



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/04/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Yachats Plan Amendment
DLCD File Number 001-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, September 19, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Larry Lewis, City of Yachats
Gordon Howard, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Amanda Punton, DLCD Natural Resources Specialist
Gary Fish, DLCD Transportation Planner

<paa> YA

**FORM 2****DLCD**

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	AUG 30 2012
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **City of Yachats**

Local file number: --

Date of Adoption: **8/9/2012**Date Mailed: **8/28/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 1/31/2012☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

A. Parking Regulations. A definition of 'off-street parking space' is provided. Minimum dimensions of an off-street parking space are amended to be 9 feet by 18 feet; allowed parking space surfaces are identified, other minor amendments are made.

B. Chapter 9.53.070 Shoreland Setbacks is changed to Protection of Ocean, River, Streams, Wetlands, and Riparian Areas. Amendments reference the City's Local Wetlands Inventory and provide standards for protection of resources.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **NA**to: **NA**Zone Map Changed from: **NA**to: **NA**Location: **Citywide/UGB**

Acres Involved:

Specify Density: Previous: **NA**New: **NA**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes

☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes

☐ No

DLCD file No. 001-12 (19165) [17154]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Larry Lewis, City Planner**

Phone: (541) 547-3565 Extension:

Address: **PO Box 345**

Fax Number: **541-547-3565**

City: **Yachats**

Zip: **97498-**

E-mail Address: **larry@ci.yachats.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

**CITY OF YACHATS
ORDINANCE NO. 314**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTERS 9.04, 9.12,
9.16, 9.20, 9.24 AND 9.48 – PARKING REGULATIONS**

WHEREAS, the Planning Commission drafted amendment to the parking requirements, held a public hearing on March 20, 2012 and recommended that City Council adopt the amendments; and

WHEREAS, City Council held a public hearing on July 12, 2012; and

NOW THEREFORE, the City of Yachats ordains that the Municipal Code Chapters 9.04 – General Provisions and Definitions, Chapter 9.12 – R-1 Residential Zone, Chapter 9.16 – R-2 Residential Zone, Chapter 9.20 – R-3 Residential Zone, Chapter 9.24 – R-4 Residential Zone and Chapter 9.48 – Off-Street Parking and Loading be amended, in part to read as follows:

Chapter 9.04 – General Provisions and Definitions

Section 9.04.030 Definitions

(New Definition)

Parking Space, Off-Street. “Off-street parking space” means a parking space located outside of public right-of-way with minimum dimensions of eighteen (18) feet long and nine (9) feet wide. Off-street parking spaces shall have surfaces such as gravel, pavement, tile, brick or concrete surface suitable for parking a vehicle. Required off-street parking spaces shall not be located in a required yard that abuts a street.

Chapter 9.12 – R-1 Residential Zone

Section 9.12.040 Standards.

E. Off-Street Parking. ~~Residential dwellings shall have at least two permanent parking spaces. Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and ten feet wide. Regular off-street parking shall not be permitted within the required yards adjacent to a street.~~ Refer to Chapter 9.48 – Off-Street Parking And Loading for parking requirements.

Chapter 9.16 – R-2 Residential Zone

Section 9.16.040 Standards.

E. Off-Street Parking. ~~Residential dwellings shall have at least two permanent parking spaces per dwelling unit. Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and nine feet wide. Regular off-street parking shall not be permitted within the required yards adjacent to a street.~~ Refer to Chapter 9.48 – Off-Street Parking and Loading for parking requirements.

Chapter 9.20 – R-3 Residential Zone

Section 9.20.040 Standards.

E. Off-Street Parking. ~~Residential dwellings shall provide the following off street parking spaces: one family dwelling, two spaces; two family dwelling, four spaces; three family dwelling, five spaces; four family dwelling, six spaces; each additional unit, one and one half spaces (rounded up, to the nearest whole number). Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and nine feet wide. Regular off street parking shall not be permitted within the required yards adjacent to a street. Refer to Chapter 9.48 – Off-Street Parking and Loading for parking requirements.~~

Chapter 9.24 – R-4 Residential Zone

Section 9.24.040 Standards.

E. Off-Street Parking. ~~Residential dwellings shall provide the following off street parking spaces: one family dwelling, two spaces; two family dwelling, four spaces; three family dwelling, five spaces; four family dwelling, six spaces; each additional unit, one and one half spaces (rounded up, to the nearest whole number). Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and nine feet wide. Regular off street parking shall not be permitted within the required yards adjacent to a street. Refer to Chapter 9.48 – Off-Street Parking and Loading for parking requirements.~~

Chapter 9.48 - Off-Street Parking And Loading

Section 9.48.010 General requirements.

~~Refer to Chapter 9.04.030 Definitions for the definition of “Parking, Off Street”. At the time a structure is erected or enlarged or the use of an existing structure is changed, off-street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless: (1) greater requirements are otherwise established; or (2) the approved covenants, conditions and restrictions (CC and Rs) of approved planned unit developments (PUDs) provide other parameters. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this title.~~

A. Requirements for types of buildings and uses not specifically listed herein shall be determined by the ~~planning commission~~ City Planner, based upon the requirements of comparable uses listed.

B. In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.

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

D. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. ~~Other required p~~Parking spaces for non-residential uses shall be located not farther than five hundred (500) feet from the building or use they are required to serve, measured in a straight line from the building.

E. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

F. Areas used for parking and maneuvering of vehicles shall have ~~durable and dustless~~

surfaces such as gravel, pavement, tile, brick or concrete material suitable for parking a vehicle, improved to minimum city road standards, maintained adequately for all-weather use, and be so drained as to avoid flow of water across public sidewalks.

G. Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscurer fence of not less than five feet in height where vision clearance is required.

H. Perpendicular or diagonal parking spaces for commercial uses that are located along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high and set back a minimum of four and one-half feet from the property line.

I. Any lights provided to illuminate any public or private parking area or sales area shall be arranged so as to reflect the light away from any abutting or adjacent residential zone.

~~J. Required off-street parking areas shall not be located in the required front or street side-yard areas in a residential zone.~~

~~K.~~ Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.

~~L. Passenger Loading. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.~~

~~M.~~ Loading of Merchandise, Materials or Supplies. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this title may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.

~~N. Individual parking spaces shall not measure less than nine feet by twenty (20) feet.~~

~~O.~~ Off-street parking space requirements:

1. Residential dwellings: ~~refer to specific zones for parking regulations.~~ Residential dwellings shall provide the following off-street parking spaces:

One-family dwelling, two spaces;

Two-family dwelling, four spaces;

Three-family dwelling, five spaces;

Four-family dwelling, six spaces;

Each additional unit, one and one-half space (rounded-up to the nearest whole number).

2. Manufactured dwelling park: two spaces for each manufactured dwelling space.

3. Motel, hotel or resort: one space for each guest accommodation.

4. Nursing home or similar institution: one space for each three beds.

5. Church, club or similar place of assembly: one space for each four seats, or one space for each twenty-five (25) square feet of floor area used for assembly.

6. Library: one space for each one hundred (100) square feet of floor area.

7. Dance hall, skating rink, or similar commercial amusement enterprise: one space for each seventy (70) square feet of floor area.

8. Bowling alley: six spaces for each alley.

9. Retail store: one space for each two hundred (200) square feet of floor area.

10. Service or repair shop, retail store handling bulky merchandise such as automobiles and furniture: one space for each six hundred (600) square feet of floor area.

11. Bank, office: one space for each three hundred (300) square feet of floor area.

12. Medical and dental clinic: one space for each two hundred (200) square feet of floor area.

~~13. Other uses not listed above: number of parking spaces shall be determined by the~~

1 ~~planning commission.~~

2 ~~413.~~ Eating and drinking establishments: one space for each one hundred (100) square feet of
3 total floor area.

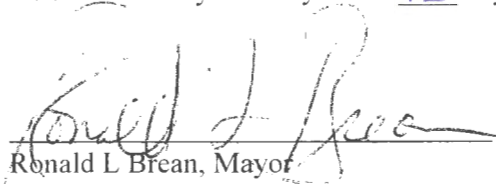
4
5 **PASSED AND ADOPTED** by the City Council of the City of Yachats on this 12 day of

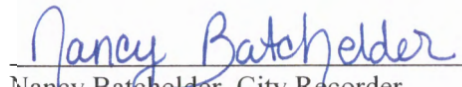
6 July 2012.

7
8 Ayes: 5 Nays: 0 Abstentions: 0 Absent: 0

9
10 **APPROVED** by the Mayor this 12 day of July 2012.

11
12 Attest:

13
14 
15 Ronald L Brean, Mayor

16 
Nancy Batchelder, City Recorder

**CITY OF YACHATS
ORDINANCE NO. 315**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 9.52, SECTION
9.52.070 SHORELAND SETBACKS**

WHEREAS, from September 2011 through January 2012, the Planning Commission worked on and drafted Zoning & Land Use Code amendments regarding protection of ocean, river, streams, wetlands, and riparian areas. The Planning Commission held a public hearing in March 2012. The Commission is now recommending the City Council adopt this amendment; and

WHEREAS, This amendment will replace existing Yachats Zoning and Land Use Code Section 9.52.070 Shoreland Setbacks. This proposed amendment is new to the Zoning and Land Use Code with the exception of Section D.1 Ocean Protection Standards and Section D.3 Additional River Protection Standards¹; and

WHEREAS, Following the Planning Commission public hearing and the Commission's recommendation to the City Council, city staff reviewed the proposed amendment and suggested additional revisions. At the July 12, 2012 City Council public hearing the Council continued the hearing to provide time for the Planning Commission to review the staff's suggestions; and

WHEREAS, the Planning Commission reviewed the staff's suggestions when they continued their deliberation at a public hearing on July 17, 2012, and approved language to forward to City Council for their consideration; and

WHEREAS, City Council held a public hearing on August 9, 2012;

NOW THEREFORE, the City of Yachats ordains that the Municipal Code Chapter 9.52, Section 9.52.070 shall be amended to read as follows:

Section 9.52.070 Protection of Ocean, River, Streams, Wetlands, and Riparian Areas

Sections

- A. Purpose
- B. Definitions
- C. Application and Permits
- D. Protection Standards
- E. Exceptions & Variations

A. Purpose:

The purpose of this Section is to provide procedures necessary to secure the desirable attributes of the city from depletion by recognizing the value of the ocean, river, streams, wetlands, and riparian vegetation for fish and wildlife habitat, maintenance of water quality and quantity, alleviation of flooding hazards, storm water control, recreation and aesthetics, and to provide for open space. Protection of the natural drainage ways as an integral part of the City environment in accordance with the 2011 Yachats Local Wetlands and Riparian Inventory (LWI) is also important in order to manage stormwater drainage, minimize maintenance costs, and protect properties adjacent to drainage ways.

B. Definitions:

¹ For those two sections (D.1 and D.3) existing language proposed to be deleted is shown in ~~strikethrough text~~ and proposed language is shown in **bold underlined italics**.

1. Drainage Ways: The streams, channels, springs, lakes, reservoirs, ponding areas, and wetlands indicated in the LWI.
 2. Fish Habitat: Those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.
 3. Ocean Shoreland: Those areas west of the Yachats River Bridge adjacent to the ocean, bay and river.
 4. Riparian Area: The area adjacent to a river or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
 5. Riparian Corridor: Includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.
 6. Riparian Corridor Boundary: An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.

Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50' inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25' inland (or upland) from the upland edge of the wetland or pond.
 7. River Shoreland: Those areas adjacent to the Yachats River from the Yachats River Bridge upstream to the east city limit boundary.
 8. Stream: A channel, such as a river or creek, that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
 9. Stream, Fish Bearing: A stream identified in the LWI as having an intact fish habitat function, i.e. Yachats River, Yachats River Tributaries, and a small unnamed creek at the very north end of Yachats.
 10. Stream, Perennial: A stream that has continuous flow in parts of its streambed all year round during years of normal rainfall.
 11. Water Area: The area between the banks of a lake, pond, river, or perennial or fish-bearing intermittent stream, excluding man-made farm ponds.
 12. Wetland: An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
 13. Wetland, Significant: A wetland one-half acre or greater in size that met one or more mandatory criteria as identified in the LWI, i.e. wetlands labeled VC-4, VC-12, LY-19, and LY-25.
- C. Application and Permits:
1. Application: The provisions of Section 9.52.070 shall apply to ocean and river shorelands, and to the fish bearing streams, perennial streams, significant wetlands, and associated riparian areas identified in the LWI. The provisions of Section 9.52.070 shall also apply to existing fish bearing and perennial streams, significant wetlands, and associated riparian areas that are not yet identified in the LWI. Subsection D.4 shall apply to non-fish bearing and non-perennial drainage ways. The provisions of Section 9.52.070 are to be applied in conjunction with the provisions of the underlying zone and are also subject to the applicable provisions of Chapters 9.52, 9.54, 9.76, 9.80, 9.84, and 9.88. Where the provisions of Section 9.52.070 and the underlying zone conflict, the more restrictive regulations shall apply. Forestry activities subject to the riparian regulations of the Oregon Forest Practices Act are

exempt from regulation under Section 9.52.070. Forestry activities not subject to the riparian regulations of the Oregon Forest Practices Act are subject to regulation under Section 9.52.070.

2. Procedure for Development Applications: Except for permit requirements for riparian zone vegetation removal or pruning as described in Section 3 below, applicants requesting approval for any development permit in an area which contains a designated resource identified in Section 9.52.070(D) below, shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to each of the applicable standards of Section 9.52.070. The City Planner shall review and approve the application if it is determined that all of the applicable criteria are met.

3. Procedure for Riparian Zone Vegetation Removal or Pruning: An executed Permit for Riparian Zone Vegetation Removal or Pruning is required before any person undertakes removal or pruning in a riparian zone. The City Planner, Public Works Director, or Code Enforcement Officer shall approve or disapprove the Permit. Failure to complete the application form and secure an executed permit in advance is a violation of City Code. A copy of an approved permit shall be in the possession of any person performing work thereunder for review by any person. Also, a copy shall be published in the Yachats Document Library.

D. Protection Standards:

1. Ocean Protection Standards: ~~Prior to development On ocean shorelands along the ocean, west of the Yachats River Bridge, a site specific geotechnical report shall be submitted to the City in accordance with Section 9.52.050. sSetbacks shall be a minimum~~ twenty-five (25) feet from the top of the bank or ~~greater if recommended by an Oregon certified engineering geologist, that arrived at by using formulae elucidated in the RNKR study (RNKR Associates, 1978; copies are on file at City Hall) and outlined in Appendix D, whichever is greater. Any deviation from this setback must be accompanied by a recommendation from a State of Oregon registered professional geologist or geotechnical engineer and approved by the City.~~

2. Riparian Corridor Protection Standards: The provisions of this subsection apply to the river, fish bearing and perennial streams, significant wetlands, and associated riparian areas.

- a. The actual location of the river, streams, wetlands, and riparian areas, shall be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the State of Oregon. A report and map shall be submitted to the City which documents the boundaries of the resource and its buffer.
- b. The outer boundaries of the riparian corridor shall be clearly marked in the field, and such markings shall remain visible for inspection until all development on the site is complete.
- c. No filling, grading, excavating, or draining is permitted in a wetland area unless such is performed for restoration purposes or in accordance with Section N. Mitigation Standards. Valid permits from the US Army Corps of Engineers and from the Oregon Department of State Lands, or written proof of exemption from these permit programs must be obtained and presented to the City prior to any such work.
- d. The flow from springs, drainages, streams, and other features providing the water necessary to maintain wetland's hydrology, shall not be diminished or substantially increased.
- e. Within the riparian corridor boundary, no grading shall occur, no impermeable surfaces or structures shall be placed, no non-native vegetation shall be planted, and no vegetation shall be

removed or destroyed, except that the following are allowed, provided they are designed and constructed to minimize intrusion into the riparian area:

- 1) Removal of riparian vegetation necessary for a use that requires direct access to the water.
- 2) Placement of utilities, drainage facilities, and irrigation pumps.
- 3) Replacement or enlargement of existing structures with structures in the same location that do not disturb additional riparian surface area.
- 4) The placement of walking paths and road crossings.
- 5) Removal of non-native noxious and invasive vegetation and replacement with native plant species.
- 6) Fish and habitat restoration activities approved by Oregon Department of Fish and Wildlife.
- 7) Removal of vegetation necessary for the development of water related and water dependent uses.

f. Development activities shall not change the natural drainage or substantially increase the water flow.

g. Development activities shall not create erosion into the stream, wetland, pond, or riparian area.

3. **Additional River Protection Standards:** On river shorelands along the Yachats River, from the Yachats River Bridge upstream to the east city limit boundary, in order to provide for wildlife habitat and riverbank stabilization, a fifty (50) foot riparian buffer shall be maintained. The riparian buffer is an area that extends inland (or upland), measured on the horizontal, from the top of the bank of the Yachats River or where no bank is discernible, that extends inland from the outer edge of non-aquatic vegetation. Within the first thirty (30) feet, vegetation may be pruned or removed because of storm damage, plant health, disease, damage to existing structures or demonstrated safety endangerment. If vegetation is removed it must be replaced with similar riparian zone plants native to Oregon, as soon as practical. Individual property owners whose property is within the fifty (50) foot riparian buffer are allowed to trim existing plants within ten (10) feet of a building if it is all within their property line. New native riparian plants may be planted within the riparian buffer. Otherwise within the first thirty (30) feet, the existing native riparian vegetation shall remain undisturbed; in the last twenty (20) feet slight vegetative alteration is allowed provided the overstory is retained. Minor pedestrian access paths leading to (but not parallel to) the Yachats River shall be allowed as long as the overstory is not disturbed. Noxious weeds and invasive plants shall be exempt from this restriction. See Yachats Municipal Code Section 5.08.110. No structure shall be placed within the riparian buffer. Where a permitted use of a lot existing prior to the establishment of this amended ordinance would be precluded by strict adherence to these requirements, the applicant may ask the Planning Commission for an exception to these standards if the applicant meets the following conditions:

- a. Adherence to requirements would result in a building footprint less than the norm of the neighboring properties;
- b. Disruption of the riparian area has been minimized;
- c. That options such as maximizing variance setbacks on the sides of the property away from the aesthetic resource or other design methods to minimize impact have been exercised or are not feasible.

4. **Non-fish bearing and Non-Perennial Drainage Way Protection Standards:** To prevent new development from significantly increasing the amount or flow rate of surface water runoff destined for

the drainage way, any new development or redevelopment proposed on land containing or adjoining a drainage way shall:

- a. No drainage way shall be altered, i.e. filled, culverted, re-routed, or disturbed without prior approval by the City of Yachats.
 - b. A drainage easement 10-foot on-center shall be maintained.
 - c. For subdivisions and planned unit developments, include an engineered storm water plan that provides for no-site storm water detention and primary treatment that screens and separates gross pollutants (sedimentation, floatables, oil and grease).
5. This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Exceptions & Variations

1. Exceptions to the above standards are:

- a. Vegetation removal for structural shoreland stabilization subject to the shoreline stabilization standards in Section 9.52.100.
- b. Vegetation removal for bridge maintenance, replacement or repair.

2. Hardship Variances:

- a. Applicability: This section applies to lots existing prior to November 9, 1978.
 - b. Where a minimum building footprint of less than 800 square feet would result from application of the rules of this section, reduction or removal of the restrictions under this section can be granted to allow the building of a structure within such a building footprint through the variance procedure. Applicants for variance from this section should demonstrate, in addition to the criteria found in the variance ordinance (Chapter 9.80), that intrusion into the required riparian corridor, wetland, or drainage way protection areas has been minimized by maximizing setback variances on property line boundaries away from these resources.
3. Map Error: If the resource is not located on a subject property, although the inventory map indicates it to be, the applicant for a building permit shall follow the following procedure:
- a. The boundary of the property with proximity to the resource area shall be marked between surveyed property markers with a visible string or tape.
 - b. The applicant shall contact the City Planner and request a site visit.
 - c. The City Planner shall inspect the property and, if the resource is not on the subject property, issue the applicant a note stating the resource is not on the subject property and the property is exempt from the provisions of this section.
 - d. When the extent of the resource area cannot be determined by the City, the applicant shall seek prompt assistance from a natural resource agency in making that determination, or provide a written report from a properly-qualified specialist describing the boundaries of the resource area in relationship to the property boundaries.

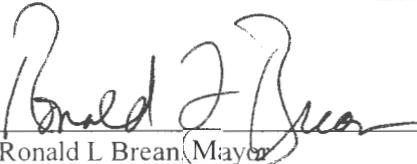
4. Mitigation Standards: When impacts within a riparian area are approved, mitigation will be required in accordance with the following standards:

- 1 a. When mitigation for impacts to a riparian zone is proposed, the mitigation plan shall comply with
2 all Oregon Department of State Lands and U.S. Army Corps of Engineers wetland regulations.
3 The City may approve a development but shall not issue a building permit until all applicable
4 State and Federal wetland permit approvals have been granted and copies of those approvals have
5 been submitted to the City.
- 6 b. When mitigation for impacts to a riparian zone is proposed, a mitigation plan prepared by a
7 qualified professional shall be submitted to the City. The mitigation plan shall meet the following
8 criteria:
- 9 1) Mitigation for impacts to a riparian zone shall require a minimum mitigation area ratio of 1:1;
10 2) The mitigation plan shall document the location of the impact, the existing conditions of the
11 resource prior to the impact, the location of the proposed mitigation area, a detailed planting
12 plan of the proposed mitigation area with species and density, and a narrative describing how
13 the resource will be replaced;
- 14 3) Mitigation shall occur on-site and as close to the impact area as possible. If this is not
15 feasible, mitigation shall occur within the same drainage basin as the impact.
- 16 4) All vegetation planted within the mitigation area shall be native to the region. Species to be
17 planted in the mitigation area shall replace those impacted by the development activity;
- 18 5) Trees shall be planted at a density of not less than 5 per 1000 square feet. Shrubs shall be
19 planted at a density of not less than 10 per 1000 square feet.
20

21 **PASSED AND ADOPTED** by the City Council of the City of Yachats on this 9 day of
22 August 2012.

23
24 Ayes: 5 Nays: 0 Abstentions: 0 Absent: 0
25

26 **APPROVED** by the Mayor this 9 day of August 2012.

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29
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31 Ronald L. Brean, Mayor

Attest:


Nancy Batchelder, City Recorder

Y OF YACHATS
Office Box 345
s, Oregon 97498



DEPT OF
AUG 30 2012
LAND CONSERVATION
AND DEVELOPMENT

ATTN: PLAN AMEND. SPECIALIST
OREGON DLCD
635 CAPITOL ST. NE, STE 150
SALEM, OR 97301-2540

