross Access – Easement and Use and Maintenance Agreement:
10-35-2-12: Driveway Design
10-35-2-13: Vertical Clearances
10-35-2-14: Vision Clearance
10-35-3: Pedestrian Access and Circulation
10-35-3-1: Sidewalk Requirements
10-25-3-2: Site Layout and Design
10-35-3-3: Walkway and Multi-Use Path Design and Construction
10-35-4: Transit Facilities

**10-35-1: PURPOSE:** The purpose of this Chapter is to ensure that developments provide safe, adequate, cost effective and efficient access and circulation for pedestrians, bicycles and vehicles. Section 10-35-2 provides standards for vehicular access and circulation. Section 10-35-3 provides standards for pedestrian access and circulation. Standards for street improvements are provided in Chapter 36 of this Title.

## 10-35-2: VEHICULAR ACCESS AND CIRCULATION:

**10-35-2-1: Intent and Purpose:** This Section implements the access management policies of the City of Florence Transportation System Plan. The intent of this Section is to manage vehicular and bicycle access and on-site circulation to ensure the continued operational safety, capacity and function of the transportation system in a cost effective manner.

**10-35-2-2: Applicability:** Section 10-35-2 applies to vehicle access and on-site circulation facilities in the City of Florence. This Section applies to any type of land use or development permit. Access to a designated state or county highway is subject to the provisions of this Section in addition to the requirements of the applicable roadway authority. Where regulations of the City conflict with those of the roadway authority the more restrictive requirements apply.

**10-35-2-3: Access Approval Required:** Access will generally be reviewed in conjunction with a land division or building permit. If a property owner wishes to access a public street (e.g., a new curb cut or driveway approach), or make improvements within the public right-of-way (e.g., install or replace sidewalk), the property owner must obtain a "Construction Permit in Right-of-Way". In either case, approval of an access shall follow the procedures and requirements of the applicable road authority.

**10-35-2-4: State and County Access Permits:** ODOT has responsibility and authority in managing access to State Highways and Lane County has responsibility and authority in managing access to County roads within the City. Projects with direct access onto a State Highway or County Road shall be required to obtain a State or County access permit. A State or County complete access permit application must be submitted as part of all land use permits. Conditions placed by the State or County upon these access permits shall be considered conditions of approval for all applicable land use and development approvals. When a transportation improvement is proposed along Highway 101 between the Siuslaw River Bridge and Highway 126, improvements shall be constructed in accordance with the standards specified in the "Highway 101 Access Management Plan." County roads are governed by the Lane County Transportation System Plan and Lane Code Chapter 15.

**10-35-2-5: Traffic Study Requirements:** The City may require a traffic study prepared by an Oregon registered professional engineer with transportation expertise to determine access, circulation, and other transportation requirements in conformance with FCC 10-1-1-4-E, Traffic Impact Studies.

.

A. The Traffic Impact Study shall:

1. Evaluate all streets where direct access is proposed, including proposed access points, nearby intersections, and impacted intersections with the state highway system.

2. Utilize the analysis procedures of the Highway Capacity Manual, latest edition.

3. Document compliance with Florence City Code, the goals and policies of the Transportation System Plan, and any other applicable standards.

4. Be coordinated with other affected jurisdictions and agencies such as Lane County, the Port of Siuslaw, and the Oregon Department of Transportation.

5. Identify mitigation measures that resolve the identified traffic safety problems, address the anticipated impacts from the proposed land use, and meet the city's adopted Level-of-Service standards. The study shall also propose funding for the proposed mitigation measures.

B. The applicant shall consult with City staff to determine the content and level of analysis that must be included in the TIS. A pre-application conference is encouraged.

C. Conditions of Approval: The City may deny, approve, or approve a development proposal with appropriate conditions needed to meet operations and safety standards and provide the necessary right-of-way and improvements to develop the future planned transportation system. Conditions of approval should be evaluated as part of the land division and site development reviews, and may include but are not limited to:

1. Crossover or reciprocal easement agreements for all adjoining parcels to facilitate future access between parcels.

2. Access adjustments, where proposed access points do not meet the designated access spacing standards and/or have the ability to align with opposing access driveways.

3. Right-of-way dedications for future improvements.

4. Street improvements.

5. Turn restrictions such as "right in right out".

**10-35-2-6: Conditions of Approval:** The roadway authority may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting a land use or development approval or access permit, to ensure the safe and efficient operation of the street and highway system.

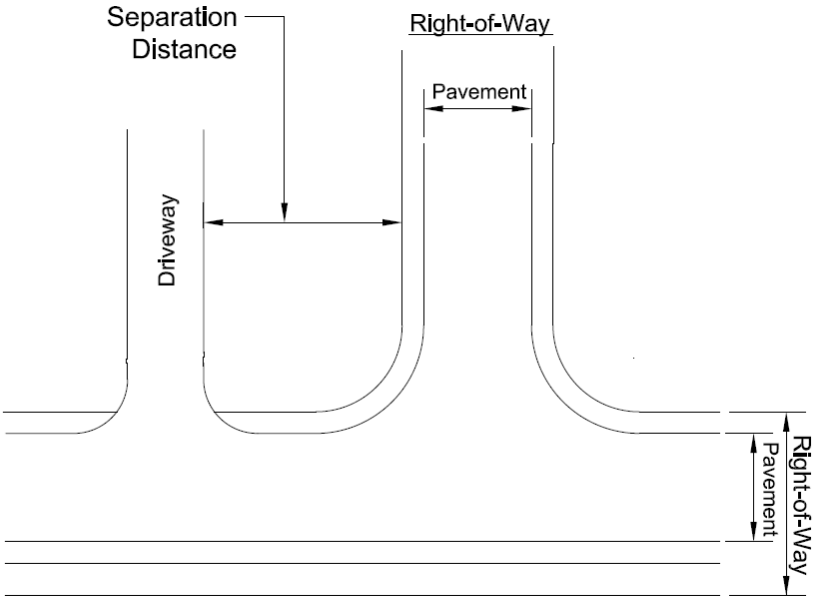
**10-35-2-7: Intersection Separation; Backing onto Public Streets:** New and modified accesses shall conform to the following standards:

A. Except as provided under subsection B, below, the distance from a street intersection to a driveway shall meet the following minimum spacing requirements for the street's classification, as measured from side of driveway to street or alley pavement (see Figure 10-35(1)). A greater separation may be required for accesses onto an arterial or collector for compliance with ODOT or County requirements.

Separation Distance from Driveway to Pavement:

| | |
|---|---|
| Alley | 15 feet |
| Local Street | 25 feet |
| Collector Street | 30 feet |
| Arterial Street | 50 feet |

**Figure 10-35(1): Separation Distance from Driveway to Street**




B. Where the City finds that reducing the separation distance is warranted, such as:

a. no other alternatives exist (e.g., alley or shared access is not feasible, building lot is too narrow, existing building prohibits access at correct distance, etc.), or

b. planned improvements or traffic circulation patterns show a different location to be efficient and safe,

the City may allow construction of an access connection at a point less than the dimensions listed above. In such case, the access should be as far away from the intersection as possible, and the total number of access points to the site shall be limited to the minimum necessary to provide reasonable access. The City may also require shared/joint access and/or impose turning restrictions (i.e., right in/out, right in only, or right out only).

C. Access to and from off-street parking areas shall be designed to prevent backing onto a public street, except that single-family and duplex dwellings are exempt.

**10-35-2-8: Access Standards:** New development shall gain access primarily from local streets. Access onto arterials and collectors shall be evaluated based on access options, street classifications and the effects of new access on the function, operation and safety of surrounding streets and intersections and possible lower level street alternatives. Where such access to higher level street classification is necessary, shared driveways may be required in conformance with FCC 10-35. If vehicle access off a lower-level street is possible, then the City may prohibit access to the higher-level street.

**10-35-2-9: Site Circulation:** New developments shall be required to provide a circulation system that accommodates expected traffic on the site. Pedestrian and bicycle connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, trails or paths, must conform to the provisions in Section 10-35-3.

**10-35-2-10: Joint and Cross Access – Requirement:** When necessary for traffic safety and access management purposes, the City may require joint access and/or shared driveways in the following situations:

A. For shared parking areas;

B. For adjacent developments, where access onto an arterial street is limited and access spacing standards can not otherwise be met;

C. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:

1. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;

2. Driveway stubs to property lines (for future extension) and other design features to demonstrate that the abutting properties may be required with future development to connect to the cross-access driveway;

3. Fire Code Official-approved turnaround for service drives or driveways over 150 feet long.

**10-35-2-11: Joint and Cross Access – Easement and Use and Maintenance Agreement:** Pursuant to this Section, the following documents shall be recorded with the deed for each parcel:

A. An easement allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;

B. An agreement that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

C. A joint maintenance agreement defining maintenance responsibilities of property owners.

**10-35-2-12: Driveway Design:** All openings onto a public right-of-way and driveways shall conform to the following:

A. Driveway Approaches. Driveway approaches, including private alleys, shall be approved by the Public Work Director and designed and located with preference given to the lowest functional classification street. Consideration shall also be given to the characteristics of the property, including location, size and orientation of structures on site, number of driveways needed to accommodate anticipated traffic, location and spacing of adjacent or opposite driveways.

B. Driveways. Driveways shall meet the following standards, subject to review and approval by the Public Works Director:

1. Driveways for single family residences shall have a width of not less than ten (10) feet and not more than twenty-four (24) feet. Driveways leading to covered parking should be not less than 20 feet in depth from the property line to the structure.

2. Driveways shall have a minimum width of ten (10) feet, except where a driveway serves as a fire apparatus lane, in which case city-approved driveway surface of 12 feet minimum width shall be provided within an unrestricted, twenty (20) foot aisle, or as approved by the Fire Code Official.

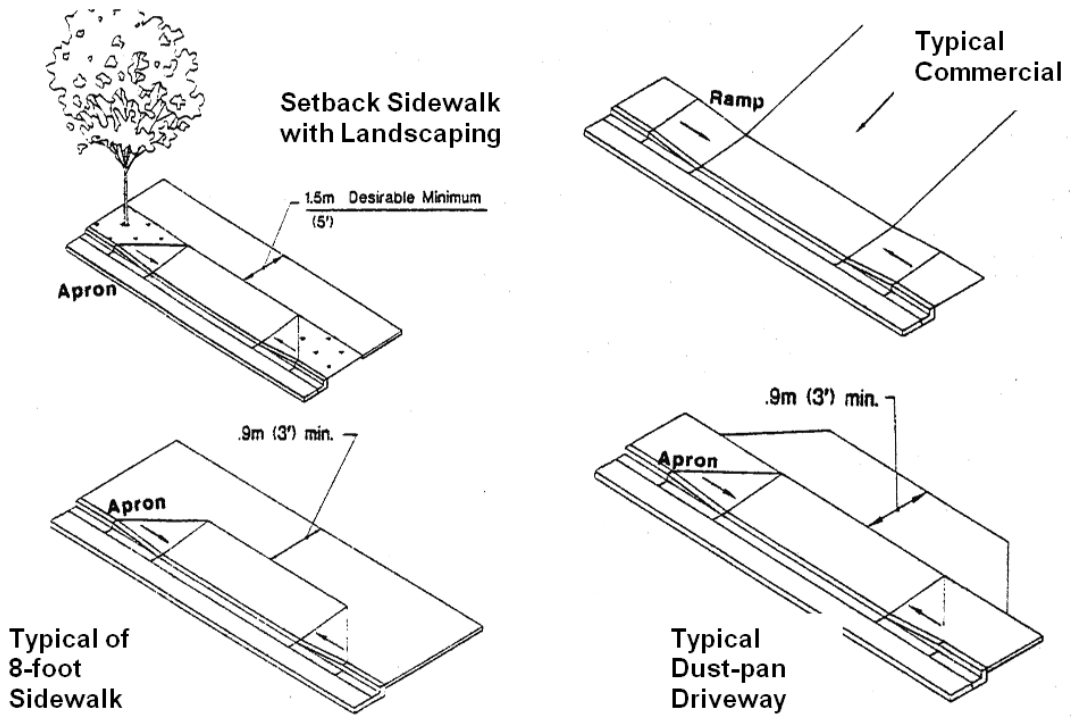
3. Where a driveway is to provide two-way traffic, the minimum width shall be 18 feet.

4. One-way driveways shall have appropriate signage designating the driveway as a one-way connection. Fire apparatus lanes shall be so marked (parking prohibited).

5. The maximum allowable driveway grade is fifteen (15) percent, except that driveway grades exceeding fifteen (15) percent may be allowed, subject to review and approval by the Public Works Director and Fire Code Official, provided that the applicant has provided an engineered plan for the driveway. The plan shall be stamped by a registered geotechnical engineer or civil engineer, and approved by the Public Works Director.

C. Driveway Apron Construction. Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 10-35(2). Driveway aprons shall conform to ADA requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than three (3) feet in width, with a cross slope not exceeding two (2) percent, and providing for landing areas and ramps at intersections. Driveways are subject to review by the Public Works Director.

**Figure 10-35(2): Examples of Driveway Next to Sidewalks/Walkways**



D. Fire access lanes with turnarounds shall be provided in conformance with the Fire code. Except as waived in writing by the Fire Code Official, a fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive. The drive shall contain unobstructed aisle width of 20 feet and turn-around area for emergency vehicles. The fire lanes shall be marked as "No Stopping/No Parking." See figure 10-35(3) for examples of fire lane turn-rounds. For requirements related to cul-de-sacs or dead-end streets, refer to FCC 10-36.

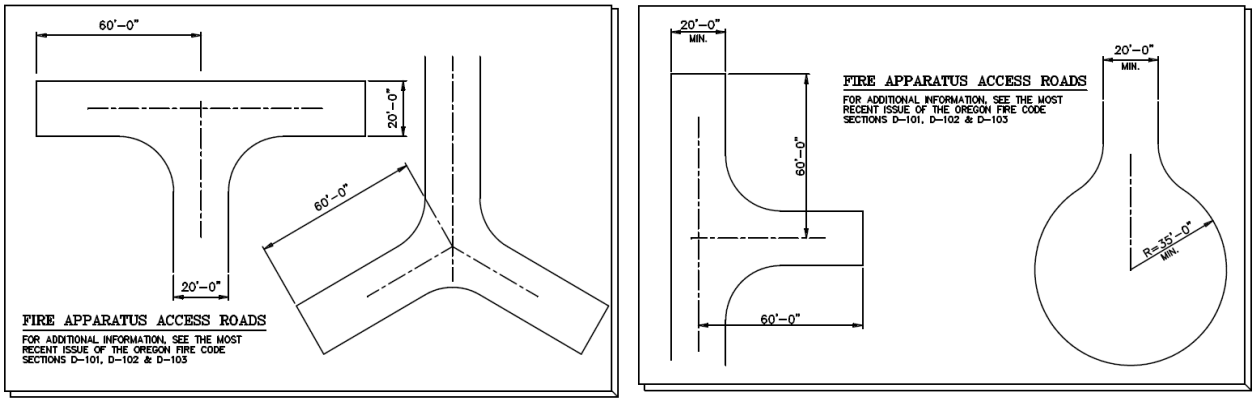



**Figure 10-35(3): Examples of Fire Lane Turn-Around**

**10-35-2-13: Vertical Clearances:** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.

**10-35-2-14: Vision Clearance:** No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) shall block the area between two and one-half feet (2 ½') and eight (8) feet in height in "vision clearance areas" on streets, driveways, alleys, mid-block lanes, or multi-use paths where no traffic control stop sign or signal is provided, as shown in Figure 10-35(4). The following requirements shall apply in all zoning districts:

A. At the intersection of two (2) streets, minimum vision clearance shall be twenty feet (20').

B. At the intersection of an alley or driveway and a street, the minimum vision clearance shall be ten feet (10').

C. At the intersection of internal driveways, the minimum vision clearance shall be ten feet (10').

The sides of the minimum vision clearance triangle are the curb line or, where no curb exists, the edge of pavement. Vision clearance requirements may be modified by the Public Works Director upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, trees trunks and similar objects. Refer to Section 10-2-13 of this Title for definition.

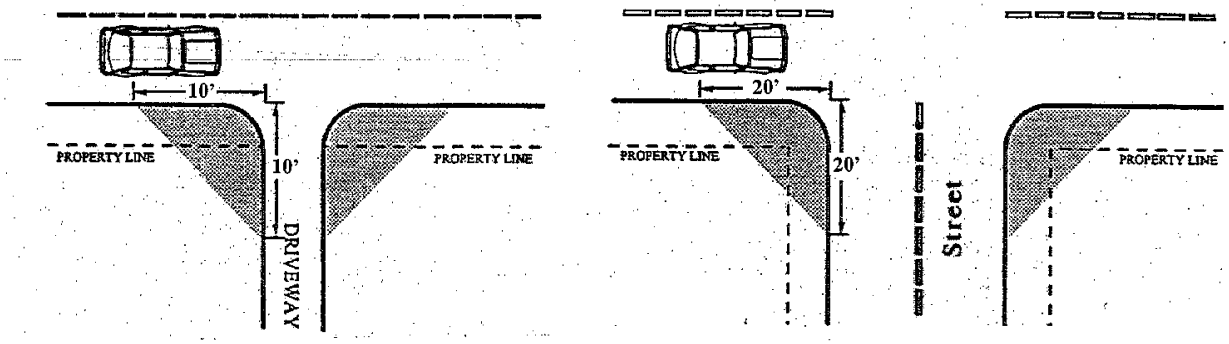



**Figure 10-35(4): Vision Clearance Areas**
**(solid lines indicate curbs or edge of pavement)**

**10-35-3: PEDESTRIAN ACCESS AND CIRCULATION**: All new development shall be required to install sidewalks along the street frontage, unless the City has a planned street improvement, which would require a non-remonstrance agreement.

**10-35-3-1: Sidewalk Requirements:**

A. Requirements: Sidewalks shall be newly constructed or brought up to current standards concurrently with development under any of the following conditions:

1. Upon any new development of property.

2. Upon any redevelopment of property that expands the building square footage by 25% or more.

3. Upon any change of use that requires more than five additional parking spaces.

B. Exceptions: The Planning Commission may issue a permit allowing noncompliance with the provisions of subsection (A) of this section and obtain instead a non-remonstrance agreement for future improvements when, in the Planning Commission's determination through a Type 3 process, the construction of a sidewalk is impractical for one or more of reasons 1 through 4 below. The Public Works Director may issue a permit allowing noncompliance with the provisions of subsection (A) of this section and obtain instead a non-remonstrance agreement for future improvements for reason 5 below:

1. Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.

2. Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.

3. Topography or contours make the construction of a sidewalk impractical.

4. Physical improvements are present along the existing street that prevents a reasonable installation within the right-of-way or adjacent property.

5. If the proposed development is in a residential zoning district and there are no sidewalks within 400 linear feet.

C. Appeals: If the owner, builder or contractor considers any of the requirements impractical for any reason, s/he may appeal the decision to the Planning Commission.

D. Timing: Sidewalks shall be constructed and approved by the Public Works Department prior to final inspection for the associated building permit. No certificate of occupancy may be issued until the required sidewalks are constructed or financially secured.

**10-35-3-2: Site Layout and Design:** To ensure safe, direct, and convenient pedestrian circulation, all developments shall provide a continuous pedestrian system. The pedestrian system shall be based on the standards in subsections A - C, below:

A. Continuous Walkway System. The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose in accordance with the provisions of Section 10-35-2, Vehicular Access and Circulation, and Section 10-36-2 Street Standards.

B. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following criteria:

1. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

2. Safe and convenient. Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.

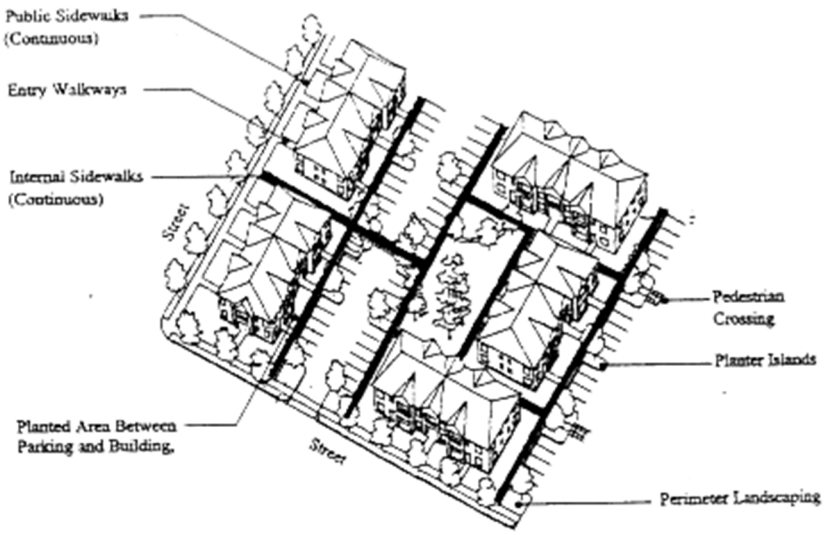
3. "Primary entrance" for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.

4. "Primary entrance" for residential buildings is the front door (i.e., facing the street). For multifamily buildings in which units do not have their own exterior entrance, the "primary entrance" may be a lobby, courtyard, or breezeway that serves as a common entrance for more than one dwelling.

C. Connections Within Development. Connections within developments shall be provided as required in subsections 1 - 3, below:

1. Walkways shall be unobstructed and connect all building entrances to one another to the extent practicable, as generally shown in Figure 10-35(5);

2. Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections; and




3. For large parking areas with 80 or more parking spaces and depending on the layout of the parking lot, the City may require raised walkways a minimum of 5 feet wide to provide pedestrian safety.

**Figure 10-35(5): Pedestrian Pathway System (Typical)**

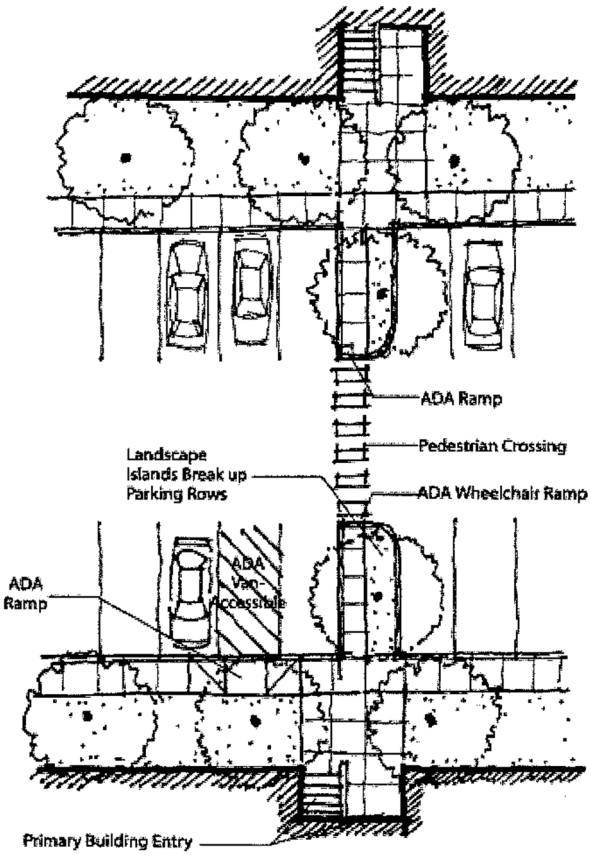
**10-35-3-3: Walkway and Multi-Use Path Design and Construction:** Walkways and multi-use paths shall conform to all applicable standards in subsections A - D, as generally illustrated in Figure 10-35(6):

A. Vehicle/Walkway Separation. Except for pedestrian crossings (subsection B), where a walkway abuts a driveway or street it shall be raised six (6) inches and curbed along the edge of the driveway/street. Alternatively, the decision body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or concrete bollards designed to withstand a vehicle's impact, with adequate minimum spacing between them to protect pedestrians.

B. Pedestrian Crossing. Where a walkway crosses a parking area, or driveway, it shall be clearly marked with contrasting paving materials (e.g., light-color concrete inlay between asphalt), which may be part of a raised/hump crossing area. Painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crossings of not more than twenty-four (24) feet in length.

C. Width and Surface. Walkway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the Public Works Director, at least five (5) feet wide, without curb. Multi-use paths (i.e., for bicycles and pedestrians) shall be concrete or asphalt, at least ten (10) feet wide. (See also, Section 10-36-2)

**Figure 10-35(6): Pedestrian Walkway Detail (Typical)**




D. Accessible routes. Walkways and multi-use paths shall conform to applicable Americans with Disabilities Act (ADA) requirements. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide direct routes to primary building entrances.

**10-35-4: Transit Facilities:** Proposed uses other than single-family residences and duplexes must provide for transit riders by providing developmental improvements to accommodate current or planned transit stops pursuant to the following:

A. If the proposed uses are located on a site within ¼ mile of an existing or planned transit stop, the proposed pedestrian circulation system must demonstrate a safe and direct pedestrian route from building entrances to the transit stop or to a public right-of-way that provides access to the transit stop.

B. Proposed development must accommodate on site any existing or planned transit facility, if identified in the Community Transit Plan, through one or more of the following:

1. Provide a transit passenger landing pad accessible to disabled persons.
2. Provide an easement or dedication of land to accommodate passenger seating or shelter if requested by the transit provider.
3. Provide lighting at the transit facility meeting the requirements of Title 10-37.

Created by Ord. No. 9, Series 2009
Sections 10-35-2-5, 10-35-2-7, 10-35-2-8, 10-35-3-1, and 10-35-4 amended by Ord. No. 5, Series 2012 – effective 1-16-13
Sections 10-35-2-7 and 10-35-2-9 amended by Ord. No. 3, Series 2013 effective 7-31-13
Section 10-35-4-B-3 amended by Ord. No. 12, Series 2014, effective 12-31-14
Section 10-35-2-14 amended by Ord. No. 11, Series 2016, effective 11-16-16
Section 10-35-3-1-B amended by Ord. No. 7, Series 2019, effective 12-18-19

**TITLE 10**
**CHAPTER 36**

# PUBLIC FACILITIES

SECTION:

10-36-1: Purpose and Applicability
10-36-2: Street Standards
10-36-2-1: Development Standards
10-36-2-2: Improvement Guarantee
10-36-2-3: Creation of Rights-of-Way for Streets and Related Purposes
10-36-2-4: Creation of Access Easements
10-36-2-5: Rights-of-Way and Street Sections
10-36-2-6: Cul-de-sacs
10-36-2-7: Alleys, Public or Private
10-39-2-8: Private Streets
10-36-2-9: Street Location and Connectivity
10-36-2-10: Block Length and Block Perimeter
10-36-2-11: Traffic Controls
10-36-2-12: Medians
10-36-2-13: Street Alignment, Radii
10-36-2-14: Intersection Angles
10-36-2-15: Grades and Curves
10-36-2-16: Sidewalks, Planter Strips, Bicycle Lanes
10-36-2-17: Existing Rights-of-Way
10-36-2-18: Curbs, Curb Cuts, Ramps, and Driveway Approaches
10-36-2-19: Street Names
10-36-2-20: Survey Monuments
10-36-2-21: Street Signs
10-36-2-22: Mail Boxes
10-36-2-23: Street Light Standards
10-36-3: Sanitary Sewers, Water, Stormwater, and Fire Protection
10-36-4: Erosion Control
10-36-5: Utilities
10-36-6: Easements
10-36-7: Construction Plan Approval and Assurances
10-36-8: Installation
10-36-9: Parklands

## 10-36-1: PURPOSE AND APPLICABILITY:

A. **Purpose.** The purpose of this Chapter is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth and provide a range of transportation options, including options for driving, walking, transit and bicycling. This Chapter is also intended to implement the City's Transportation System Plan.

B. **When Standards Apply.** Unless otherwise provided, the standard specifications for construction, reconstruction, or repair of transportation facilities, utilities, and other public improvements within the City shall occur in accordance with the standards of this Chapter and the standards of the applicable road authority for roads in other jurisdictions. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter.

C. **Engineering Design Criteria, Standard Specifications and Details.** The Standard Specifications for Public Works Construction, Oregon Standard Specifications for Construction, as may be amended by the City of Florence, are incorporated by reference. The design criteria, standard construction specifications and details specified in Title 9 of this Code and those maintained by the Public Works Director, or any other road authority with jurisdiction, shall

supersede and supplement the general design standards of this Development Code. The City's specifications, standards, and details are hereby incorporated into this Code by reference.

D. **Adequate Public Facilities.** Adequate public facilities must be available for development. No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code.

E. **Conditions of Development Approval.** Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements are directly related and roughly proportional to the impact. The applicant may be requested to provide evidence of impacts as part of the City's completeness review. Facilities shall be sized according to approved facility plans. When the improvements necessary for the provision of adequate facilities exceeds the roughly proportional impacts of the specific development proposal, the City may assist through system development charge credits, reimbursement districts, or other City participation consistent with the City's capital improvement and fiscal plans and policies.

**10-36-2: STREET STANDARDS:**

**10-36-2-1: Development Standards:** The following standards shall be met for all new uses and developments:

A. All new lots created, consolidated, or modified through a land division, lot line adjustment, lot consolidation, or street vacation must have street frontage and approved access to a street.

B. Streets within or abutting a development shall be improved in accordance with the Transportation System Plan (TSP), provisions of this Chapter and other applicable sections of this Code.

C. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable road authority. Street location, width, and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.

D. All new public streets and alleys shall be paved per the City of Florence Standards and Specifications document. Alleys may also be improved with porous concrete, porous asphalt, permeable pavers such as turf concrete, brick pavers or other materials approved by the City. The City does not maintain alleys.

**10-36-2-2: Improvement Guarantee:** The City may accept a future improvement guarantee (e.g., non-remonstrance agreement, which certifies that the owner and their successors will not to object to the formation of a local improvement district in the future) in lieu of street improvements if one or more of the following conditions exist:

A. A partial improvement does not create a potential safety hazard to motorists, bicyclists, or pedestrians.

B. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, reduce street safety or capacity.

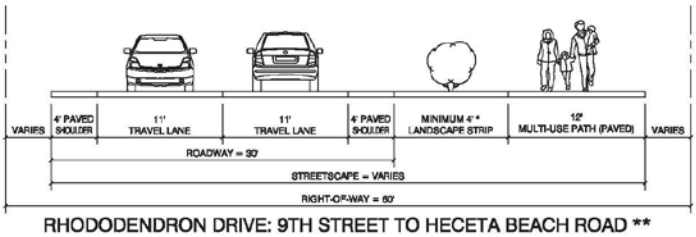
C. The improvement would be in conflict with an adopted capital improvement plan.

**10-36-2-3: Creation of Rights-of-Way for Streets and Related Purposes**: Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a Public Right-of-Way by acceptance of a deed, where no plat will be recorded, and provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Florence Transportation System Plan, and the deeded right-of-way conforms to this Code. All deeds of dedication shall be in a form prescribed by the City and shall name "the public" as grantee.

**10-36-2-4: Creation of Access Easements:** The City may approve or require an access easement when the easement is necessary to provide for access and circulation in conformance with Chapter 35, Access and Circulation. Access easements shall be created and maintained in accordance with the Oregon Fire Code and the City of Florence Standards and Specifications.

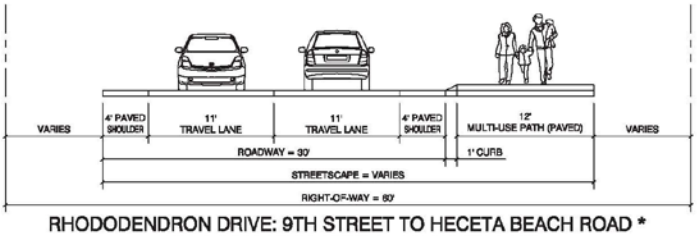
**10-36-2-5: Rights-of-Way and Street Sections:** Street rights-of-way and improvements shall be consistent with the Transportation System Plan and standards specified in Title 8 Chapter 2.

A. Street right-of-way and pavement widths shall be based on the following cross section standards. See individual zoning chapters for additional requirements regarding sidewalk width (for sidewalks wider than the standard 5 feet).



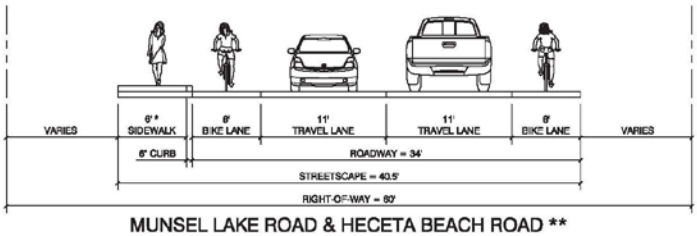

RHODODENDRON DRIVE: 9TH STREET TO HECETA BEACH ROAD **
(STANDARD SECTION WITH SEPARATED PATH)

* WHERE PHYSICAL SPACE DOES NOT ALLOW A 4' SEPARATION, A VERTICAL CURB, BARRIER, OR RAIL SHOULD BE USED TO SEPARATE MOTOR VEHICLE TRAFFIC AND THE MULTI-USE PATH AS SHOWN IN ALTERNATE SECTION BELOW.
** PER RHODODENDRON DRIVE INTEGRATED TRANSPORTATION PLAN (JAN 2008).



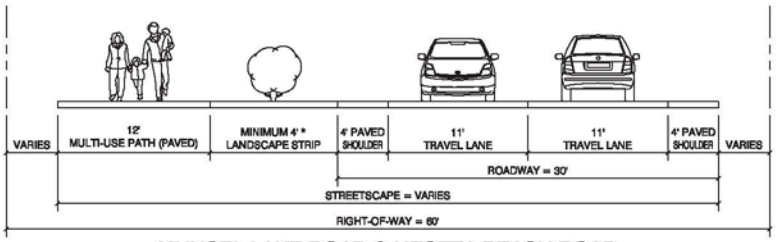

RHODODENDRON DRIVE: 9TH STREET TO HECETA BEACH ROAD *
(ALTERNATE SECTION WITH RAISED PATH)

* PER RHODODENDRON DRIVE INTEGRATED TRANSPORTATION PLAN (JAN 2008).



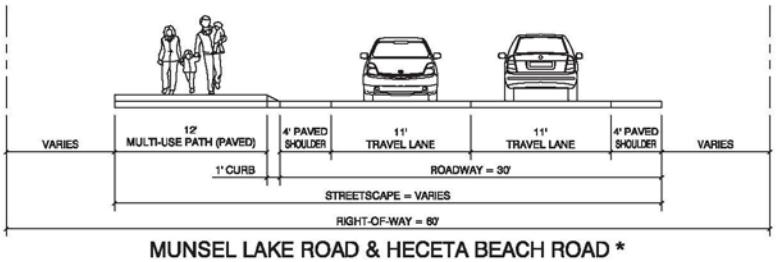

MUNSEL LAKE ROAD & HECETA BEACH ROAD **
(STANDARD SECTION)

* SIDEWALK LOCATION TO BE ON "TOWN SIDE" (SOUTH AND WEST SIDES OF STREET), AND MAY VARY AND IS TO BE DETERMINED BASED ON PHYSICAL AND BUILT ENVIRONMENT.
** SEE ALTERNATE SECTION OF MUNSEL LAKE ROAD BETWEEN US 101 AND SPRUCE (FIGURE 6-5)



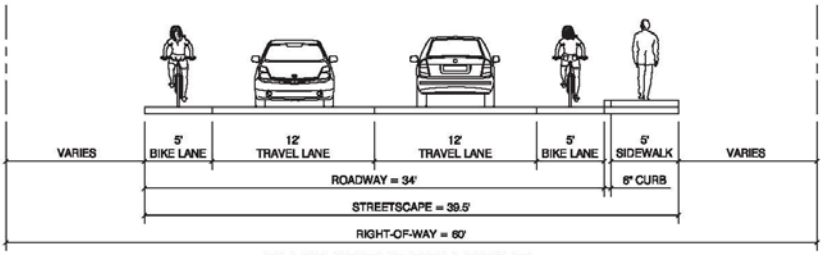

MUNSEL LAKE ROAD & HECETA BEACH ROAD
(ALTERNATE SECTION A)

* WHERE PHYSICAL SPACE DOES NOT ALLOW A 4' SEPARATION, A VERTICAL CURB, BARRIER, OR RAIL SHOULD BE USED TO SEPARATE MOTOR VEHICLE TRAFFIC AND THE MULTI-USE PATH AS SHOWN IN ALTERNATE SECTION BELOW.

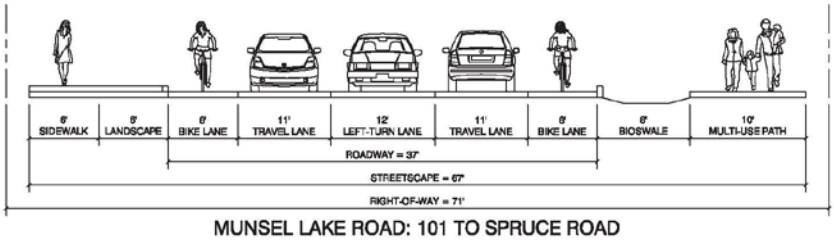



MUNSEL LAKE ROAD & HECETA BEACH ROAD *
(ALTERNATE SECTION B)

* SLOPED CURB SAME AS FOR ALTERNATE SECTION ON RHODODENDRON DRIVE AND DOCUMENTED IN RHODODENDRON DRIVE TRANSPORTATION PLAN (JAN 2008).

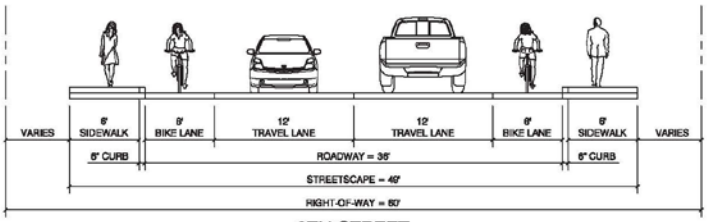



RHODODENDRON DRIVE
(HEMLOCK TO 9TH STREET)

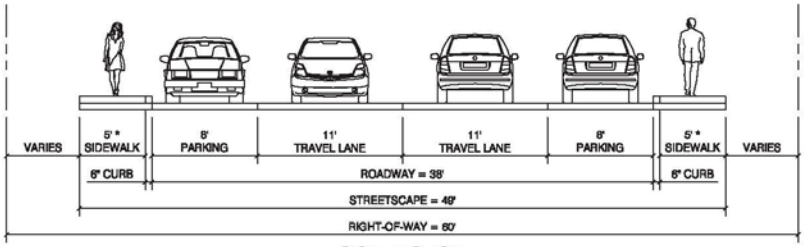



MUNSEL LAKE ROAD: 101 TO SPRUCE ROAD

SOURCE: JRH TRANSPORTATION ENGINEERING 4/27/09.

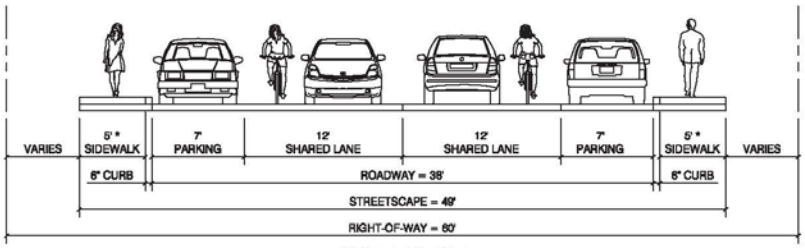



9TH STREET



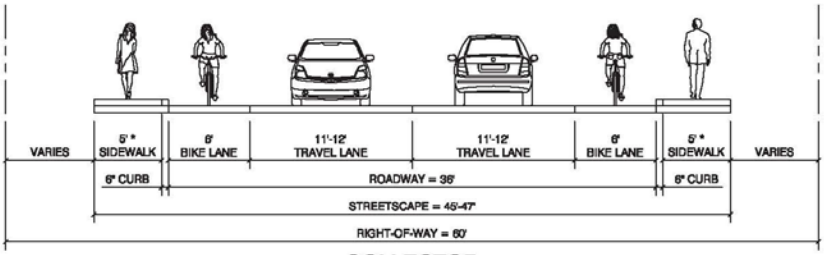

COLLECTOR
(ON-STREET PARKING)

* ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.



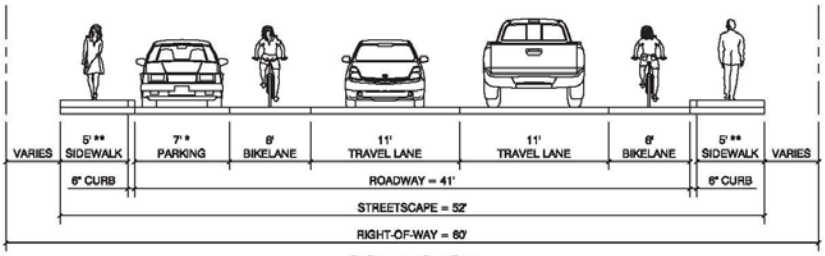

COLLECTOR
(BIKE SHARROWS WITH ON-STREET PARKING)

* ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.



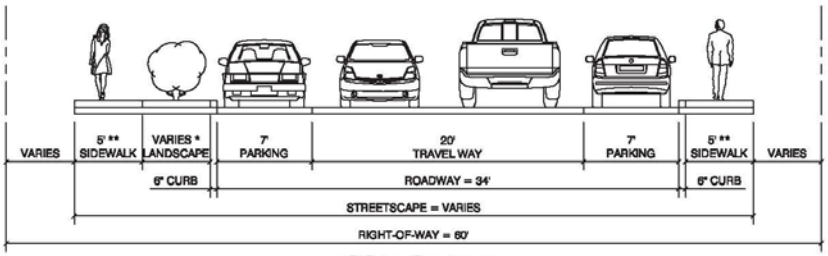

COLLECTOR
(NO PARKING)

* ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.



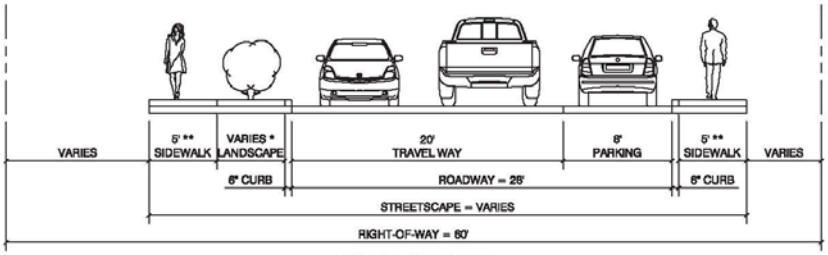

COLLECTOR
(BIKE LANES WITH ON-STREET PARKING)

* PARKING LOCATION MAY VARY AND IS TO BE DETERMINED BASED ON PHYSICAL AND BUILT ENVIRONMENT.
** ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.




LOCAL STREET
(PARKING BOTH SIDES)

* OPTIONAL LANDSCAPE WIDTH AND LOCATION MAY VARY AND IS TO TO BE DETERMINED BASED ON PHYSICAL AND BUILT ENVIRONMENT.
** ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.




LOCAL STREET
(PARKING ONE SIDE)***

* OPTIONAL LANDSCAPE WIDTH AND LOCATION MAY VARY AND IS TO TO BE DETERMINED BASED ON PHYSICAL AND BUILT ENVIRONMENT.
** ALL DOWNTOWN STREETS TO HAVE 8' SIDEWALKS WITH THE EXCEPTION OF COLLECTORS WITH NO ON-STREET PARKING AND HIGH TRAFFIC STREETS WHERE 6' AND 12' SIDEWALKS SHOULD BE INSTALLED, RESPECTIVELY.
*** REQUIRES APPROVAL BY CITY TRAFFIC ENGINEER.

B. Modifications to the street standards identified in section A, above, may be made pursuant to Title 11 Chapter 7. Considerations based on the existing conditions along with the following factors would be reviewed as part of determining a hardship or meeting the purpose of Title 11:

1. Street classification in the Transportation System Plan
2. Anticipated traffic generation
3. On-street parking needs
4. Pedestrian and bicycle requirements based on anticipated level of use
5. Requirements for placement of utilities
6. Street lighting
7. Minimize drainage, slope, and sensitive lands impacts
8. Street tree location, when provided
9. Protection of significant vegetation, as provided for in Chapter 34
10. Safety and comfort for motorists, bicyclists, and pedestrians
11. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided
12. Access needs for emergency vehicles
13. Transition between different street widths (i.e., existing streets and new streets)
14. Driveway Off-sets

15. Curve Radii

16. Queuing Factors

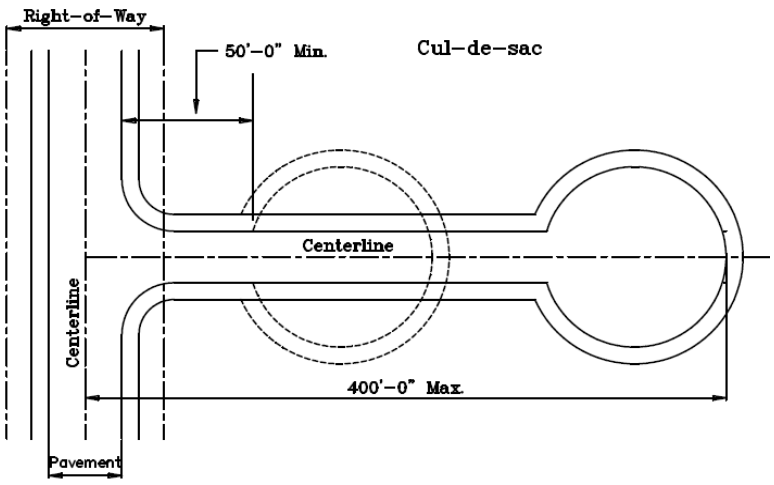
C. Partial street improvements may be accepted only in the case of a collector or arterial street and only when requiring a full-width street improvement can not be justified based on the proportionate impact of the development on the transportation system. Where a less than full street is allowed, the minimum total paved width shall provide for two travel lanes, and for bicycle lanes if warranted.

**10-36-2-6: Cul-de-sacs:** A cul-de-sac street shall only be used when the applicant demonstrates that environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation. When cul-de-sacs are provided, all of the following shall be met:

A. The cul-de-sac shall not exceed a length of 400 feet and the minimum throat length shall be 50 feet; the length of the cul-de-sac shall be measured where the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac pavement. The minimum right-of-way for a cul-de-sac may be reduced to 50 feet if approved by the City.

B. The cul-de-sac shall terminate with a circular or hammer-head turnaround meeting the Oregon Fire Code. Circular turnarounds shall have a radius of no less than 35 feet, and not more than a radius of 45 feet (i.e., from center to edge of pavement), subject to approval by the Public Works Director; except that turnarounds shall be larger when they contain a landscaped island or parking bay at their center. When an island or parking bay is provided, there shall be a fire apparatus lane minimum of twenty (20) feet in width.

**Figure 10-36(1): Cul-de-sac Design**




**10-36-2-7: Alleys, Public or Private**: Alleys shall provide a 20-foot right-of-way and 16 feet of pavement. Unless otherwise approved by the Planning Commission, where topographical conditions will not reasonably permit, grades shall not exceed twelve percent (12%) on alleys. Alley intersections and sharp changes in alignment shall be avoided. The corners of necessary alley intersections shall have a radius of not less than twelve (12) feet or wider if required by the Fire District.

**10-36-2-8: Private Streets:** Private streets shall conform to City standards of construction and shall include sidewalks or pathways as approved by the City. Private streets shall not be used to avoid public access connectivity required by this Chapter or the Transportation System Plan. Legal assurance for construction and maintenance shall be required of the developers and owners. Private streets shall connect with public streets to complete the City's transportation system grid where practical.

**10-36-2-9: Street Location and Connectivity:** Planned streets shall connect with surrounding streets to permit the convenient movement of traffic and to facilitate emergency access and evacuation. Proposed streets or street extensions shall be located to provide access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.

A. Where the location of a street is not shown in an existing street plan, the location of streets in a development shall provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Section, or

B. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to and to logically extend the street system into the surrounding area. All street stubs over 150 feet in length shall be provided with a temporary turn-around unless specifically exempted by the Fire Marshal, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.

   1. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.

   2. Developer shall install a Type III barricade at the end of the street. The barricade shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street.

   3. Temporary street ends shall provide turnarounds (e.g., hammerhead or bulb-shaped configuration) constructed to Oregon Fire Code standards for streets over 150 feet in length.

C. <u>Mid-Block Connection/Multi-use Path Standards.</u> Where a street connection in conformance with the maximum block length standards in Section 10-36-2-10 is impracticable, a multi-use path shall be provided at or near the middle of a block in lieu of the street connection, as generally shown in Figure 10-36(2). The City may also require developers to provide a multi-use path off a cul-de-sac. Such pathways shall conform to all of the following standards:

   1. Multi-use paths shall be no less than ten (10) feet wide and located within a twenty (20)-foot right-of-way or easement allowing public access and, as applicable, emergency vehicle access.

   2. If the streets within the subdivision or neighborhood are lighted, all pathways in the subdivision shall be lighted. Pathway illumination shall provide at least two (2)-foot candles and shall meet all other requirements in Title 10-37.

   3. All pathways shall conform to applicable ADA requirements unless precluded by topographic conditions.

   4. The City may require landscaping, walls or terraces as part of the required pathway improvement to buffer pedestrians from adjacent vehicles, or to screen pathways from view of adjacent residences.

**10-36-2-10: Block Length and Block Perimeter:** In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments shall be served by a connecting network of public streets and/or accessways, in accordance with the following standards (minimum and maximum distances between two streets or a street and its nearest accessway):

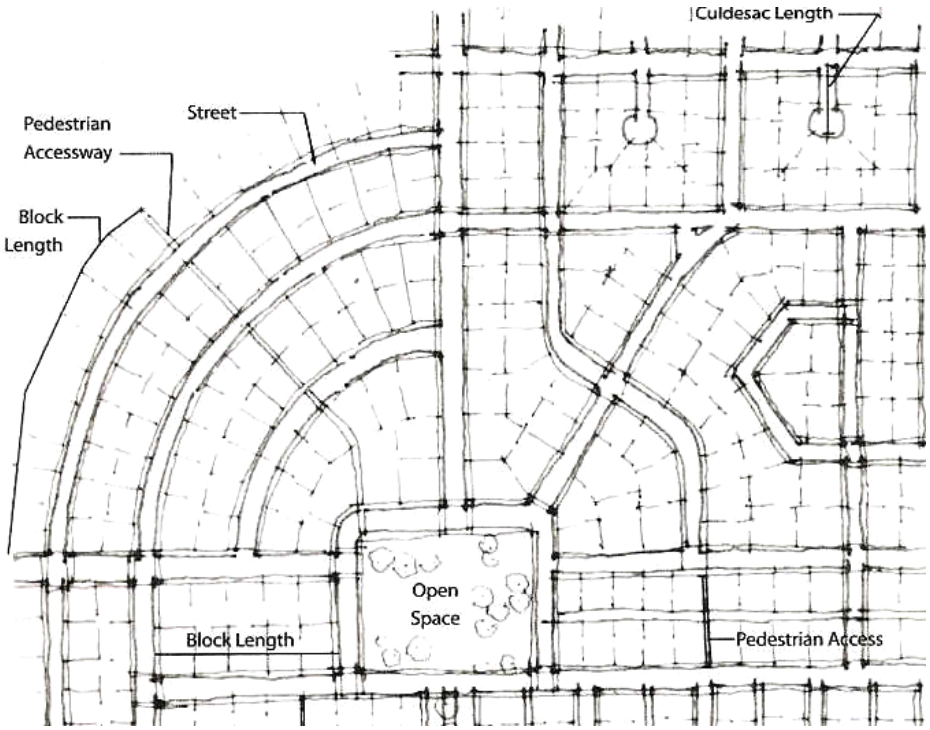
A. Residential Districts: Minimum of 100-foot block length and maximum 600-foot length; maximum 1,400-foot block perimeter

B. Old Town and Main Street Districts: Block lengths shall be consistent with the existing town plat, as of June 2009.

C. General Commercial, North Commercial and Highway Commercial Districts: Minimum of 100-foot block length and maximum 600-foot length; maximum 1,400-foot block perimeter

D. Not applicable to the Industrial Districts

**Figure 10-36(2): Street Connectivity and Formation of Blocks**




**10-36-2-11: Traffic Controls:**

A. Traffic signals/roundabouts shall be required with development when traffic control warrants are met, in conformance with the Highway Capacity Manual and Manual of Uniform Traffic Control Devices. Traffic signal/roundabout design shall be approved by City Engineer. The developer's financial responsibility and the timing of improvements shall be included as part of the development approval.

B. Traffic controls on roads under State jurisdiction shall be determined by the Oregon Department of Transportation. Traffic controls on roads under Lane County jurisdiction shall be determined by Lane County.

C. The City may require the installation of calming features such as traffic circles, curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, and/or special paving to slow traffic in neighborhoods or commercial areas with high pedestrian traffic.

D. Where the City TSP identifies future traffic signals, additional right-of-way shall be provided at the intersection to accommodate the signal apparatus.

**10-36-2-12: Medians**: The use of landscaped medians improve community appearance, helps maintain system mobility and reduces the effects of wide street widths to all modes of travel. Medians will be landscaped with water efficient plant materials unless otherwise indicated below.

A. At intersections where left turn pockets are constructed, the 16-foot wide median will transition to an 11-foot wide left turn lane with a five-foot pedestrian refuge median separating the left turn lane from oncoming traffic. Intersections and access must comply with Chapter 35, Access and Circulation.

B. Medians on roads under State jurisdiction shall be determined by the Oregon Department of Transportation.

**10-36-2-13: Street Alignment, Radii:**

A. On Arterial and Collector Roadways, intersections shall be spaced at a minimum of 250 feet, as measured from the centerline of the street.

B. On Local Streets, street centerlines at intersections may not be offset by more than two feet. Intersections shall be spaced at a minimum of 125 feet, as measured from the centerline of the street.

C. Corner curb return radii shall be at least thirty-five (35) feet on Arterial Streets and at least twenty (20) feet on other streets, except where smaller radii are approved by the Public Works Director. Larger Radii may be required by the Director to accommodate emergency and freight vehicles.

**10-36-2-14: Intersection Angles**: Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle. In no case shall the centerline angle be less than 80°; elbow or knuckle corners are not allowed (see Figures 10-36(3) and (4) for illustrations). In addition, the following standards shall apply:

A. Streets design shall provide a minimum of 50 feet of straight centerline tangent past the intersecting right-of-way unless a lesser distance is approved by the Public Works Director (see Figure 10-36(5) for illustration).

B. Intersections that are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle.

**Figure 10-36(3): Street Intersection Angle**

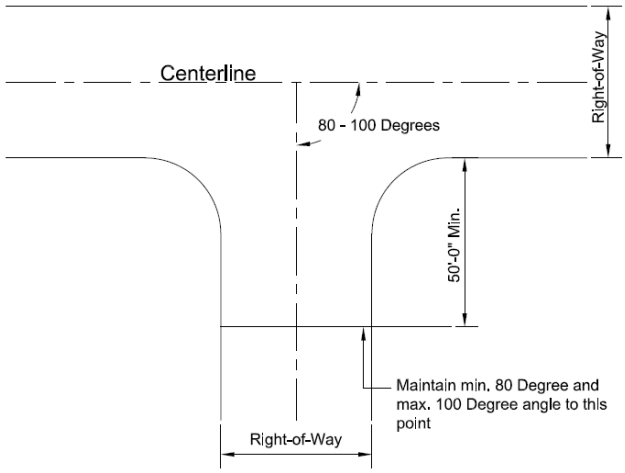



**Figure 10-36(4): Elbow and Knuckle Corners are Prohibited**

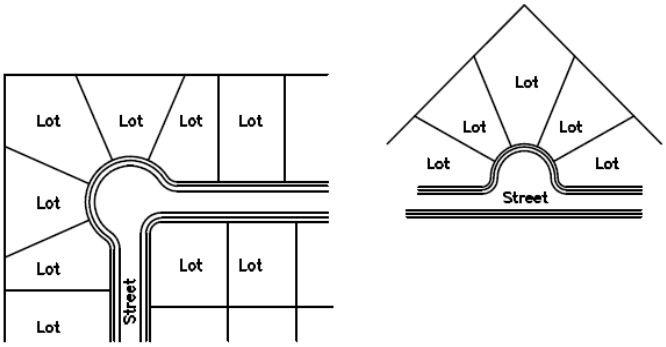
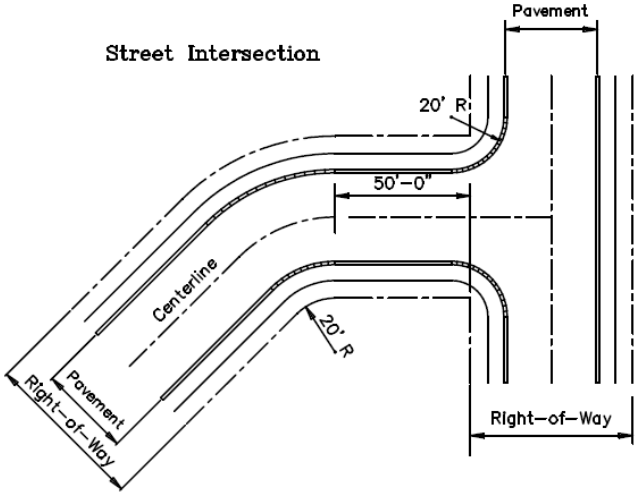


**Figure 10-36(5): Street Intersection**



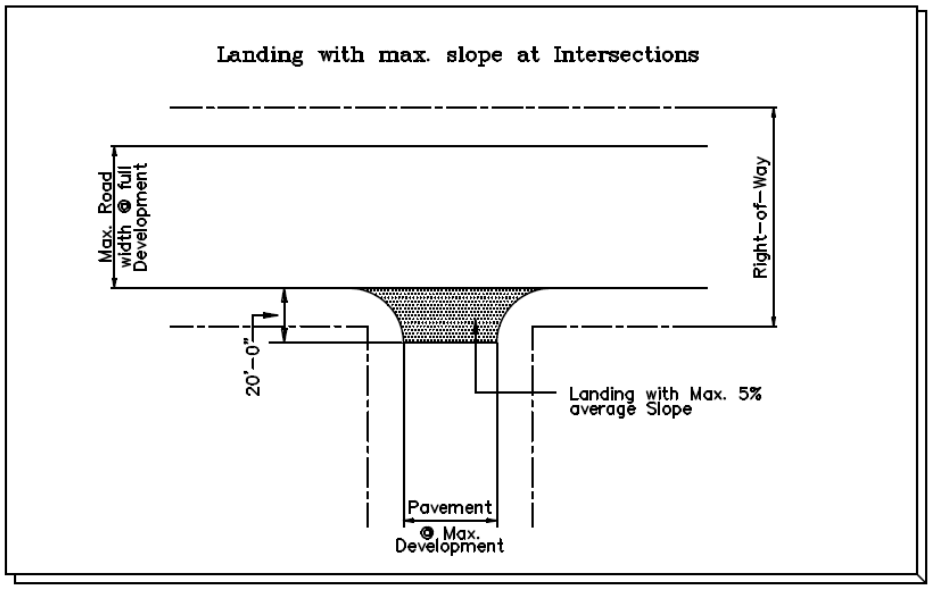

**10-36-2-15: Grades and Curves**: Unless otherwise approved by the City due to topographical conditions, grades shall not exceed 6% on arterials, 10% on collector streets, or 12% on all other streets. Grades in excess of 10% require Fire Code Official approval.

A. Centerline curve radii shall not be less than 700 feet on arterials, 350 feet on collectors, or 100 feet on other streets.

B. Streets intersecting with a collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging 5% slope or less. Landings are that portion of the street within twenty (20) feet of the edge of the intersecting street at full improvement. See Figure 10-36(6) for example.

C. Existing conditions may warrant additional design criteria. All streets and intersection designs shall be subject to the approval of the Public Works Director.

**Figure 10-36(6): Street Intersection Landing**




**10-36-2-16: Sidewalks, Planter Strips, Bicycle Lanes**: Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with applicable provisions of the Florence Transportation System Plan, Comprehensive Plan, adopted street plans, City of Florence Standards and Specifications and the following standards:

A. Sidewalks may be placed adjacent to the street or at the property line with planter strips where practicable, or as otherwise directed by the Public Works Director.

B. In areas with high pedestrian volumes, the City may approve a minimum 12-foot wide sidewalk area, curb tight, with street trees in tree wells and / or landscape planters.

C. Bicycle lanes shall be constructed on all newly constructed arterial and collector streets as well as all arterial and collector streets that are widened to provide additional vehicular capacity, as indicated in the TSP, unless otherwise designated.

D. Sidewalks shall be provided on both sides of the street for all arterial and collector streets. Sidewalks shall be provided on at least one side of the street for local streets. Exceptions may be granted if the City determines that hillsides, drainage facilities, ditches, waters of the state, or natural landscapes are to be preserved, then sidewalks on one side or a multi-use path may be approved. Sidewalks are not required on T-courts (hammer-head).

E. Where practical, sidewalks shall be allowed to meander around existing trees if in conformance with the requirements of the Americans with Disabilities Act.

F. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner.

**10-36-2-17: Existing Rights-of-Way**: Whenever existing rights-of-way adjacent to or within a proposed development are developed less than standard width, additional rights-of-way shall be provided at the time of subdivision or site development, in conformance with FCC 10-36-2-5.

**10-36-2-18: Curbs, Curb Cuts, Ramps, and Driveway Approaches:** Concrete curbs, curb cuts, curb ramps, bicycle ramps and driveway approaches shall be constructed in accordance with Chapter 35, Access and Circulation, City of Florence Standards and Specifications and the following standards:

A. Curb exposure shall be per City Standards and Specifications.

B. There shall be no curbs on alleys unless otherwise approved by the Public Works Director.

C. Curb extensions (bulb-outs) at local residential street intersections are optional. If provided, the minimum width between the curb extensions shall be 24-feet, unless otherwise approved by the Public Works Director. Curb extensions shall not be used on streets with bike lanes.

**10-36-2-19: Street Names:** The developer shall submit proposed street names to the City of Florence Community Development Department for review and submittal to the Lane County Road Naming Committee for approval prior to recording final plat. No new street name shall be used that duplicates or could be confused with the name of an existing street in the County. Street names shall be in conformance with FCC 8-2-1-1.

**10-36-2-20: Survey Monuments:** Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been re-established.

**10-36-2-21: Street Signs:** The cost of signs required for new development, including stop signs and any other roadway signs, shall be the responsibility of the developer and shall be installed as part of the street system developed and approved through the land use process. Signs shall be installed by developers per City of Florence Standards and Specifications.

**10-36-2-22: Mail Boxes:** Plans for mail boxes shall be approved by the United States Postal Service.

**10-36-2-23: Street Light Standards**: Street lights shall be provided in all developments within the City and shall be provided in accordance with Resolution 16, Series 1999. The Planning Commission during site design review may add street lights at other locations and authorize specific exceptions to the above priorities when necessary in order to enhance the public safety and welfare; actual locations may be varied slightly depending on placement of Central Lincoln PUD poles. Streetlights shall be installed in

accordance with City of Florence Standards and Specifications. Where a private street intersects a public street, a street light shall be installed.

**10-36-3: SANITARY SEWERS, WATER, STORMWATER, AND FIRE PROTECTION:**

A. **Sewers, Water, and Stormwater Mains Required:** Sanitary sewers, water mains, and stormwater drainage shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's Wastewater Master Plan, Water System Master Plan, and Stormwater Master Plan, Florence Code Title 9 Chapters 2, 3 and 5, and the applicable construction specifications. When streets are required to be stubbed to the edge of the subdivision; stormwater, sewer and water system improvements shall also be stubbed to the edge of the subdivision for future development.

B. **Sewer, Water, and Stormwater Plan Approval:** Development permits for stormwater drainage, sewer and water improvements shall not be issued until the Public Works Director or their designee has approved all stormwater, sanitary sewer and water plans in conformance with City standards, and Florence Code Title 9 Chapters 2, 3 and 5.

C. **Existing Watercourse:** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety and consistency with the Stormwater Manual.

D. **Over-Sizing:** The City may require as a condition of development approval that sewer, water, and/or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable Water, Sewer, and/or Storm Drainage Master Plan, and Florence Code Title 9 Chapter 1. The developer may be entitled to credit or reimbursement for over-sizing City master planned improvements.

E. **Fire Protection:** All new development shall conform to the applicable provisions of the Oregon Fire Code. Developers shall provide verification of existing and proposed water service mains and hydrant flow supporting the development site. Fire flow analyses and plans for hydrants and water service mains shall be subject to review and approval by the Building Official or Fire Marshal.

F. **Inadequate Facilities:** Development permits may be restricted by the City where a deficiency exists in the existing water, sewer or stormwater system that cannot be rectified by the development and that if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems.

**10-36-4: EROSION CONTROL:** In addition to standard City requirements for stormwater, erosion control and sand management, projects that disturb one (1) or more acres of land over a period of time, a National Pollution Discharge Elimination System (NPDES) Permit must be obtained from the Department of Environmental Quality prior to the issuance of a development permit or land use permit based on appropriate criteria.

**10-36-5: UTILITIES:**

**A. Underground Utilities:**

1. Generally. All new utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except for temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above.

2. Subdivisions. In order to facilitate underground placement of utilities:

a. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic.

b. The City reserves the right to approve the location of all surface-mounted facilities.

c. All underground utilities, including water, sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets.

d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

C. **Exception to Undergrounding Requirement**: An exception to the undergrounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands, or high water table or existing development conditions.

**10-36-6: EASEMENTS:**

A. **Provision:** Dedication of easements for storm water, sewers, water and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water; dedication of easements for sanitary sewers, and for access thereto for maintenance; and dedication of easements for other public utilities may be required of the land divider by the Planning Commission along lot rear lines, lot side lines or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the purpose of this Title. Easements for utility lines shall be not less than fifteen feet (15') in width and the utility shall be located in the center of the easement. Before a partition or subdivision can be approved, there shall appear thereon a restriction, providing that no building, structure, tree, shrubbery or other obstruction shall be placed or located on or in a public utility easement. The City may require an additional five foot (5') easement for utility lines along street frontages when necessary.

B. **Recordation:** As determined by the City all easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other public utilities shall be recorded with the final plat.

**10-36-7: CONSTRUCTION PLAN APPROVAL AND ASSURANCES:**

A. **Plan Approval and Permit:** No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City Public Works Director, permit fee paid, and permit issued.

B. **Performance Guarantee:** The City may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements.

**10-36-8: INSTALLATION:**

A. **Conformance Required:** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City.

B. **Adopted Installation Standards:** The Standard Specifications for Public Works Construction, Oregon Chapter APWA, are hereby incorporated by reference; other standards may also be required upon recommendation of the Public Works Director.

C. **Commencement:** Work shall not begin until the City has been notified in advance in writing.

D. **Resumption:** If work is discontinued for more than one month, it shall not be resumed until the City is notified in writing.

E. **City Inspection:** Improvements shall be constructed under the inspection and to the satisfaction of the City Public Works Department. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications to the approved design requested by the developer may be subject to City review. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements; it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.

F. **Engineer's Certification and As-Built Plans:** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide two (2) sets of "as-built" plans along with an electronic copy, in conformance with the City Engineer's specifications, for permanent filing with the City.

G. **Acceptance of Public Improvements:** Public improvements shall only be accepted by the City after the "as-built" plans and actual improvements are approved, and all easements are recorded. Upon acceptance of public improvements, the City will accept ownership and maintenance responsibility.

H. **Warranty of Public Facilities:** All public improvements shall be warranted against defects in materials and workmanship for a period of one year following acceptance of the improvements by the City. Once accepted, a minimum one (1) year warranty agreement on materials and workmanship shall be initiated between the City of Florence and the developer. A warranty bond or other financial security acceptable to the City in the amount of 12 percent of the original public improvement construction cost shall be maintained throughout the warranty period.

**10-36-9: PARKLANDS:**

A. **Purpose:** For the purpose of promoting health, safety, and the general welfare of City residents, this section provides for the provision of parkland for recreational opportunities and/or open space for passive recreational use for Florence residents. The parkland provision serves the following specific purpose:

1. To address the Community Needs identified in the Florence Parks and Recreation Master Plan (Master Plan) and to ensure that park land and open space are provided to meet the needs of residents of new residential developments.

B. **Parklands:**

1. Developers are encouraged to work with the City to identify parkland facilities proposed in their service area. If the City has an interest in acquiring a portion of a proposed land division or development, or if the City has been advised of such interest by another district or public agency, and there is reasonable assurance that the steps will be taken to acquire the land, then the Planning Commission may require that those portions of the land division be reserved for public acquisition, for a period not to exceed one year, at a cost not to exceed the value of the land prior to subdivision.

2. Areas smaller than one acre for new public parkland is generally impractical. If less than one acre of public parkland is proposed, the dedication should add on to an existing park area within or adjacent to the development site or provide some special public benefit acceptable tot eh city such as a trail connection.

C. **Standards for Parkland:**

1. Ownership and Maintenance Requirements. Land provided for parkland shall be owned and maintained in one or more of the following ways:

   a. Dedicated to, and accepted by, the City;
   b. Privately owned, developed, and maintained by the property owner or Home Owners Association;
   c. Owned and maintained by a land conservation entity, such as The Nature Conservancy;
   d. Accessible to the public through a public easement.

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Created by Ord. No. 9, Series 2009
Section 10-36-9 Added by Ord. No. 2, Series 2011 – effective March 11, 2011
Sections 10-36-1-C and 10-36-3-C amended by Ord. No. 18, Series 2011 – effective September 19, 2011
Sections 10-36-2-5, 10-36-2-10, 10-36-2-16 amended by Ord. No. 5, Series 2012 – effective January 16, 2013
Section 10-36-1 amended by Ord. No. 3, Series 2013 –effective 7-31-13
Section 10-36-2-9-C-2 amended by Ord. No. 12, Series 2014, effective 12-31-14

# TITLE 10
# CHAPTER 37

# LIGHTING

**SECTION**

**10-37-1: Purpose**
**10-37-2: Applicability**
**10-37-3: Lighting Plans Required**
**10-37-4: Lighting Standards**
**10-37-5: Exemptions**
**10-37-6: Prohibitions**
**10-37-7: Enforcement**
**10-37-8: Definitions**

**10-37-1: PURPOSE:** The purpose of this provision is to make exterior lighting used for residential, commercial and public areas appropriate to the need, and to minimize light from shining skyward or offsite onto adjacent public rights of way or private properties. Nothing in this ordinance should be interpreted to restrict the amount of lighting necessary for safe and efficient operations. Further, it is to encourage through regulation of type, kinds, construction and uses of exterior illumination devices, lighting practices and systems to conserve energy without decreasing safety, utility, security and productivity while enhancing nighttime (dark skies) enjoyment of property within the City of Florence.
Refer to the Exterior Lighting brochure for additional guidance and information.

**10-37-2: APPLICABILITY:** Section 10-37 applies to installation of all lighting fixtures as of the effective date of this Ordinance, except as exempted by provision of this Ordinance. Devices include but are not limited to, lights for: buildings and structures, recreational areas, parking lot and maneuvering areas, landscape areas, streets and street signs, product display areas, building overhangs and open canopies, holiday celebrations, and construction lights.

A. Resumption of Use - If a property with non-conforming lighting is abandoned for a period of one year or more, then all exterior lighting shall be brought into compliance with this Ordinance before any further use of the property occurs.

B. Major Additions or Alterations - If a major addition occurs on a property, lighting for the entire property shall comply with the requirements of this Code. For purposes of this section, the following are considered to be major additions:

    1. Additions of 26 percent or more in terms of additional dwelling units, gross floor area, seating capacity, or parking spaces, either with a single addition or with cumulative additions after the effective date of this Ordinance.

    2. Single or cumulative additions, modification or replacement of 25 percent or more of installed exterior lighting luminaires existing as of the effective date of this Ordinance.

    3. Existing lighting on sites requiring a conditional use permit or variance after the effective date of this ordinance.

C. Amortization - On or before 10 years from the effective date of this code, all outdoor lighting shall comply with this Code. Most outdoor lighting will be fully depreciated at the end of 10 years if not sooner. “Easy fixes” such as re-aiming or lowering lumen output of lamps is recommended in

advance of the effective date of the ordinance. Where lighting is judged to be a safety hazard immediate compliance is required.

**10-37-3: LIGHTING PLANS REQUIRED:** All applications for building permits and land use planning review which include installation of exterior lighting fixtures, not exempted, shall include the number of luminaires, the number of lamps in each luminaire, a photometric report for each type of luminaire and a site plan with the photometric plan of the lumen output.

The City shall have the authority to request additional information in order to achieve the purposes of this Ordinance.

**10-37-4: LIGHTING STANDARDS:**

A. All exterior lighting fixtures subject to this code section must be designed as a full cut-off fixture or have a shielding method to direct light emissions downward below the horizontal plane onto the site and does not shine illumination or glare skyward or onto adjacent or nearby property.

B. Parking areas shall have lighting to provide at least two (2) foot-candles of illumination at any point in the entire lot with a maximum of five (5) foot-candles over parking spaces and walkways. The Design Review Board may decrease the minimum if the applicant can provide documentation that the overall parking lot has adequate lighting. The Design Review Board may increase the maximum on a case-by-case basis, with no greater than 7 foot-candles measured directly under the light fixture.

C. Lighting in or adjacent to residential zones or residential uses shall not exceed twenty feet in height as measured from the adjacent grade to the top of the light fixture. Heights in other zoning districts shall not exceed 25 feet unless the Design Review Board adopts findings that the higher light fixtures are necessary to achieve proper illumination levels.

D. Main exterior lights for commercial, institutional, and industrial buildings, landscaping and parking lots shall be extinguished at end of business hours with a minimum lighting remaining for personal and building security and safety after hours.

E. A thirty-day review period beginning with the first day in business using the new lighting system shall be required to evaluate and adjust illumination levels of lighting. The City may ask for lighting to be adjusted in this time period based on public comments or staff inspections.

F. All externally lit commercial signs should shine from the top and point down toward the ground. Signs with uplighting must be shielded so that illumination is restricted to the sign face and glare is eliminated.

G. Lighting for roadway signs and pedestrian ways must be designed or have an opaque shielding method to direct light emissions downward and below the horizontal plane of the fixture in the permanently installed position.

**10-37-5: EXEMPTIONS:**

A. Exterior light fixtures, except Mercury Vapor lights, lawfully installed prior to and operable on the effective date of the requirements codified in this Ordinance except as follows:

1. All replacement of outdoor lighting fixtures, as of the date of adoption, shall be subject to the provision of this ordinance.

2. Until a date ten years after the date of the adoption of this ordinance.

B. Lighting within public right-of-way or easement for the purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right of way or easement when the purpose of the luminaire is to illuminate areas outside the public right of way or easement.

C. Fossil Fuel Light. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels.

D. Carnivals, fairs and temporary events that require the use of exterior lighting require a special events license. Permanent installations at dedicated sites must conform to the requirements of this Ordinance.

E. Seasonal Holiday Lighting - Lights used for decorating during holidays or festivals as defined in this code section and may be blinking or flashing.

F. Lighting for a properly displayed U.S. flag is exempt.

G. Construction lighting necessary for a roadway, building, or utility construction site except that permanent installations at dedicated sites must conform to the requirements of this Ordinance.

H. Up-lighting intended to highlight part of a building or landscaping provided that the light distribution from the fixture is effectively contained by an overhanging architectural element or landscaping element and does not shine beyond the intended target including into the night sky. Such containment elements may include but are not limited to awnings, dense shrubs or year round dense evergreen tree canopies which will contain illumination of the sky.

I. Commercial and industrial low wattage lighting used to highlight driveways and landscaping, or applied to a building providing they are properly aimed and shielded down to not shine glare, emit direct illumination, or cast a shadow into the public right of way or onto abutting or nearby properties.

J. Lighting for public monuments, murals, and statuary providing lighting is properly aimed and shielded to contain light to the art feature and not shine glare into the public right of way or onto abutting or nearby properties.

K. Airport operations lighting and aircraft navigational beacons as established by the Federal Aviation Administration. All other airport outdoor lighting must conform to this ordinance.

L. Underwater lighting in swimming pools and other water features.

M. Temporary lighting for theatrical, television, and performance areas.

N. Athletic field lighting; steps should be taken to minimize glare and light trespass, and utilize sensible

curfews. Light directed upward is prohibited.

O. Correctional Facilities

P. Ornamental and architectural lighting of bridges.

Q. Temporary exemptions as granted by the City of Florence.

R. In addition to exceptions mentioned above the below apply to residential uses.
   1. One partly shielded or unshielded luminaire at the main entry, not exceeding 630 lumens.
   2. Any other partly shielded or unshielded luminaires not exceeding 315 lumens.
   3. Low voltage landscape lighting aimed so that glare is not visible from adjacent properties and not exceeding 525 lumens per fixture.
   4. Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding 1,260 lumens.
   5. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 10 minutes after the area is vacated.
   6. Decorative low wattage lights.

**10-37-6: PROHIBITIONS:**

A. Laser Light Source. The use of laser source light or any similar high intensity light for exterior advertising or entertainment is prohibited.

B. Searchlights and Strobe Lights. The use of searchlights or strobe lights for purposes other than public safety or emergencies is prohibited.

C. Blinking & Flashing Lights. All blinking and flashing lights except for traffic control fixtures, those used for public safety or emergencies, and seasonal holiday lights are prohibited.

D. Externally affixed neon lighting is prohibited except in the following manner: As a trim element that surrounds windows, doors, or building edges; when located on building facades that face street frontages or internal driveways within commercial districts; such lighting must not be located more than 15 feet from finished grade and must not be used to define a building roof-line; and, such lighting must not include flashing, intermittent or rotating lights. Notwithstanding the provisions of this subsection, all neon lighting associated with signs must meet the requirements of the City of Florence Sign Code.

**10-37-7: ENFORCEMENT:** Lighting disputes should be settled between the parties whenever possible. Education and voluntary compliance are encouraged. Non-conformance with this Ordinance is deemed a public nuisance and is subject to abatement in accordance with City of Florence City Code Title 6 Chapter 1.

**10-37-8: DEFINITIONS:**

END OF BUSINESS HOURS or END OF BUSINESS – End of business hours or end of business" means the end of normal or posted business hours when a business or institution is no longer open to serve customers or clients, and (b) the end of a shift or normal work hours when the majority of employees are gone from the business or institution.

EXTERIOR LIGHTING – Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this code.

FIXTURE – The assembly that holds the lamp or bulb in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

FOOTCANDLE – One footcandle is the illuminance produced on a surface one foot square from a distance of one foot. Measured by a light meter.

FULL CUT-OFF – A light fixture designed, constructed, installed, or shielded so that light emitted by the fixture, either directly from the lamps or indirectly from the fixture so that light is projected down and no light is projected above the horizontal plane.

GLARE – Stray unshielded light striking the eye that may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; (d) reduction of visual performance.

HIGH INTENSITY LIGHTING – High pressure sodium, mercury vapor, metal halide, low-pressure sodium, induction, sulfur, xenon, and other similar lamps.

INSTALLED – Initial installation of outdoor lighting fixtures, poles, electrical wiring and related mounting equipment following the effective date of this Ordinance. Projects with approved construction plans prior to the effective date of this Ordinance are excluded from compliance with the ordinance in the initial installation only.

LAMP OR BULB – The light producing source installed in the socket portion of a fixture.

LIGHT – The form of radiant energy acting on the retina of the eye to make sight possible; brightness; illumination; a lamp, as defined above.

LIGHTING – Any or all parts of a luminaire that function to produce light.

LIGHT TRESPASS – Light falling beyond the property it is intended to illuminate, generally caused by a light on a property that shines onto the property of others.

LOW VOLTAGE/WATTAGE LIGHTS – Individual lamps 525 lumens or less that may or may not be strung together within a translucent or transparent plastic cover.

LUMEN – The unit of measure used to quantify the amount of light produced by a lamp or emitted from a luminaire (as distinct from “watt,” a measure of power consumption).

LUMINAIRE – The complete lighting unit, including the lamp, the fixture, and other parts.

PARTLY SHIELDED – A luminaire with opaque top and translucent or perforated sides, designed to emit most light downward.

RECESSED – When a light is built into a structure or portion of a structure such that the light is fully cut-off and no part of the lamp or bulb extends or protrudes beyond the underside of a structure or portion of a structure.

REPLACEMENT – The installation of a new lighting fixture in place of an existing fixture, and/or the installation of a new lighting housing or head to an existing pole, bracket, wall, tree or other structure. Replacement does NOT mean the changing of light bulbs or lamps in a fixture for the same or lower wattage bulbs.

SAFETY / SECURITY – (a) Sufficient lighting at building entrances, exits, walkways and parking areas to allow customers and employees to see any physical barriers and to be seen at all times as they access to vehicles and sidewalks, and (b) The use of full cut-off light fixtures above doors, loading areas, building access points and safety areas.

SEASONAL HOLIDAY LIGHTING – Lighting displayed during and around a federally recognized holiday or local festival on a seasonal basis. For the purposes of this section, local festivals include but are not limited to Rhododendron Days and the Winter Folk Festival.

SHIELDING – An externally applied device such as a shroud or hood of metal, wood, opaque plastic or opaque glass so that light emitted by the fixture is directed downward below the horizontal plane onto the site and does not shine direct illumination skyward or onto adjacent or nearby property. The bulb is not visible with a shielded light fixture and no light is emitted from the side of the fixture. Also considered a full cut-off fixture.

TEMPORARY LIGHTING – Means lighting that is intended to be used for a special event for seven (7) days or less.

UNSHIELDED – Light fixtures lacking any means to restrict the emitted light to below the horizontal plane or to shine or glare skyward or onto adjacent or nearby property.

UPLIGHTED – A shielded light that directs light from the fixture in such a manner as to shine light rays above the horizontal plane.

Created by Ord. 12, Series 2014

# TITLE 11

## SUBDIVISION REGULATIONS


| SUBJECT | CHAPTER |
|---|---|
| SUBDIVISION ADMINISTRTION, GENERAL PROVISIONS | 1 |
| PARTITIONING PROCEDURE | 2 |
| SUBDIVISION TENTATIVE PLAN PROCEDURE | 3 |
| PARTITION AND SUBDIVISION FINAL PLAT | 4 |
| PLATTING AND MAPPING STANDARDS | 5 |
| MODIFICATIONS, SUBDIVISION REGULATIONS | 7 |

TITLE 11
CHAPTER 1

# SUBDIVISION ADMINISTRATION, GENERAL PROVISIONS

SECTION:

11-1-1: Purpose
11-1-2: Approval of Land Division
11-1-3 Definitions
11-1-4: Relocation of Lot Lines
11-1-5: Replatting of Subdivided Lands
11-1-6: Fees

**11-1-1: PURPOSE:** The purpose of this Title is:

A. To provide rules, regulations and standards to govern the approval of subdivisions and partitions of land and to carry out the development pattern and plan of the City.

B. To promote the public health, safety and general welfare; lessen congestion in the streets; secure safety from fire, flood, pollution and other dangers; provide adequate light and air; prevent overcrowding of land and facilitate adequate provision for transportation, water supply, sewerage, drainage, education, parkland, multi-use paths and trails, recreation and other needs of the people of the City; to prescribe procedures to be followed in submitting plans and plats of subdivisions for approval.

**11-1-2: APPROVAL OF LAND DIVISIONS:**

A. No person shall dispose of, transfer or sell any lot or parcel of land in a partition with respect to which approval is required by this Title until such approval is obtained.

B. No person shall create a street or way for the purpose of partitioning a parcel of land without the approval of the body authorized to give approval of plats for subdivisions under the provisions of this Title until such approval is obtained.

C. No persons shall dispose of, transfer, sell or advertise, agree or negotiate to sell any lot or parcel of land in any subdivision with respect to which approval is required by this Title until such approval is obtained, and the plat thereof has been acknowledged and recorded with the County recording officer.

**11-1-3: DEFINITIONS:** For the purpose of this Title, certain words, terms and phrases are defined as follows:

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| ALLEY | A narrow passage through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street. |
| ARTERIAL | A street which is used primarily for through traffic, or which by its location will likely be needed for such use in the normal growth of the community. |
| BLOCK LENGTH | The distance measured along all that part of one side of a street which is between two (2) intersecting or intercepting streets, or between an intersecting or intercepting street and a watercourse, body of water or undivided acreage. |
| BUSINESS STREET | Any block length along any street, other than an arterial, within which there is or will be provided access to one or more commercial structures which in the judgment of the Planning Commission will result in a high volume of business traffic on such street. |

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| BUTT LOT OR PARCEL | A lot or parcel, the lot or parcel side line of which abuts the lot or parcel rear line of two (2) or more adjoining lots or parcels. |
| CITY | The City of Florence, Oregon, and its officials or authorized agents. |
| CITY COUNCIL | The Common Council of the City of Florence, Oregon, which is the governing body of said City. |
| COLLECTOR | A street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas, used to some extent for through traffic and to some extent for access to abutting properties. |
| COMMISSION | The Florence Planning Commission. |
| CUL-DE-SAC | A short street having one end open to traffic (Dead End Street) and being terminated by a vehicle turn around. |
| DEDICATE / DEDICATION | The gift of land or an easement by a private person or entity to the City as part of, and a condition of, a real estate development. The City must accept the dedication before it is complete. The owner of the land does not retain any rights that are inconsistent with the complete exercise and enjoyment of the public uses to which the property is being committed. (Ord. 2, Series 2011) |
| DIVISION OF LAND | The creation of lots or parcels. |
| DRAINAGE FACILITY | Any of a number of types of stormwater conveyance detention, retention or other related facilities, including: pipes, culverts, ditches, natural drainageways, streams, catch basins, inlets, trash racks, and other types of open-channel systems. |
| EASEMENT, PUBLIC | A right of use of a property given by the owner to the City for public use, and accepted for such use by or on behalf of the public. (Ord. 2, Series 2011) |
| FINAL PLAT | The final map, diagram, drawings, replat or other writing containing all the descriptions, specifications, dedications, provisions and information concerning a subdivision or partition, suitable for recording. |
| LOCAL STREET | A street used primarily for access to abutting property(s). |
| LOT | A unit of land that is created by a subdivision of land. |
| Butt Lot or Parcel | A lot or parcel, the lot or parcel side line of which abuts the lot or parcel rear line of two (2) or more adjoining lots or parcels. |
| Corner Lot or Parcel | A lot or development site bounded entirely by streets, or a lot having only one side not bounded by a street, or a lot which adjoins the point of intersections of two (2) or more streets and in which the interior angle formed by the extensions of the street lines in the direction which they take at their intersections with side lot lines forms an angle of one hundred thirty five degrees (135) or less. In the event that any street line is a curve at its point of intersection with a side lot line, the tangent to the curve at the point of intersection shall be considered the direction of the street line. |
| Flat Lot or Parcel | A lot or parcel that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are two distinct parts to the flat lot; the development area or “flag” which comprises the developable area, and the access strip or “pole” which provides access from the street to the flag. |

Interior Lot or Parcel — Other than a corner lot, a lot or parcel having frontage only on one street.

Through Lot or Parcel — Other than a corner lot, a lot or parcel having frontage on two (2) parallel or approximately parallel streets other than alleys.

Key Lot or Parcel — A lot or parcel the rear line of which abuts the lot side line of two (2) or more adjoining lots or parcels.

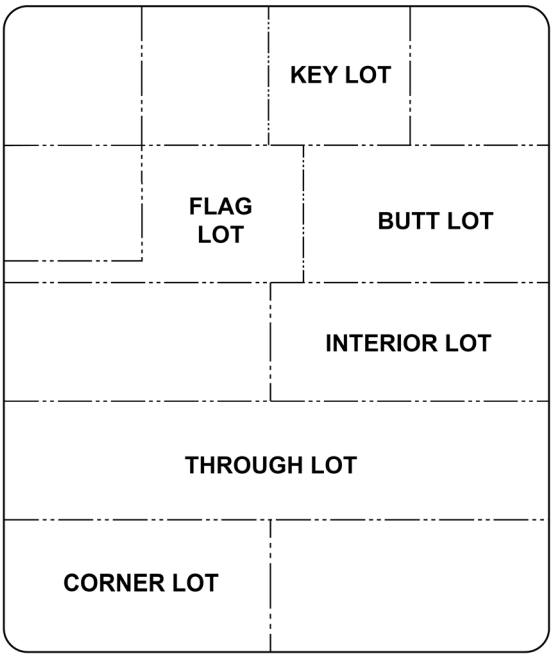


Figure 11-1-3: An illustration depicting lot types.

LOT LINE

A. Front: The lot or parcel line abutting a street. For corner lots or parcels the lot or parcel front line is that with the narrowest street frontage, except that, in the case of a lot or parcel which adjoins the point of intersections of two streets as defined in “Lot: Corner Lot,” both lot or parcel lines are the front line. For double frontage lots or parcels the lot or parcel front line is that having frontage on a street which is so designated by the land divider and approved as part of a subdivision or partition as provided for in this Title.

B. Rear: The lot or parcel line which is opposite to and most distance from the lot or parcel front line. In the case of triangular shaped lot, the rear lot line for building purposes shall be assumed to be a line ten feet (10’) in length within the lot, parallel to and at the maximum distance from the front lot line.

C. Side: Any lot or parcel line which is not a lot or parcel front or rear line.

MASTER ROAD PLAN — The plan(s) adopted by the Council of the City according to the procedures provided for in this Title.

MULTI-USE PATH — A paved 10- to 12-foot wide way that is physically separated from motorized vehicular traffic; shared with pedestrians, skaters, and other non-motorized users. (Ord. 2, Series 2011)

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| MULTI-USE TRAIL | An unpaved path that accommodates pedestrians shared with other non-motorized users. (Ord. 2, Series 2011) |
| OPEN SPACE | Any publicly or privately owned land that is retained in a substantially natural condition and incorporates an adjacent parkland improved for recreational uses such as, picnicking, nature interpretive trails or multi-use paths. Open spaces may also include seasonal lakes, lands protected as important natural resources such as wetlands or riverine areas, and lands used as buffers when such lands incorporate areas for the design features mentioned above. Open space does not include residential lots or yards, streets or parking areas. (Ord. 2, Series 2011) |
| OWNER | An individual, association, partnership or corporation having legal or equitable title to land sought to be divided, other than legal title held for purposes of security only. |
| PARCEL | A unit of land that is created by a partitioning of land. |
| PARKLANDS | Lands that provide for human development and enrichment, and include, but are not limited to: open space and scenic landscapes that provide a place for people to exercise and interact; active recreational lands; historical, archaeology and natural science resources that incorporate a combination of interpretive signage, trails, picnicking and seating areas, and viewing areas; sports and cultural facility areas; picnicking; trails; waterway use facilities; active and passive activities. (Ord. 2, Series 2011) |
| PARTITION | A division of an area or tract of land which does not result in the creation of more than three (3) lots within a calendar year. “Partition” does not include:<br><br>A. A division of land resulting from lien foreclosures;<br><br>B. A division of land resulting from the creation of cemetery lots;<br><br>C. A division of land made pursuant to a court order including but not limited to court orders in proceedings involving testate or intestate succession; and<br><br>D. Adjustment or elimination of a lot or parcel line by the relocation of a common boundary of two abutting properties where an additional parcel or lot is not created and where the existing parcel or lot reduced in size by the adjustment is not in conflict with any applicable law or ordinance, including but not limited to, provisions pertaining to minimum area, frontage, minimum width and required setbacks. |
| PARTITIONER | An owner commencing proceedings under this Title to effect a partition of land by himself or his lawful agent. |
| PERFORMANCE AGREEMENT OR BOND | A financial commitment by the petitioner or subdivider and executed by an Oregon licensed surety company in an amount equal to the full cost of construction and improvements as required in Chapter 5 of this Title and conditioned upon the faithful performance thereof. |
| PETITION FOR IMPROVEMENTS | A proper petition submitted to and approved by the City Council for construction and improvements as required by Chapter 5 of this Title. |
| PLANNING OFFICE | The Florence City Hall, Florence, Oregon. |

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| PLAT | The map and other writing containing all the descriptions, locations, dedications, specifications, provisions and information concerning a partition or subdivision. |
| RECREATION NEEDS | Existing and future demand by citizens and visitors for recreation areas, facilities, and opportunities which can contribute to human health, development, and enrichment. (Ord. 2, Series 2011) |
| REPLAT | Platting lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of lots or parcels in a recorded partition or subdivision plat or to increase or decrease the number of lots in a subdivision. |
| ROAD OR STREET | A public or private way, other than a public alley, that is created to provide ingress or egress for vehicular traffic to one or more lots, parcels, areas or tracts of land; excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. A "road" or "street" includes the land between right-of-way lines, whether improved or unimproved. |
| RIGHT OF WAY | The area between boundary lines of a street or other easement. |
| SUBDIVIDE LAND | The division of an area or tract of land into four (4) or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. |
| SUBDIVIDER | An owner commencing proceedings under this Title to effect a subdivision of land by himself or through his lawful agent. |
| SUBDIVISION | Either an act of subdividing land, or an area or tract of land subdivided as defined in this Section. |
| TENTATIVE PLAN | A preliminary drawing or diagram concerning a partition or subdivision. |

**11-1-4: RELOCATION OF LOT LINE:**

A. A lot line adjustment shall not create an additional parcel, shall not reduce an existing parcel below the minimum size applicable to that zoning district, shall involve only one common lot line, and shall not redesignate the front lot line as defined in Section 10-2-13 of this Code.

B. An application for a relocation of a lot line shall be filed with the City Planning Department. The Planning Department shall notify the applicant within fifteen (15) days, whether the application has been approved or denied. If approved, a survey, certified by a licensed surveyor, shall be filed with the Planning Department, within sixty (60) days of notification of approval. The applicant shall cause the survey to be recorded with the appropriate City and County offices at the applicant's expense and shall forward a copy of the recorded survey to the City. If denied, the decision may be appealed to the Planning Commission, by filing written notice of appeal, including the alleged error of the decision, with the Planning Department within ten (10) days of notice of such decision.

**11-1-5: REPLATTING OF SUBDIVIDED LANDS:** Replatting of an existing, but undeveloped, subdivision shall follow the following procedures:

A. The applicant shall apply to the City for vacation of existing rights of way as applicable, unless proposed streets and/or common open space of equal area is dedicated to the City as public easements. (Ord. 1, Series 1992).

B. The applicant shall apply to the City for partition or subdivision approval as applicable according to the provisions of this Title. (Ord. 669, 5-17-82)

**11-1-6: FEES:**

A. Application Fee: In order to cover the actual processing costs connected with the application for tentative plan approval of partitions and subdivisions, the applicant is required to submit a filing fee based on average processing costs along with the application, which fees shall be established by resolution of the Common Council.

B. Administrative Fee: In order to defray the administrative costs connected with reviewing and processing land divisions or adjustments of lot lines, the City shall collect a fee according to a schedule adopted by the City Council. This fee will be collected in connection with the following:

Lot Line Adjustments

Partitions

Subdivisions

Planned Unit Developments

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11-1-5 Amended Ord. 1, Series 1992
Section 11-1-3 amended by Ord. No. 9, Series 2009
Amended by Ordinance No. 2, Series 2011 (effective 3-11-11)
Section 11-1-3 amended by Ord. No. 18, Series 2011 (effective 9-19-11)
Section 11-1-4 amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Sections 11-1-2, 11-1-3, 11-1-4-B and 11-1-6-B amended by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 11
CHAPTER 2

# PARTITIONING PROCEDURE

SECTION:

11-2-1 Application
11-2-2: Tentative Plan Requirements
11-2-3: Review of Proposal by Other Agencies and Departments
11-2-4: Tentative Plan Approval
11-2-5: Ownership Verification of Dedications
11-2-6: Appeal of Decisions
11-2-7: Final Partition Plat
11-2-8: Effective Date of Decisions
11-2-9: Expiration of Approval

**11-2-1: APPLICATION:** An application shall be made by the person proposing the partition, or his authorized agent or representative, on a form prescribed by the City and submitted to the Planning Director, together with two (2) full-size copies, one (1) reduced copy of 11" x 17" or smaller, and an electronic copy of a tentative plan.

**11-2-2: TENTATIVE PLAN REQUIREMENTS:**

A. Application for tentative plan approval shall comply with application requirements of FCC 10-1-1-4.

B. Drafting: The tentative plan shall be submitted in both hard copy and electronic format and show all pertinent information to scale. The scale shall be standard, being 10, 20, 30, 40, 50 or 60 feet to the inch.

C. Information Required: The application or the tentative plan must contain the following information with respect to the subject area:

1. The proposed name of the partition. This name must not duplicate or resemble the name of another partition in the County and shall be approved by the Planning Commission.

2. The date, north point and scale of drawing, and a sufficient description to define the location and boundary of the tentative plan area.

3. An accurate map describing the boundaries of all contiguous land in the same ownership as the area encompassed in the application.

4. The names and addresses of the owner, partitioner and engineer or surveyor.

5. The location, name and present width of all streets and alleys.

6. The location of existing and proposed right-of-way lines for existing or projected streets as shown on the Master Road Plan.

7. The width and location of all easements for drainage and public utilities.

8. The dimensions, parcel lines and area of all parcels.

9. The existing use or uses of the property, including the location of all existing structures to remain on the property.

10. In addition, when all or a portion of the area encompassed in a minor partition application of lots averaging a maximum of one-half (1/2) acres each has not been previously included in a recorded plat (subdivision), the following information is also required:

a. The affidavit of a surveyor who is an Oregon registered engineer or Oregon licensed land surveyor, and who prepared the tentative plan for the area encompassed in the proposed partition.

b. The names of all recorded subdivisions contiguous to the subject area.

c. The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

| Contour Intervals | Ground Slope |
|---|---|
| 1' | 0% to 5% |
| 2' | 5% to 10% |
| 5' | Over 10% |

d. The approximate width and location of all proposed public utility easements.

e. The approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all watercourses.

f. All proposals for sewage disposal, flood control and easements or deeds for drainage facility, including profiles of proposed drainage ways.

g. All public areas proposed to be dedicated by the partitioner and the proposed uses thereof. In this connection, the application is subject to the requirements pertaining to reserve strips as stipulated in Chapter 5 of this Title. Said reserve strips shall be clearly indicated on the proposed partition.

h. All public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.

i. A legal description of the boundaries of the entire area owned by the partitioner of which the proposed partition is a part; provided, that where the proposed partition comprises all of such area, an affidavit of such fact shall accompany the application.

**11-2-3: REVIEW OF PROPOSAL BY OTHER AGENCIES AND DEPARTMENTS:** Within five (5) working days after the application is duly submitted, the Planning Director shall distribute copies thereof to the City Manager, to each public utility, the County Health Department, and to each government subdivision that may be affected by the partition proposal for review, comments and recommendations. If no written response is received by the Planning Director within thirty (30) days, it shall be assumed that the agency(s) approves of the proposal as submitted, unless an extension is requested. (Amd. Ord 30, Series 1990).

**11-2-4: TENTATIVE PLAN APPROVAL:** After giving notice as required by subparagraph 10-1-1-5-B-1 of this Code, the Planning Director or its designee shall grant approval or deny the partition tentative plan. The hearing, decision and further consideration of a similar application shall be reviewed under the type II process as defined by paragraph 10-1-1-6 of this Code. If approval involves implications of new or modified standards or policy, the Planning Commission and not its designee shall render a decision under a Type III process as defined. Approval shall be granted, provided affirmative findings can be made that:

A. When the division of land results in remaining parcels that are equal to or greater than twice the minimum lot size of the base zone, the application shall indicate the location of lot lines and other details of layout that show future land division may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways.

1. Any restriction of buildings within future street, bicycle path and accessway locations shall be made a matter of record in the tentative plan approval.

B. All proposed parcels comply with the development standards of the base zone.

C. Adequate public facilities are available or can be provided to serve the proposed parcels.

D. The application provides for the dedication or conveyance of public rights-of-way or utility easements necessary and adequate to meet the standards of the applicable master plan.

E. All proposed improvements meet City and applicable agency standards.

F. The partition complies with the requirements of this Title, all applicable provisions of the Oregon Revised Statutes, including ORS Chapter 92, the Florence Zoning Ordinance, the Florence Comprehensive Plan and Policies, as well as the intent and purpose of this Title.

Except as provided for in the procedures for modification as stipulated in Chapter 7 of this Title, approval as of a partition tentative plan does not relieve the applicant from other applicable provisions of this Title or Oregon Revised Statutes.

**11-2-5: OWNERSHIP VERIFICATION OF DEDICATIONS:** In the event approval of a minor partition is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the City a title report issued by a title insurance company licensed in the State of Oregon verifying ownership by the applicant of the real property that is to be dedicated to the public.

**11-2-6: APPEAL OF DECISIONS:** The procedure and provisions for appeal under this Chapter shall be governed by Subsection 10-1-1-7 of this Code. (Amd. Ord 30, Series 1990).

**11-2-7: FINAL PARTITION PLAT:** No more than two (2) years after tentative plan approval, the applicant shall submit to the Planning Director a final partition plat drawn by an Oregon registered engineer or licensed surveyor. The final plat shall be in a form suitable for recording and shall show the acreage or square footage of each parcel. If the final plat conforms to the approved tentative plan and applicable approval criteria listed in Section 11-4-4, it shall be endorsed by the City's authorized agent and recorded. A copy of the recorded plat shall be returned to the applicant.

**11-2-8: EFFECTIVE DATE OF DECISIONS:** The partition shall become effective upon recording of the final partition plat with the County Recorder.

**11-2-9: EXPIRATION OF APPROVAL:** If the conditions set at the time of approval are not fulfilled within two (2) years after tentative plan approval, the partition approval will be null and void. A new application must be submitted for reconsideration in light of new conditions that may exist.

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Amended by Ord. 30, Series 1990
Amended by Ord. 12, Series 1999
Section 11-2-2 Amended by Ord. No. 9, Series 2009
Section 11-2-2-C-10(f) amended by Ord. No. 18, Series 2009 (effective 9-19-11)
Sections 11-2-4, 11-2-6, and 11-2-8 amended by Ord. No. 11, Series 2016 (effective 11-16-16)
Sections 11-2-1, 11-2-2-B, 11-2-3, 11-2-4, 11-2-7, 11-2-7, 11-2-8 and 11-2-9 amended by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 11
CHAPTER 3

# SUBDIVISION TENTATIVE PLAN PROCEDURE

SECTION:

11-3-1: Application
11-3-2: Tentative Plan Requirements
11-3-3: Review of Tentative Subdivision
11-3-4: Approval of Tentative Subdivision
11-3-5: Acknowledging Tentative Plan Decisions
11-3-6: Tentative Plan, Effective Date
11-3-7: Tentative Plan, Appeal of Decisions
11-3-8: Phased Subdivision Tentative Plan

**11-3-1: APPLICATION:** An application for tentative plan approval shall be made by the person proposing the subdivision, or his authorized agent or representative, on a form prescribed by the City and submitted to the Planning Director, together with two (2) full-size copies, one (1) reduced copy of 11” x 17” or smaller, and an electronic copy of a subdivision tentative plan.

**11-3-2: TENTATIVE PLAN REQUIREMENTS:**

A. Application for tentative plan approval shall comply with application requirements of FCC 10-1-1-4.

B Drafting: The tentative plan shall be submitted in both hard copy and electronic format and show all pertinent information to scale. The scale shall be standard, being 10, 20, 30, 40, 50 or 60 feet to the inch or multiples of ten (1) of any one of these scales.

Tentative plans for subdivisions shall be proposed by a surveyor who is an Oregon registered engineer or Oregon licensed land surveyor. An affidavit of the services of said engineer or land surveyor shall be furnished as part of the tentative plan submitted.

C. Information Required: The application itself or the tentative plan must contain the following information with respect to the subject area:

1. Name and block numbering of proposed subdivision. Except for the words, "tow", "city", "plat", "court", "addition" or similar words, the name shall be clearly pronounced different than, the name of any other subdivision in the County unless the subject subdivision is contiguous to and platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the block numbers of the subdivision of the same name last filed.

2. The date, north point and scale of the drawing; a sufficient description to define the location and boundaries of the proposed subdivision area; and the names of all recorded subdivisions contiguous to such area.

3. The names and addresses of the owner and engineer or surveyor.

4. The location of existing and proposed right-of-way lines for existing or projected streets as shown on the Master Road Plan.

5. The locations, names and widths of all existing and proposed streets and roads. Said roads and streets shall be laid out so as to conform to subdivisions previously approved for adjoining property as to width, general direction and in other respects unless it is found in the public interest to modify the street or road pattern.

6. Locations and widths of streets and roads held for private use, and all reservations or restrictions relating to such private roads and streets.

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

| Contour Intervals | Ground Slope |
|---|---|
| 1' | 0% to 5% |
| 2' | 5% to 10% |
| 5' | Over 10% |

8. The approximate grades and radii of curves of proposed streets.

9. The approximate width and location of all reserve strips and all existing and proposed easements for public utilities.

10. The approximate radii of all curves

11. The general design of the proposed subdivision including the approximate dimensions of all proposed lots and parcels.

12. The approximate location of areas subject to inundation or storm water overflow, all areas covered by water, and the location, width and direction of flow of all watercourses.

13. The existing and proposed uses of the property including the location of all existing structures that the applicant intends will remain in the subject area.

14. The domestic water system proposed to be installed including the source, quality and quantity of water if from other than a public water supply.

15. All proposals for sewage disposal, flood control and easements or deeds for drainage facility including profiles of proposed drainage ways.

16. All public areas proposed to be dedicated by the applicant and the proposed uses thereof.

17. All public improvements proposed to be made or installed and the time within which such improvements are envisioned to be completed.

18. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil.

19. A legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision is a part, provided that where the proposal comprises all of such area, an affidavit of such fact shall accompany the tentative plan.

**11-3-3: REVIEW OF TENTATIVE SUBDIVISION:** Within five (5) working days after the subdivision tentative plan is duly submitted, the Planning Director shall distribute copies thereof to the City Manager, to each public utility, the County Health Department, and to each government subdivision that may be affected by the subdivision proposal for review, comments and recommendations. If no written response is received by the Planning Director within thirty (30) days, it shall be assumed that the agency(s) approves of the proposal as submitted unless an extension is requested.

**11-3-4: APPROVAL OF TENTATIVE SUBDIVISION:** After giving notice as required by FCC 10-1-1-6, the Planning Director or its designee shall grant approval or deny the subdivision tentative plan. The hearing decision and further consideration of a similar application shall be reviewed under a Type II process as defined by paragraph 10-1-1-6 of this Code. If approval involves implications of new or modified standards or policy, the Planning Commission and not its designee shall render a decision. Approval shall be based on compliance with the following criteria.

A. When the division of land results in remaining lots that are equal to or greater than twice the minimum lot size of the base zone, the application shall label it as a "Tract" and reserve it for open space as applicable or indicate the location of lot lines and other details of layout that show future land division may be made without violating the requirements of this land use code. In either scenario the tract(s) or future lot layout shall not interfere with the orderly extension of adjacent streets, bicycle paths, and accessways.

1. Any restriction of buildings within future street, bicycle path and accessway locations shall be made a matter of record in the tentative plan approval.

B. All proposed lots comply with the development standards of the base zone.

C. Adequate public facilities are available or can be provided to serve the proposed parcels.

D. The application provides for the dedication or conveyance of public rights-of-way or utility easements necessary and adequate to meet the standards of the applicable master plan.

E. The tentative plan complies with the requirements of this Title, all applicable provisions of the Oregon Revised Statutes including ORS Chapter 92, the Florence Zoning Ordinance, the Florence Comprehensive Plan and Policies, as well as the intent and purpose of this Title.

**11-3-5: ACKNOWLEDGING TENTATIVE PLAN DECISIONS:** Notice of the Planning Director's decision shall be given as provided in FCC 10-1-1-6.

**11-3-6: TENTATIVE PLAN, EFFECTIVE DATE:** Unless appealed, the Planning Director decisions under this chapter shall become effective on the thirty first day after rendered. The applicant may then proceed with final surveying and preparation for final approval consideration of the subdivision plat. Tentative plan approval shall be effective for two years, unless approved as a phased subdivision tentative plan consistent with Section 11-3-8, within which time the application and subdivision plat must be submitted as required by this Title. An applicant may apply to the Planning Director for two (2) extensions of twelve (12) months each. A decision to extend the approval shall be based on compliance with the following criteria:

A. The request for an extension is made in writing prior to expiration of the original approval;

B. There are special or unusual circumstances that exist which warrant an extension; and

C. No material changes of surrounding land uses or zoning has occurred.

Otherwise the entire procedure must be repeated for reconsideration in light of changed conditions that may exist.

**11-3-7: TENTATIVE PLAN, APPEAL OF DECISIONS:** The procedure and provisions for appeal under this Chapter shall be governed by Subsection 10-1-1-7 of this Code.

**11-3-8: PHASED SUBDIVISION TENTATIVE PLAN:** The subdivision of land may be phased. No land shall be divided as a phased subdivision without receiving tentative phased subdivision plan approval as set forth in this section. When the subdivision of land is phased, one tentative plan is approved by Planning Director for the entire phased subdivision, and each individual phase receives separate final plat approval from the Planning Director. Planning Director shall approve a phased subdivision tentative plan, provided affirmative findings can be made that: (Ordinance No. 7, Series 2019)

A. The proposed subdivision meets the Tentative Plan requirements outlined in 11-3-1 through 11-3-4.

B. The proposed subdivision includes the following elements:

1. A phasing plan that indicates the tentative boundaries of each phase, the sequencing of the phases, the tentative configuration of lots in each phase, and a plan for the construction fo all required public infrastructure in each phase.

2. Connectivity for streets and public utilities between each phase ensures the orderly and efficient construction of required public improvements among all phases.

3. Each phase will have public improvements that meet the infrastructure capacity requirements for the development and meet the requirements of City Code and city design standards.

4. Each phase is designed in such a manner that each phase supports the infrastructure requirements for the phased subdivision as a whole.

C. If the approval of a final plat for a phase of a phased subdivision requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative phased subdivision plan shall be modified prior to approval of the final plat.

D. Phasing: Subdivisions approved for multi-phased development may apply for final plat approval by phase, in the following manner:

1. The first phase of development shall apply for final plat approval within two (2) years from the date of the tentative plat approval;

2. The second phase of development shall apply for final plat approval within two (2) years after the final plat approval of the first phase;

3. Subsequent phases shall file for final plat approval within two (2) years after the final plat approval for the preceding phase, with all phases filed within eight (8) years of the tentative plan approval.

Amended by Ord. 30, Series 1990
Amended by Ord. 12, Series 1999
Sections 11-3-2 and 11-3-6 Amended by Ord. No. 9, Series 2009
Section 11-3-2-C-15 Amended by Ord. No. 18, Series 2011 (effective 9-19-11)
Sections 11-3-4, 11-3-5, and 11-3-7 amended by Ord. No. 11, Series 2016 (effective 11-16-16)
All Section amended by and Section 11-3-8 amended by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 11
CHAPTER 4

# PARTITION AND SUBDIVISION FINAL PLAT

SECTION:

11-4-1: Application
11-4-2: Requirements
11-4-3: Review by Other Agencies and Departments
11-4-4: Approval of Final Plat
11-4-5: Expiration of Approvals
11-4-6: Delivery of Final Plat to County Recorder
11-4-7: Delivery of Recorded Final Plat to City

**11-4-1: APPLICATION:** An application for a partition or subdivision final plat approval shall be made by the person proposing the partition or subdivision, or his authorized agent or representative, on a form prescribed by the City and submitted to the Planning Director after the effective date of tentative plan approval. Applications for a Final Plat are reviewed through a Type I Review as defined in Section 10-1-1-6. Said applications shall be accompanied by revised plans and additional information as prescribed in this Chapter.

**11-4-2: REQUIREMENTS:**

A. Drafting: Provisions for drafting shall be as follows:

1. Partition or Subdivision Plats: Two (2) full-size copies, one (1) reduced copy of 11” x 17” or less, and an electronic copy. Original plats shall conform to the Lane County Surveyor's specifications and requirements pertaining to material that has characteristics of adequate strength and permanency as well as suitability for binding and copying.

   Plats shall be in clear and legible form and may be placed on as many sheets as necessary but a face sheet and an index page shall be included for all plats placed on both sides of a sheet. Scale requirements shall be the same as specified for tentative plans. Lettering and the dedication and affidavit of the surveyor shall be of such size or type as will be clearly legible and no part of the plat shall come nearer than one inch (1") to any edge of any sheet.

B. Information Required: The application itself, or the proposed partition or subdivision plat, must contain the following with respect to the subject area:

1. Traverse computation sheets. The registered engineer or licensed land surveyor signing the surveyor's affidavit on the plat shall submit traverse computation sheets for the use of the City in checking the plat. Said sheets shall include the calculation of each course and distance by latitude and departure of all the boundary lines and of all lot lines in the subdivision area, and for all boundaries and all lots in the plat which are not completely rectangular in shape. Each course and distance, and each latitude and departure shall be tabulated on the traverse computation sheet in the proper order to show the closure limits of each area, and rectangular coordinates of every angle point shall be extended and shown from a single meridian and from a single point of origin.

2. The lengths of all chords, radii points of curvature and tangent bearings.

3. The lot lines of all lots or parcels within the partition or subdivision, with dimensions in feet and hundredths of feet and with all bearings shown; the acreage or square footage of each lot.

4. Numbers designating each block and lot in subdivisions, lots in each block to be numbered consecutively.

5. Where a plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

6. The description and location of all permanent reference monuments.

7. An affidavit of a surveyor, who is an Oregon registered engineer or Oregon licensed land surveyor and who surveyed the partition or subdivision, conforming to the requirements of ORS 92.

8. The date, north point and scale of the drawing, and a sufficient description to define the location and boundaries of the partition or subdivision.

9. The locations, names and widths of all streets, existing or being created.

10. The width and location of all existing easements for public utilities, and such easements being created, and also all reserve strips required as provided for by this Chapter.

11. A designation of all areas covered by water, and the location, width and direction of flow of all watercourses.

12. A designation of all area being dedicated by the applicant including proposed uses, and an effective written dedication thereof.

13. Designation of all donations to the public of all common improvements including but not limited to streets, roads, parklands, multi-use trails and paths, sewage disposal and water systems, the donation of which was made a condition of approval of the tentative plat for the partition or subdivision.

14. A copy of all protective deed restrictions, Covenants, Conditions, and Restrictions (CC&R's), easements, maintenance agreements and other documents pertaining to common improvements recorded and referenced on the plat.

15. A title report issued by a title insurance company licensed by the State of Oregon verifying ownership by the applicant of the real property that is to be dedicated to the public (Ord. 626, 6-30-80)

16. A landscaping plan will be required delineating shrubs, trees, screen planting and natural vegetation corridors. The plan will show approximate height, species (and alternatives), placement and areas. The location of all trees measuring ten inches (10") minimum (DBH) existing prior to development will be shown and those proposed to be removed. A maximum number of these trees will be retained, subject to provision of adequate area for building, parking and yard area, protection from windthrow hazard and solar access. (Ord. 626, 6-30-80; amd. Ord. 669, 5-17-82)

**11-4-3: REVIEW BY OTHER AGENCIES AND DEPARTMENTS:** Within five (5) working days after the partition or subdivision application is duly submitted the Planning Director shall distribute copies thereof to the City Manager, to each public utility, the County Health Department, and to each government division that may be affected by the application for review, comments and recommendations. If no written response is received by the Planning Director within thirty (30) days, it shall be assumed that the agency(s) approves of the application as submitted unless an extension is requested.

**11-4-4: APPROVAL OF FINAL PLAT:** Within ten (10) days of the receipt of all comments and recommendations requested from appropriate agencies and departments or within forty five (45) days of the receipt of a partition or subdivision plat application as provided for in this Title, the Planning Director shall approve, deny or, when further information is required, postpone a decision on the application. The Planning Director may or its designee shall approve, deny or, when further information is required, postpone a decision on the application. The Planning Director may require its designee to submit any tentative approval to the Director for review prior to notification of the applicant. In the event of a denial, the application shall be reviewed by the Planning Director within forty-five (45) days. Approval shall be based on the following criteria:

A. Streets, roads and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

B. Streets and roads held for private use and indicated on the tentative plan of such partition or subdivision have been approved by the City.

C. The proposal conforms to the requirements of this Title, Title 9, all applicable provisions of the Oregon Revised Statutes, the Florence Zoning Ordinance, Comprehensive Plan, and all other applicable laws and regulations as well as Section 11-1-1, Purpose, of this Title.

D. The final plat is consistent in design with the approved preliminary plat, and all conditions of approval have been satisfied.

E. The plat and deed contains a donation to the public of all common improvements including but not limited to streets, roads, parklands, multi-use trails and paths, sewage disposal and water supply systems, the donation of which was made a condition of the approval of the tentative plan for the partition or subdivision or in the case of parklands could also have been voluntarily donated.

F. Explanations of all common improvements required as conditions of approval of the tentative plan of the partition or subdivision have been accounted for and referenced on the plat or map.

G. Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat.

H. Either:

1. Improvements as required by Titles 9 and 10, or as a condition of tentative plan approval have been completed and filed with the City; or

2. A performance agreement (bond) or suitable substitute as agreed upon by the City and applicant has been filed with the Finance Officer in a sufficient amount of time to insure the completion of all required improvements; or

3. A petition for improvements has been properly executed by the applicant and will be assessed for said improvements.

I. Taxes, as well as public liens, assessments and fees with respect to the partition or subdivision have been paid; or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.

J. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions, and Restrictions (CC&R's), easements, maintenance agreements and other documents pertaining to common improvements recorded and referenced on the plat.

K. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of each monument and its reference to some corner approved by the County Surveyor for purposes of identifying its location.

**11-4-5: EXPIRATION OF TENTATIVE PLAN APPROVALS:** If the conditions set at the time of approval are not fulfilled and the plat or map offered for recording by the partitioner or subdivider in the office of the County Recording Officer within two (2) years, unless approved as a phased subdivision tentative plan consistent with FCC 11-3-8, the tentative plan approval, is null and void, and a new application for plat or map approval must be submitted for reconsideration.

An extension of the tentative plan may be pursued consistent with FCC 11-3-6.

**11-4-6: DELIVERY OF FINAL PLAT TO COUNTY RECORDER:**

A. Partition: Within sixty (60) days of City approval of the final plat, the Planning Director shall deliver it to the office of the County Clerk and notify the partitioner that such has been done and that the partition may be offered for recording.

B. Subdivision: Within sixty (60) days of City approval of the final plat, the Planning Director shall:

1. Obtain on the approved subdivision plat the signature of the County Assessor, whose signature shall certify that all taxes on the property have been paid;

2. Obtain on the approved subdivision plat the signature of the Planning Director, whose signature shall certify that the platting laws of the State and the requirements of this Title have been complied with; (Amd. Ord 30, Series 1990).

3. Deliver the approved subdivision plat to the office of the County Clerk;

4. Notify the subdivider that the approved subdivision plat has been delivered to the office of the County Clerk and may be offered for recording.

C. Prerequisites to Recording the Plat:

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92.

2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS Chapter 92.

**11-4-7: DELIVERY OF RECORDED FINAL PLAT TO CITY:** In addition to the requirements of Oregon Revised Statutes pertaining to filing and recording of approved partition or subdivision plats, the applicant shall furnish the City one exact reproducible copy thereof, composed of the same materials as required by the County Surveyor, of if not so required, of such materials and specifications as required by the City. Said copy shall be furnished to the City within two (2) working days of recordation.

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Amended by Ord No. 30, Series 1990
11-4-2-B13 & 11-4-4-E Amended by Ord 2, Series 2011 (effective 3-11-11)
Sections 11-4-4-C and 11-4-4-H Amended by Ord. No. 18, Series 2011 (effective 9-19-11)
All sections amended by Ord. No. 7, Series 2019 (effective 12-18-19)

TITLE 11
CHAPTER 5

# PLATTING AND MAPPING STANDARDS

SECTION:

11-5-1: Streets
11-5-2: Lots and Parcels
11-5-3: Public Facilities
11-5-4: Unsuitable Areas

## 11-5-1: STREETS:

A. All streets shall comply with applicable development standards of Title 10 Chapter 36, Street Standards.

B. Slope Easements: Slope easements shall be dedicated in accordance with specifications adopted by the City Council under Section 11-6-1 of this Title.

C. Reserve Strips: The Planning Commission may require the applicant to create a reserve strip controlling the access to a street, said strip to be placed under the jurisdiction of the City Council and the Planning Commission, when the Planning Commission determines that a strip is necessary:

1. To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street; or

2. To prevent access to the side of a street on the side where additional width is required to meet the right of way standards provided in the table under subsection B2 above; or

3. To prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself; or

4. To prevent access to land unsuitable for building development.

## 11-5-2: LOTS AND PARCELS:

A. Size and Frontage:

1. General Requirements: Each lot shall have a minimum width and depth consistent with the lot width and depth standards for the appropriate zoning district.

2. Area: Minimum lot size shall be in conformance with the provisions of the Florence Zoning Ordinance. Where either a community water supply or sewer system are not presently provided, the lot area shall be sufficient to meet State and County health standards and the lot area shall be at least twice the number of square feet normally required in the zoning district where the lot is located. Where an oversize lot as described above is required due to lack of services, the Planning Commission may require the developer to submit a plan for later division of said lot(s) into lots meeting the minimum lot sizes for single-family detached dwellings in the underlying zone.

3. Frontage: Each lot shall have frontage upon a street of not less than the required minimum lot width for the underlying zone and development type, except that a lot with a required minimum width of fifty feet (50') located on the outer radius of a curved street or facing the circular end of a cul-de-sac shall have frontage of not less than thirty five feet (35') upon a street, measured on the arc. Where either a public water supply or public sewers are not presently provided, the lot frontage shall be sufficient to insure an adequate sized lot to meet State and County requirements

B. Exceptions:

1. Subdivisions and Partitions Developed as a Unit: The Planning Commission may in its discretion authorize the relaxation of the lot size and frontage requirements specified herein where the applicant presents a plan satisfactory to the Planning Commission whereby the entire subdivision or partition will be designed and developed with provision for proper maintenance of open space, recreation and parklands and will be commonly available for recreation and park purposes to the residents of the subdivision or partition, and which the Planning Commission determines will be of such benefit to said residents as is equal to that which would be derived from observance of the lot size and frontage requirements otherwise specified, and will be in accordance with the purpose of this Title.

2. Land Zoned for Commercial Use: The Planning Commission may in its discretion authorize relaxation of the lot size and frontage requirements specified herein in the case of land zoned for commercial use, where such relaxation is necessary in consideration of the suitability of the land for such use, and in accordance with the purpose of this Title.

3. Lot or Parcel Retained for Future Subdivision or Partition: The Planning Commission may in its discretion waive lot frontage requirements where in its judgment a lot or parcel should and will be retained by the applicant, and future subdivision or partition of such lot will be best protected by the creation of a reserve strip separating such lot from any street.

4. Flag Lots: Flat lots shall be permitted provided they meet the following requirements:

   a. The lot has frontage and access on a public street.

   b. The buildable portion of the lot is connected to the right-of-way via an accessway at least twenty (20) ft in width.

   c. A maximum of one (1) flat lot may be served by a flag lot accessway.

   d. Accessway Design and Emergency Vehicle Access

      i. Accessways shall be designed and constructed in accordance with 10-35-2-12

      ii. Accessways shall have a minimum paved width of twelve (12) ft.

      ii. Accessways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

      iv. Frontage shall display an address at their closest point of access to a public street for emergency responders.

      v. A proposed structure on a flag lot may not have its furthest point located farther than one hundred fifty (150) ft in distance from the public right-of-way, as measured along an accessible route.

      vi. The applicant submits written confirmation from the Fire Marshal that the proposed access meets emergency access needs.

      vii. Parking along any portion of the accessway is prohibited unless the paved portion of the accessway is suitably sized to meet the combined needs of parking and emergency access requirements.

5. Lot and Parcel Side Lines: As far as is practicable, lot and parcel side lines shall run at right angles to the street upon which the lot or parcel faces; except those on curved streets, they shall be radial to the curve.

6. Suitability for Intended Use: All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety or sanitary needs of the residents of the subdivision or partition or of such lot or parcel as determined by the Planning Director in accordance with the purpose of this Title.

**11-5-3: PUBLIC FACILITIES:** All utilities shall comply with applicable development standards of Title 10 Chapter 36 and Title 9.

**11-5-4: UNSUITABLE AREAS:** Areas identified in the Florence Comprehensive Plan as having designated or protected natural areas or potential hazards due to erosion, landslides, stream flooding, ocean flooding or other natural hazards shall not be divided in a manner that would be dangerous to the health and safety of those who would live in said areas, the general public, or natural values which have been protected.

A. All subdivision applications shall be reviewed by the City, using the Phase I checklist contained in Site Investigation Reports by Wilbur E. Ternyik, published by OCZMA.

B. Where problem areas are identified in the Phase I checklist, a full-scale Phase II site investigation will be required covering only those problem areas identified in the Phase I checklist. This site investigation must be prepared and paid for by the applicant. Before approval would be granted the site investigation would have to prove either:

   1. That upon specific examination of the site, the condition which was identified in the Comprehensive Plan Inventory did not exist on the subject property; or

   2. That harmful effects could be mitigated or eliminated through, for example, foundation or structure engineering, setbacks or dedication of protected natural areas.

C. Specifically, areas shown on the Hazards Map and the Soils Map of the Comprehensive Plan will require a Phase II site investigation report. Studies which have been adopted or included in the Comprehensive Plan by reference or studies done subsequent to the adoption of the Plan may be used to determine when a site investigation report is needed.

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11-5-1 Amended by Ord 1, Series 1992
Sections 11-5-1 and 11-5-3 Amended by Ord. No. 9, Series 2009
11-5-2-B1 Amended by Ord 2, Series 2011 (effective 3-11-11)
Sections 10-5-2 and 10-5-4 amended by Ord. 7, Series 2019 (effective 12-18-19)

TITLE 11
CHAPTER 6

# REQUIRED IMPROVEMENTS

Whole chapter is deleted per Ordinance No. 9, Series 2009

# MODIFICATIONS, SUBDIVISION REGULATIONS

SECTION:

11-7-1: Application for Modification

## 11-7-1: APPLICATION FOR MODIFICATION:

A. Time for Submitting Application: Concurrently with submitting a tentative plan to the Planning Director for Planning Commission consideration and approval, an applicant may submit to the secretary of the Planning Commission an application for a modification of any provision of Chapters 2 through 6 of this Title and Chapter 36 of Title 10. (Amd. Ord 30, Series 1990).

B. Contents of Application: An application for a modification shall be a verified petition stating the provision sought to be modified and stating facts showing that:

1. Such provision, if strictly applied, would cause unique and unnecessary hardship to the applicant in subdividing or partitioning the subject area; and that

2. Modifications of such provision(s) would not be contrary to the purpose of this Title for the reason that:

a. Where the application is for a modification of any provision of Chapters 5 or 6 of this Title, unusual topographic conditions or previous layout of the partition or subdivision area or neighboring area reasonably require such modification and such modification will not be substantially injurious to the public interest and the best use and value of property in the neighboring area; or

b. Where the application is for a modification of any provision of Chapters 2 through 4 of this Title, the purpose of such provision has been fulfilled without a strict application thereof, and the interest of the public in efficient transaction of public business will best be served by such modification.

C. Concurrent with its consideration of the application for tentative plan approval and subject to the same procedures and effective dates, the Planning Commission or its designee shall consider the application for modification. Approval of the application for modification shall be granted provided affirmative findings can be made for the criteria in paragraph B of this section and provided the tentative plans are also approved.

Amended by Ord 30, Series 1990
Section 11-7-1 Amended by Ord. No. 9, Series 2009