

**CITY OF FLORENCE
ORDINANCE NO. 13, SERIES 2015**

**An Ordinance amending Florence City Code Chapter 17 of Title 10 concerning
certain wholesale businesses within the Old Town Area “A” zoning district**

RECITALS:

1. Scott Waiss and Bert Wells initiated amendments to allow businesses to conduct wholesale operations by application on October 20, 2015.
2. On November 9, 2015 notice of the proposed code amendments was sent to the Department of Land, Conservation and Development, not less than 35 days prior to the first evidentiary hearing.
3. On November 23, 2015, the City sent notice in accordance with FCC 10-1-3 and ORS 227.186(4) to affected property owners notifying them of the joint Planning Commission and City Council public hearing, as well as posted the proposed code amendments on the web site.
4. On November 24, 2015, the City sent notice to Referral Agencies about the proposed amendments and the public hearing.
5. On December 2, 2015 and December 9, 2015 notice of hearing was published in the Siuslaw News prior to the Planning Commission hearing of December 14, 2015 and the City Council hearing of December 14, 2015.
6. Planning Commission opened their public hearing December 14, 2015 and then closed it and deliberated to a decision for a recommendation to the City Council on December 14, 2015.
7. City Council conducted a public hearing on December 14, 2015 and found the amendments consistent with applicable criteria in Florence City Code, Realization 2020 Florence Comprehensive Plan, Oregon Administrative Rules and Oregon Revised Statutes.

Based on these findings,

THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The Florence City Code Chapter 17 of Title 10: Zoning Regulations, is amended as explained in Exhibit A, as shown in Exhibit B, and initiated through citizen application.

2. This ordinance shall become effective thirty days following adoption. (January 12, 2015).
3. The City Recorder is authorized to administratively correct any reference errors contained herein or in other provisions of the Florence City Code to the provisions added, amended, or repealed herein.

ADOPTION:

First Reading on the 14th day of December, 2015.

Second Reading on the 14th day of December, 2015


This Ordinance is passed and adopted on the 14th day of December, 2015.

AYES	5	Councilors Greene, Preisler, Lacer, Lyddon and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	



Joe Henry, Mayor

Attest:



Kelli Weese, City Recorder

**Exhibit "A": Findings of Fact
Florence City Council – Ordinance No. 13, Series 2015
Florence Planning Commission – Resolution PC 15 21 TA 03**

Public Hearing Date: December 14, 2015 **Planner:** Glen Southerland
Date of Report: December 5, 2015
Application: PC 15 21 TA 03
CC 15 07 TA 03

I. PROPOSAL DESCRIPTION

Proposal: A request for a code amendment to Title 10, Chapter 17, Section A-2-B in order to allow the manufacture and wholesaling of food and beverage items within the Old Town Area "A" zoning district when accompanied by a retail and/or restaurant use selling those items on-site.

Applicant: Scott Waiss and Bert Wells

II. NARRATIVE:

The applicant applied for the code amendment on October 29, 2015. The application was deemed complete on November 23, 2015.

The applicant has applied for a code amendment to allow wholesaling accompanied by retail sales within the Old Town Area "A" zoning district. By extension, this code change would also apply to the Waterfront/Marine district, which is governed in part (50%) by the zoning code for Old Town Area "A."



The applicant intends to open a small brewery and tasting room at 184 Maple Street (the former Masonic Lodge) following any changes to the Old Town code which would allow the wholesaling of brewed beverages. The applicant intends to dedicate approximately 60% of the main floor to brewing production and 40% to a retail tasting

room. The applicant has stated that it is not cost effective to open a brewery production space without the ability to wholesale those items off-site at area restaurants and businesses, a use not currently allowed by City Code in the Old Town District.

Historically, wholesale of food and beverage items has taken and is taking place within the Old Town District and has contributed to the character of the district in the form of bakeries and coffee shops which bake goods and roast coffee for Old Town restaurants. Those businesses manufacture on-site and also sell their goods on-site through retail and restaurant establishments. The proposed code amendment would allow uses which are already taking place which add to the character, charm, and sustainability of Old Town Area "A."

Staff has also proposed that loading zones for wholesale businesses take place wholly on private property, off City streets.

III. NOTICES & REFERRALS:

Notice: On November 23, 2015 notice was mailed to property owners within Old Town Area "A". Notice was published in the Siuslaw News on December 2 and 9, 2015.

At the time of this report, the City has not received any written testimony.

Referrals: On November 24, 2015 referrals were sent to the Florence Building Department; the Florence Police Department; Florence Public Works; Lane County Environmental Health; Central Lincoln PUD; the Florence Chamber of Commerce; Florence Urban Renewal Agency; the Oregon Department of Agriculture; the Oregon Health Authority; the Oregon Liquor Control Commission; and Siuslaw Valley Fire and Rescue.

At the time of this report, the City has not received any written comments.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code, Title 10:

Chapter 1: Zoning Administration, Section 3-C

Chapter 17: Old Town District, Section 1, A-2-B, and A-2-C

Realization 2020 Florence Comprehensive Plan:

Chapter 1: Citizen Involvement, Policies 4, 5, and 6

Chapter 2: Land Use: Other Plan Designations, Policy 1, Downtown Planning Area

Chapter 9: Economic Development, Policy 1

Oregon Revised Statutes:

197.610: Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

227.186: Notice to property owners of hearing on certain zone change

Statewide Planning Goals (OAR 660-015-0000):

1. Citizen Involvement
2. Land Use Planning
9. Economy of the State

V. PROPOSED FINDINGS

Code criteria are listed in **bold**, with staff response beneath. Only applicable criteria have been listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-3: AMENDMENTS AND CHANGES:

C. 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.**

The proposed code text amendment was initiated by an application for amendment by a citizen. The applicant has proposed this change to accommodate their brewery/retail business which will in-turn supply local restaurants and stores.

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).**

The notice mailed to affected property owners as described above and in accordance with ORS 227.186, contained information regarding the nature of the application; applicable criteria applying to the issue; the area affected by the proposed code amendment; the date, time and location of the meeting; the need to “raise it or waive it” appeal rights; stated that the application and criteria were available for inspection at no cost and would be provided at reasonable cost; stated that a copy of the staff report would be available no less than seven days prior to the hearing regarding the item; included a statement of the requirements for submission of testimony; and included the name of the staff person to contact, telephone number for the Planning Department and an email address where questions or testimony could be sent. The application was properly noticed on November 23, 2015 and these criteria are met.

TITLE 10: CHAPTER 17: OLD TOWN DISTRICT

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.

The applicant has proposed that the code of the Old Town District Area "A" be amended to allow for the wholesaling of items that are also sold on-premises. This type of business is allowed within the historic commercial areas of many other cities and has become an attraction and valuable asset to both locals and tourists in those areas. The Florence area currently does not have any breweries, brewpubs, or other attractions where a product is manufactured on-premises and sold within a restaurant or retail space as well as sold to other businesses wholesale.

The applicant has also proposed that the upper floor of the building be converted to residential use in the future. This proposal is in keeping with the purpose of the Old Town District and will encourage the revitalization of the Old Town area within existing historic buildings.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

CHAPTER 1: CITIZEN INVOLVEMENT

SCENIC RESOURCES AND VISUAL QUALITY

POLICY 4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.

The Planning Commission and City Council met on December 14, 2015 in order to consider this application. Notices were sent to all property owners within the Old Town Area "A" zoning district. Notice also appeared in the Siuslaw News on December 1, 2015 and December 9, 2015. The agenda for the meeting provided the opportunity for citizen comment.

POLICY 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public.

The proceedings were recorded and minutes published and made available to the public. These materials are available at request to the public.

POLICY 6. Planning documents and background data shall be available to interested citizens

All information regarding this application and proposed code amendment are available upon request to interested citizens.

CHAPTER 2: LAND USE

Other Plan Designations

POLICY 1. The City should recognize unique land uses, sites, and/or ownership patterns and should provide for flexibility in the land use system to address unique situations while remaining consistent with City goals and policies.

The proposed code amendment will allow a unique land use within the Old Town district in order to spur economic development in the area while maintaining consistency with City goals and policies for the Downtown area. The proposed code amendment is a small change to an allowed use and will allow the production and wholesaling of items sold within Old Town Area "A."

The practice of wholesaling within Old Town Area "A" has taken place historically and currently through bakeries and coffee roasters within the district. The size limitation proposed of ≤5,000 square feet will limit manufacturing and wholesaling operations to scales that are in keeping with the Old Town character. Loading has been addressed as an issue which could affect Old Town area character through criteria which requires that loading of goods to be sold be conducted on private property only, not City right-of-ways.

POLICY 2. Establishment of additional land use designations shall follow standard government process as set forth in this Comprehensive Plan, local ordinances, and state statute.

This code amendment has been proposed and will be established according to Florence City Code, the Realization 2020 Comprehensive Plan, and state statutes as outlined below.

CHAPTER 9: ECONOMIC DEVELOPMENT

POLICY 1. The City shall encourage actions and activities that promote the availability of new employment in the community, especially family wage jobs.

The applicant has proposed this code in order to open a production brewery which will sell goods within a retail space on the premises and which will also wholesale goods to other stores and restaurants in the Florence area. The facility should provide for

several family wage jobs and could provide for more as the business finds success and expands production.

OREGON REVISED STATUTES

197.610 Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules.

(1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

Prior to the first evidentiary hearing, notice was mailed and submitted electronically to the Department of Land Conservation and Development. That notice included the text of all changes proposed at the time for City land use regulations and was mailed on November 9, 2015.

(3) Submission of the proposed change must include all of the following materials:

- (a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;
- (b) If a comprehensive plan map or zoning map is created or altered by the proposed change, a copy of the map that is created or altered;
- (c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;
- (d) The date set for the first evidentiary hearing;
- (e) The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and
- (f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.

All of the required documents were submitted to DLCDD on November 9, 2015 except for the staff report, which was not available at the time. This staff report will be sent to DLCDD as well as being made available on the City of Florence website.

227.186 Notice to property owners of hearing on certain zone change; form of notice; exceptions; reimbursement of cost.

(1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

(3) Except as provided in subsection (6) of this section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

(4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

(5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

This is to notify you that (city) has proposed a land use regulation that may affect the permissible uses of your property and other properties.

(b) Contain substantially the following language in the body of the notice:

On (date of public hearing), (city) will hold a public hearing regarding the adoption of Ordinance Number _____. The (city) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number _____ is available for inspection at the _____ City Hall located at _____. A copy of Ordinance Number _____ also is available for purchase at a cost of _____.

For additional information concerning Ordinance Number _____, you may call the (city) Planning Department at _____.

Notice containing the language above was mailed to all property owners within the Old Town Area "A" zoning district on November 23, 2015, within the 20 to 40-days prior to the first evidentiary hearing window as required. The proposed code amendment, if approved, would be adopted by Ordinance No. 13, Series 2015, as required by ORS 227.186.

VI. EXHIBITS

"A" Findings of Fact
"B" Proposed Code Amendments
"C" Legislative Amendment Application
"D" Noble & Henderson Testimony

TITLE 10
CHAPTER 17

OLD TOWN DISTRICT

SECTION

10-17A-2 Land Uses for Area A

OLD TOWN DISTRICT AREA A

10-17A-2 LAND USES FOR AREA A: The following establishes permitted, conditional, and prohibited uses for the Old Town District Area A:

- 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 Chapter 4 of this Title, may grant a conditional use permit for the following:

Manufacturing and production of food and beverage items sold on- and off-premises, when accompanied by a retail space and /or restaurant items sold on-on-the premises where those items are sold (<= 5,000 s.f. w/retailquare feet not including retail/restaurant area) and loading of materials to be sold off-site takes place on private property

- 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:

Wholesale sales, except as allowed above as an accessory to a Conditional Use
Warehousing, except as allowed above as an accessory to a Conditional Use

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-B amended by Ordinance No. 13, Series 2015 – effective January 12, 2016

EXHIBIT B