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## Zoning Ordinances

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**ROCKAWAY BEACH**

**ORDINANCE NO. 143**

**AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF ZONING**

**REGULATIONS FOR THE CITY OF ROCKAWAY BEACH, OREGON, IN**

**CONCEPT WITH THE COMPREHENSIVE PLAN AND REPEALING ORDINANCE**

**NO. 92, NO. 121 AND NO. 141**

**AND INCORPORATING ORDINANCE NUMBERS**

**149, 162, 163, 165, 173, 174, 181, 185, 193, 203,**

**217, 221, 226, 229, 235, 239, 243, 252, 257, 262, 265,**

**276, 277, 279, 280, 93-299, and 94-308.**

The City of Rockaway Beach does ordain as follows:

**Article 1. Introductory Provisions**

**Section 1.010. Title.** This ordinance shall be known as the Rockaway Beach Zoning Ordinance.

**Section 1.020. Purpose.** The purpose of the ordinance is: to encourage the orderly development of the City; to promote appropriate uses of land; to conserve and stabilize the value of property; to provide adequate light and air; to lessen congestion; to prevent undue concentration of population; to facilitate adequate provisions for community facilities such as water supply and sewerage; to protect and enhance the appearances of the City; and in general to promote the public health, safety, convenience, and general welfare. The City has prepared a comprehensive plan and zoning ordinance to encourage orderly growth and to promote the public health, safety, convenience, and general welfare.

**Section 1.030. Definitions.** As used in this ordinance the following words and phrases shall mean:

- (1) **Accessory Use and Structure.** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.
- (2) **Access.** Access to property is described as normal vehicular access, by which normal ingress and egress by automobiles or other vehicles and pedestrians may be obtained to private property from public or private right-of-way.
- (3) **Active Restoration.** The use of specific positive remedial actions, such as removing fills, or improving water quality to return an aquatic area to a previous condition.

[Added by Ordinance #277, August 28, 1990]

- (4) **Beach.** Gently sloping areas of loose material (e.g., sand, gravel, cobbles) that extent landward from the low water line (extreme low tide) to a point where there is a definite change in material type or landform or to the line of year-round vegetation. In most cases, the line of vegetation is followed by the Oregon Beach Coordinate or Zone Line, as defined by O.R.S. 390.770. Where the vegetation line is eastward or landward of the coordinate line, the eastward line of the beach shall be the actual line of vegetation.

[Added by Ordinance #243, May 13, 1986]

(5) **Bed and Breakfast.** An owner occupied dwelling where rooms are available for transient lodging and where a morning meal is provided.

[Added by Ordinance #277, August 28, 1990]

(6) **Building.** A structure, including modular housing and manufactured homes, built for the support, shelter, or enclosure of persons, animals, or property of any kind, and having a fixed base on, or fixed base to the ground. [Amended by Ordinance #94-308, February 9, 1994]

(7) **City.** The City of Rockaway Beach, Oregon.

(8) **Day Care Center.** A facility other than the residence of the day care provider, which receives three or more children for part of the 24 hours of the day for the purpose of providing care and board apart from the children's parents or guardians.

[Added by Ordinance #277, August 28, 1990]

(9) **Dune.** Means a hill or ridge of land built up by wind along sandy coasts.

[Added by Ordinance #277, August 28, 1990]

(10) **Dune, active.** Means a dune that migrates, grows and diminishes from the force of wind and supply of sand. Active dunes include all open sand dunes, active hummocks and active foredunes.

[Added by Ordinance #277, August 28, 1990]

(11) **Dune, Conditionally Stable.** Means a dune presently in a stable condition, but vulnerable to becoming active due to fragile vegetative cover.

[Added by Ordinance #277, August 28, 1990]

(12) **Dune, Older Stabilized.** Means 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.

[Added by Ordinance #277, August 28, 1990]

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

[Added by Ordinance #277, August 28, 1990]

(14) **Dune, Younger Stabilized.** Means a wind stable dune with weakly developed soils and vegetation.

[Added by Ordinance #277, August 28, 1990]

(15) **Dune, Open Sand.** Means a collective term for active, unvegetated dune land forms.

[Added by Ordinance #277, August 28, 1990]

(16) **Dwelling Unit.** One or more rooms in a building that are designed for occupancy by one family and which contain one or more of the following features: 1) refrigeration and cooking capabilities, 2) a sink intended for meal preparation, not including a 'wet bar', 3) a dishwashing machine, 4) a separate and distinct entrance door, and/or 5) a separate utility meter.

[Amended by Ordinance #93-299, March 24, 1990]

(17) **Dwelling, Single Family or One Family.** A detached building containing one dwelling unit and designed for occupancy by one family only.

(18) **Dwelling, Duplex or Two Family.** A detached building containing two dwelling units and designed for occupancy by two families.



(19) **Dwelling, Multifamily.** A building or portion thereof, designed for occupancy by three or more families living independently of each other.

(20) **Family.** An individual or two or more persons related by blood, marriage, legal adoption, guardianship, or one or more persons living together as one housekeeping unit, using one kitchen, and providing meals or lodging.

(21) **Family Day Care Center.** A day care facility where care is provided in the home of the provider in the family living quarters to fewer than 13 children including children of the provider, regardless of full or part-time status.

[Added by Ordinance #277, August 28, 1990]

(22) **Foredune, active.** Means 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 sandpits and at river mouths as well as elsewhere.

[Added by Ordinance #277, August 28, 1990]

(23) **Foredune, Conditionally Stable.** Means an active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion.

[Added by Ordinance #277, August 28, 1990]

(24) **Foredune, Older.** Means a conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development.

[Added by Ordinance #277, August 28, 1990]

(25) **Grade (Ground level).** The average elevation of the finished grade or ground at the center of all walls of a building. For structures located in a coastal high hazard area (V-Zone), the grade shall be defined as the base flood elevation as determined by the flood insurance rate map for the City of Rockaway Beach.

[Amended by Ordinance #235, June 25, 1985]

(26) **Height of Building.** On the oceanfront, building height means the vertical distance from the grade to the highest point of the roof, excluding chimneys, aeriels and similar extensions. For all other uses, building height means the vertical distance measured from the average elevation of the grade to the highest point of the roof surface of a flat roof, to the top of a mansard roof, and the ridge of a pitched roof, excluding chimneys, aeriels and similar extensions.

[Amended by Ordinance #235, June 25, 1985]

(27) **Home Occupation.** A lawful occupation carried on by a resident of a dwelling as an accessory use on the same property, in connection with which there is no person employed other than a person residing on the premises; and there is no activity conducted in such a manner as to give an outward appearance of a business in the ordinary meaning of the term, or disruption of the neighborhood.

(28) **Kenel.** A lot or building in which four or more dogs, or cats, or at least four animals of four months of age or older are kept commercially for board, propagation, training or sale.

(29) **Lot, Abutting the Oceanshore or Oceanfront lot.** Means a lot which abuts the Oregon Coordinate Line or a lot where there is no buildable lot between it and the Oregon Coordinate Line.

[Added by Ordinance #277, August 28, 1990]

(30) **Lot.** A parcel or tract of land.

(31) **Lot Area.** The total horizontal area within the lot lines of a lot exclusive of public and private streets and easements of access to the property.

(32) **Lot, Corner.** A lot abutting on two or more dedicated streets at their intersection.

(33) **Lot Depth.** The average horizontal distance between the front lot line and the rear lot line.

- (34) **Lot Line.** The property line bounding a lot.
- (35) **Lot Line, Front.** The lot line separating the lot from the street, and in the case of a corner lot, the shortest lot line along a street.
- (36) **Lot Line, Rear.** The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
- (37) **Lot Line, Side.** Any lot line not a front or rear lot line.
- (38) **Lot Width.** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- (39) **Lot Area Coverage.** The maximum amount of the lot which can be covered with structures, including carports, porches, and other attachments, but not including parking area, patios, decks, or other surface area improvements.
- (40) **Low Intensity Recreation.** Means recreation that does not require developed facilities and can be accommodated without change to the area or resource.

[Added by Ordinance #277, August 28, 1990]

- (41) **Manufactured Dwelling.**
- a) **A residential trailer.** A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.
- b) **A mobile home.** A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed after January 1, 1962, and meets the construction requirements of Oregon mobile home law in effect at the time of construction.

**'Manufactured dwelling'** does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

Section (41) amended by Ordinance #94-308, February 9, 1994]

- (42) **Manufactured Home.** A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standard regulations in effect at the time of construction.

Section (42) amended by Ordinance #94-308, February 9, 1994]

- (43) **Manufactured Home Park.** Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

[Amended by Ordinance #277, August 28, 1990]

- (44) **Manufactured Home Subdivisions.** Any place where four or more manufactured dwellings are parked within 500 feet of one another on a lot, tract, or parcel of land under separate ownerships, designated or intended for occupation by manufactured dwellings.

[Amended by Ordinance #277, August 28, 1990]

- (45) **Modular Housing.** Means a dwelling unit manufactured offsite, built to be used for permanent residential occupancy, to be set on a permanent foundation and conforming to the Uniform Building Code.

[Added by Ordinance #277, August 28, 1990]

- (46) **Nonconforming Structure or Use.** A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

(47) **Owner.** An owner of property or the authorized agent of an owner.

(48) **Ocean Flooding.** The flooding of lowland areas by salt water owing to tidal action, storm surges 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.

[Added by Ordinance #243, May 13, 1986]

(49) **Open Space.** That portion of the lot or parcel of property which is left uncovered by structures, parking, patios, and other impervious surfaces. It is area devoted primarily to landscaping or natural vegetation.

[Amended by Ordinance #93-299, March 24, 1990]

(50) **Parking Space.** An enclosed or unenclosed surfaced area, permanently reserved for the temporary storage of one automobile and connected with a street or alley which affords ingress and egress for automobiles.

[Amended by Ordinance #277, August 28, 1990]

(51) **Passive Restoration.** Means the use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

[Added by Ordinance #277, August 28, 1990]

(52) **Permit.** A discretionary approval of a proposed development of land under ORS 227.215.

[Added by Ordinance #277, August 28, 1990]

(53) **Public Utility.** A private business or organization such as a public service corporation, performing some public service and subject to governmental regulation, or a governmental agency performing similar public services. Such services shall include but are not limited to electric, gas, power or telephone.

[Added by Ordinance #277, August 28, 1990]

(54) **Recreational Vehicle.** A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreation or emergency purposes and has a floor space of less than 400 square feet. 'Recreational vehicle' includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers and any vehicle converted for use or partial use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer.

[Amended by Ordinance #277, August 28, 1990]

(55) **Recreational Vehicle Park.** A lot which is operated on a fee or other basis as a place for the parking of occupied recreation vehicles.

(56) **Residential Facility.** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for 6 to 15 individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

[Added by Ordinance #277, August 28, 1990]

(57) **Residential Home.** A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for 5 or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

[Added by Ordinance #277, August 28, 1990]

(58) **Sidewalk, Public.** A pedestrian access at least 6 feet wide located within the street right-of-way for the purpose of walking and separated from vehicular traffic. Where public sidewalks do not exist, the 6 feet of right-of-way on either side of the street shall be considered as a sidewalk; (in commercial areas for the purpose of evaluating sign overhangs.)

(59) **Sign.** An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and which directs attention to a product, place, activity, person, institution, or business. Each display surface of a sign other than two surfaces parallel and back to back on the same structure shall be considered a sign.

(60) **Street.** Entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms road, highway, lane, place, avenue, alley, and other similar designations.

(61) **Structure.** Something constructed or built, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(62) **Structural Alteration.** Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

(63) **Timeshare Condominium.** A condominium in which units are individually owned by a family or group of persons for a variable amount of time during the year, and in which part of all of the units may be available to transients for rent on an exchange basis. For the purpose of this ordinance, timeshare condominium or unit shall be considered a motel.

[Added by Ordinance #235, June 25, 1985]

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

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

[Added by Ordinance #277, August 28, 1990]

(66) **Yard.** An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance.

(67) **Yard, Front.** A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building or other structure. Any yard meeting this definition and abutting a street shall be considered a front yard.

(68) **Yard, Rear.** A yard between side lot lines and measured horizontally at right angles to the rear lot line to the nearest point of a building or other structure.

(69) **Yard, Side.** A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

(70) **Yard, Street Side.** A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

**Article 2. Basic Provisions.**

**Section 2.010. Compliance With Ordinances.** Land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this ordinance permits.

**Section 2.020. Classification of Zones.** For the purposes of this ordinance the following zones are hereby established:

Zone .....	Abbreviated Designation
Single Family .....	R-1
Residential .....	R-2, R-3
Resort Residential.....	R-R
Special Residential Resort.....	SRR
Commercial .....	C-1
Waterfront Development.....	WD
Special Area Wetland.....	SA
Residential Manufactured Dwellings.....	RMD

Some areas within the City are also hereby included in one or more of the following overlay districts, each of which has special provisions that, along with the provisions of the basic zoning district, govern the use of property.

Overlay Zone .....	Abbreviated Designation
Flood Hazard Overlay.....	FHO
Hazard Overlay.....	HO
Wetland Notification.....	WO
Conditional Use Area.....	CU

[Amended by Ordinance #277, August 28, 1990]

**Section 2.030. Location of Zones.** The boundaries for the zones listed in this ordinance are indicated on the 'Rockaway Beach Zoning Map' which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

[Amended by Ordinance #277, August 28, 1990]

**Section 2.040. Zoning Map.** The map entitled City of Rockaway Beach Comprehensive Plan and Zoning Map dated February 1992, is adopted as the official zoning map of the City of Rockaway Beach. It shall be maintained on file in the office of the City Recorder. Whenever sufficient authorized map amendments have been adopted, a revised zoning map shall be prepared. At a minimum, it shall be at the time of periodic review.

[Amended by Ordinance #277, August 28, 1990]

**Section 2.050. Zone Boundaries.** Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended.

**Section 2.060. Zoning of Annexed Areas.** Areas annexed to the City shall be zoned in conformance with the Rockaway Beach Comprehensive Plan and Zoning Map.

[Amended by Ordinance #277, August 28, 1990]

### Article 3. Use Zones.

#### **Section 3.010. Single Family (R-1) Zone** In an R-1 zone the following regulations shall apply:

(1) **Uses Permitted Outright.** In an R-1 zone the following uses and their accessory uses are permitted outright:

(a) Single family dwellings, including modular housing and manufactured homes. Manufactured homes shall be subject to the standards of the Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Home occupation (see Section 4.090).

(c) Manufactured dwellings or recreational vehicles or a temporary structure used during the construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.

(d) Family day care center.

(e) Residential home.

(f) Signs subject to Section 4.050.

(g) Structural shoreline stabilization.

(2) **Conditional Uses Permitted.** In an R-1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

(a) Duplexes.

(b) Churches and community meeting buildings.

(c) Golf course, tennis courts, swimming pools and other private recreation areas.

(d) Parks and publicly owned recreation areas.

(e) Public utility structure such as a substation.

(f) Government or municipal structures.

(g) Public owned parking lot.

(h) Non-profit conference ground or center operated for educational, charitable, or religious purposes, meeting the standards of Section 6.050.

(i) Bed and breakfast.

[Amended by Ordinance #277, August 28, 1990; Title only amended Ordinance #93-299,

March 24, 1990]

(3) **Standards.** In an R-1 zone the following standards shall apply:

(a) The minimum lot size shall be 3,500 square feet for lots existing at the time of the adoption of Ordinance 235. Lots platted after the adoption of Ordinance 235 shall have a minimum lot size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(b) The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet, for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(c) Minimum lot width is 50 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(d) Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(e) The minimum front yard shall be 15 feet, unless subsection 3.010(3)(h) applies.

[Amended by Ordinance #235, June 25, 1985]

(f) The minimum side yard shall be 5 feet, except that on the street side of a corner lot it shall be 15 feet.

[Amended by Ordinance #235, June 25, 1985]

(g) The minimum rear yard shall be 20 feet, except that on a corner lot it may be a minimum of 5 feet unless subsection 3.010(3)(h) applies. Oceanfront structures shall conform to Section 5.060(1)(b).

[Amended by Ordinance #94-312, June 8, 1994]

(h) For lots of less than 5,000 square feet in size, but more than 3,500 square feet, the minimum front yard shall be 15 feet and the minimum rear yard shall be 10 feet, except that on a corner lot the rear yard may be a minimum of 5 feet. For lots of 3,500 square feet in size or less, the minimum front yard and rear yard shall be ten feet, except that on a corner lot the rear yard may be a minimum of 5 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

[Amended by Ordinance #94-312, June 8, 1994]

(i) The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere except east of Highway 101 it shall be 29 feet.

[Amended by Ordinance #01-371, September 12, 2001]

(j) A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

[Section (j) added by Ordinance #93-299, March 24, 1990]

**Section 3.020. Residential Zone (R-2).** In an R-2 zone the following regulations shall apply:

(1) **Uses Permitted Outright.** In an R-2 zone the following uses are permitted outright:

(a) Single family dwellings, including modular housing and manufactured homes and duplexes. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Home occupations (see Section 4.090).

(c) Manufactured dwelling or recreation vehicle or temporary structure used during the construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.

- (d) Signs subject to Section 4.050.
- (e) Family day care center.
- (f) Residential home.
- (g) Structural shoreline stabilization.

(2) **Conditional Uses Permitted.** In an R-2 zone the following conditional uses and their accessory uses are permitted, subject to the provisions of Article 6.

- (a) Multi-family dwellings.
- (b) Public or private school.
- (c) Church and community meeting buildings.
- (d) Parks and publicly owned recreation areas.
- (e) Governmental or municipal structures.
- (f) Golf course, tennis courts, swimming pools and other private recreation areas.
- (g) Public utility structure such as a substation.
- (h) Hospital, sanitarium, rest home and nursing home.
- (i) Nursery.
- (j) Bed and breakfast.
- (k) Day care center.
- (l) Residential facility.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards and Criteria.** In an R-2 zone the following standards and criteria shall apply:

(a) The minimum lot size shall be 3,500 square feet for lots existing at the time of the adoption of Ordinance 235, lots platted after the adoption of Ordinance 235 shall have a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(b) The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet; for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

The density of multifamily dwellings shall be 1,750 square feet of lot area per unit. The minimum lot size of a multifamily dwelling shall be 5,250 square feet.

[Amended by Ordinance #235, June 25, 1985]

(c) Minimum lot width is 50 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

[Amended by Ordinance #93-299, March 24, 1993]



(d) Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

[Amended by Ordinance #93-299, March 24, 1993]

(e) The minimum front yard shall be 15 feet for lots of more than 3,500 square feet. For lots of 3,500 square feet or less, the minimum front yard shall be 10 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

[Amended by Ordinance #239, February 11, 1986]

(f) The minimum side yard shall be 5 feet, except that on the street side of a corner lot it shall be 15 feet.

[Amended by Ordinance #235, June 25, 1985]

(g) The minimum rear yard shall be five feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

(h) The maximum building height shall be 24 feet, except east of Highway 101 it shall be 29 feet. [Amended by Ordinance #01-371, September 12, 2001]

(i) Multifamily structures shall be allowed by conditional use permit where it is determined that the structure would meet the following criteria:

(i)..... It is located on a street adequate to handle traffic loads; and

(ii)..... Adequate space is provided for parking maneuvering; and

(iii)..... At least 30% of the lot is maintained in natural vegetation, open space, or is landscaped.

[Amended by Ordinance #235, June 25, 1985]

(j) The requirements of Section 4.041 Shorelands Development Criteria shall be met where uses are to be located within 50 feet of a lake within the Rockaway Beach Urban Growth Boundary.

[Amended by Ordinance #277, August 28, 1990]

(k) A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

[Amended by Ordinance #93-299, March 24, 1990]

**Section 3.030. Residential/Resort Zone (R-R).** In an R-R zone the following regulations shall apply:

(1) **Uses Permitted Outright.** In an R-R zone the following uses and their accessory uses are permitted outright:

(a) Single family dwellings, including modular housing and manufactured homes. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Duplexes and multifamily dwellings.

(c) Home occupations (See Section 4.090).

(d) Churches and community meeting buildings.

(e) Signs subject to the provisions of Section 4.050.

(f) A manufactured dwelling or recreational vehicle used during the construction of a permitted use for which a building permit has been issued, not to exceed 6 months duration.

(g) Family day care center.

(h) Residential home.

(i) Residential facility.

(j) Structural shoreline stabilization.

(2) **Conditional Uses Permitted.** In an R-R zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6.

(a) Resort-oriented commercial establishments such as gift shops, restaurants and other services, excluding gasoline service station.

(b) Government or municipal structure.

(c) Hospital, sanitarium, rest home and nursing home.

(d) Private clubs and lodges.

(e) Parks and publicly owned recreation areas.

(f) Private recreation uses such as tennis courts and swimming pools when not in conjunction with a permitted or conditional use.

(g) Motel, hotels, including meeting rooms or convention center.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards.** In the R-R, the following standards shall apply:

(a) The minimum lot size shall be 3,500 square feet for lots existing at the time of the adoption of Ordinance 235. Lots platted after the adoption of Ordinance 235 shall have a minimum lot size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(b) The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet; for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

The density of multifamily dwellings and condominiums shall be 1,750 square feet of lot area per unit. The minimum lot size for a multifamily dwelling shall be 5,250 square feet.

[Amended by Ordinance #235, June 25, 1985]

The maximum density of motels, hotels, and timeshare condominiums shall be one unit per 1,000 square feet of site area.

[Amended by Ordinance #235, June 25, 1985]

(c) Minimum lot width is 50 feet, except that for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(d) Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(e) The minimum front yard shall be 15 feet unless subsection 3.030(3)(h) applies.

[Amended by Ordinance #235, June 25, 1985]

(f) The minimum side yard shall be 5 feet, except that on the street side of a corner lot it shall be 15 feet.

[Amended by Ordinance #235, June 25, 1985]

(g) The minimum rear yard shall be 20 feet, except that on a corner lot it may be a minimum of 5 feet, unless subsection 3.030(3)(h) applies. Oceanfront structures shall conform to Section 5.060 (1)(b).

[Amended by Ordinance #235, June 25, 1985]

(h) For lots of less than 5,000 square feet in size, but more than 3,500 square feet, the minimum front yard shall be 15 feet and the minimum rear yard shall be 10 feet, except that on a corner lot the rear yard may be a minimum of 5 feet. For lots of 3,500 square feet in size or less, the minimum front yard and rear yard shall be 10 feet, except that on a corner lot the rear yard may be a minimum of 5 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060 (l)(b).

[Amended by Ordinance #239, February 11, 1986]

(i) The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere, except east of Highway 101, it shall be 29 feet. For property more than 2,000 feet from the Oregon Coordinate Line the maximum building height shall be 45 feet.

[Amended by Ordinance #01-371, September 12, 2001]

(j) The requirements of Section 4.041 Shoreland Development Criteria shall be met where uses are to be located within 50 feet of a lake within the Rockaway Beach Urban Growth Boundary.

[Amended by Ordinance #277, August 28, 1990]

(k) A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

[Section (k) added by Ordinance #93-299, March 24, 1990]

**Section 3.040. Special Residential/Resort Zone (S/R/R).** In a SR-R zone the following regulations shall apply:

(1) **Uses Permitted Outright.** In an S/R/R zone, the following uses and their accessory uses are permitted outright:

(a) Single family dwellings, including modular housing and manufactured homes. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Duplexes and multifamily dwellings.

(c) Home Occupation (See Section 4.090).

(d) Government or municipal structure.

(e) Signs subject to the provisions of Section 4.050.

- (f) Family day care center.
- (g) Residential home and residential facility.

(h) A manufactured dwelling or recreational vehicle used during construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.

- (i) Bed and breakfast.
- (j) Public utility structure such as a substation.
- (k) Structural shoreline stabilization.

(2) **Conditional Uses Permitted.** In an S/R/R zone, the following conditional uses and their accessory uses are permitted.

(a) Resort-type commercial establishments such as gift shops, restaurants, and other services, excluding gasoline service stations.

- (b) Expansion of existing motels.
- (c) Hospital, sanitarium, rest home and nursing home.
- (d) Churches and community meeting halls.
- (e) Parks and publicly owned recreation areas.

(f) Private recreation uses such as tennis courts, swimming pools and racquetball facility when not in conjunction with a permitted or conditional use.

- (g) Bed and breakfast.
- (h) Public utility structure such as a substation.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards.** The standards in the Special Residential/Resort (S/R/R), shall be the same as the standards of the Residential Resort (R-R) Zone, Section 3.030(3).

[Section (3) added by Ordinance #93-299, March 24, 1990]

### **Section 3.050. Commercial Zone (C-1).**

(1) **Uses Permitted Outright:** In a C-1 zone, the following uses and their accessory uses are permitted outright:

- (a) Retail activities.
- (b) Services such as banks, barber and beauty shops, small repair shops, printing shops, laundries.
- (c) Eating and drinking establishments.
- (d) Amusement activities.
- (e) Business and professional offices.

(f) Single family dwellings including modular housing and manufactured homes, duplexes and multiple family dwellings. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

- (g) Motels, hotels, and bed and breakfast.
  - (h) Churches or community meeting halls.
  - (i) Hospital, sanitarium, nursing home or rest home.
  - (j) Arts or craft studios.
  - (k) Public utility structure such as a substation.
  - (l) Parks and publicly owned recreation areas.
  - (m) Government or municipal structure.
  - (n) Home occupation (See Section 4.090).
- (o) Private recreation uses such as tennis courts, and swimming pools or racquetball facility, when not in conjunction with another permitted use.
- (p) Family day care center and day care center.
  - (q) Residential home.
  - (r) Residential facility.
  - (s) Signs in accordance with Section 4.050.
- (t) A manufactured dwelling or recreational vehicle used during the construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.
- (u) Structural shoreline stabilization.

(2) **Conditional Uses Permitted.** In a C-1 zone, the following conditional uses and accessory uses are permitted:

- (a) Service stations, car lots, lumber yards, mobile home dealerships, public or private parking facilities, boat dealers, farm equipment dealers, or similar uses which require large land areas. These uses are intended to be outside of the immediate downtown area (between N. 4th to S. 3rd, the oceanfront and Beacon Street) and located on U.S. Highway 101. The Planning Commission or City Council shall consider this when issuing conditional use permits.
- (b) Cabinet or wood working shops, plumbing, heating, electrical, paint or other contractor storage, retail or sale shops.
- (c) Second hand sales with all merchandise enclosed within a structure.
- (d) Wholesale warehouse or storage establishments.
- (e) Tire retreading, welding or machine shops.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards.** In a C-1 zone, the following standards shall apply:

- (a) Building setbacks shall be governed by fire protection standards administered by the Building Official.
- (b) Maximum building height shall be 45 feet, except that on the oceanfront from N. Third Avenue to N. Sixth Avenue the maximum building height shall be 20 feet.

[Amended by Ordinance #239, February 11, 1986]

- (c) Where a commercial use abuts a residential zone, the commercial use shall provide a sight-obscuring fence or hedge of at least 5 feet in height. Floodlights shall be shielded so as not to cast glare on an adjacent residential use.
- (d) Storage of merchandise, waste disposal equipment, or similar material shall be screened from view.
- (e) Automobile service stations shall have a minimum lot size of 10,000 square feet, with a minimum width of 100 feet.
- (f) Commercial uses shall have permanent facilities, such as an office, which are connected to City services including water and sewer.

**Section 3.060. Conditional Use Area.** In the CU zone the following regulations shall apply:

- (1) The Conditional Use Area is an overlay zone. The standards of the underlying zone shall apply to all uses. All uses shall be consistent with the provisions of the Comprehensive Plan. In addition to the uses permitted in the underlying zone, the following additional uses and their accessory uses are permitted:
  - (a) Manufactured dwelling and recreation vehicle parks or manufactured dwelling subdivisions.
  - (b) Light industrial uses.
  - (c) Commercial uses allowed in the C-1 Zone.
- (2) Any uses proposed in the Conditional Use Area other than single family dwellings or duplexes shall fall under the provisions of the section on Conditional Uses (Article 6). In addition to the Conditional Use Review Criteria of Section 6.020, the Planning Commission shall find that the proposed use will comply with the following additional standards:
  - (a) That the use will be attractively landscaped or buffered, if necessary, from surrounding properties. The use of natural vegetation is preferred.
  - (b) That commercial retail uses will be located near the downtown area.
  - (c) That commercial retail uses have adequate parking and street access, or improve existing street access.
- (3) Manufactured dwelling parks or recreation vehicle parks shall be at least one (1) acre in size. (See Section 4.100, 4.110). Maximum lot coverage shall be 50% and open space area shall be a minimum of 30%. Requirements under ORS 446.002 through 446.990 shall apply in all cases.
- (4) Signs shall be in accordance with Section 4.050.

[Amended by Ordinance #277, August 28, 1990]

**Section 3.070. Waterfront Development Zone (WD).** [Deleted by Ordinance No. 01-369, September 12, 2001]

Pages 31 & 32 intentionally missing due to deletion of WD Zone.

**Section 3.080. Special Area Wetlands (SA).** In an SA Zone the following regulations shall apply:

- (1) Purpose. The purpose of the SA Zone is to conserve significant freshwater wetlands and the shoreland and aquatic environment of Rockaway Beach's lakes.

Low intensity uses which do not result in major alterations are appropriate in the zone. High intensity recreation, related to boating is appropriate on the lakes.

[Amended by Ordinance #277, August 28, 1990]

- (2) **Uses Permitted Outright.** In an SA zone, the following uses are permitted outright:
- (a) Low intensity recreation;
  - (b) Passive restoration measures;
  - (c) Vegetative shoreline stabilization;
  - (d) Individual dock limited to a maximum of 200 square feet for recreation or fishing use, plus necessary piling;
  - (e) Submerged cable, sewer line, water line or other pipeline.
  - (f) Storm water outfall.

[Amended by Ordinance #277, August 28, 1990]

- (3) **Conditional Uses Permitted.** In an SA zone the following conditional uses are permitted subject to the provisions of Article 6.
- (a) Active restorations including dredging;
  - (b) Boat launch ramps, including necessary dredging and filling;
  - (c) Structural shoreline stabilization;
  - (d) Public parks and recreation areas with associated low intensity development such as docks, raised walkways, and footpaths.

[Amended by Ordinance #277, August 28, 1990]

- (4) **Standards.** In an SA zone, the following standards shall apply:
- (a) All activities involving construction or alteration in wetlands or aquatic areas shall be reviewed by the Oregon Division of State Lands and the US Army Corps of Engineers to determine permit applicability.
  - (b) The Shorelands Siting Criteria in Section 4.041 shall be applicable to all activities in the SA zone. Nothing in the Shorelands Siting Criteria shall be interpreted to permit uses which are not otherwise allowed in (2) or (3) above.
  - (c) Every effort shall be made to use common or community docking facilities prior to construction of an individual, single-purpose dock. Generally, there should be a maximum of one dock every 250 feet. Docks shall not include covered structures or boathouses.
  - (d) Access to the water area through wetlands may be constructed in the form of raised walkways on pilings, posts or piers. Where the affected resource agencies (e.g. Oregon Department of Fish & Wildlife) determine the activity to have minimal environmental impacts, trails or paths consisting of clean gravel, bark chips, or other material may be placed through wetlands. Such walkways shall not be wider than eight (8) feet. Wherever possible, trails or walkways shall be constructed for the common usage of a development or group of structures.
  - (e) Removal or control of aquatic vegetation may be permitted, where allowed by the Oregon Department of Fish and Wildlife, in order to provide angler access, or other valid purpose.
  - (f) Dredging shall be allowed only:
    - (i) ..... If a need (i.e., a substantial public benefit) is demonstrated, and
    - (ii)..... If the use or alteration does not unreasonably interfere with public trust rights, and

(iii)..... If no feasible alternative upland locations exist, and

(iv)..... If adverse impacts are minimized.

(g) When dredging is permitted, the dredging shall be the minimum necessary to accomplish the proposed use.

(h) The timing of dredging operations shall be coordinated with state and federal resource agencies, to protect aquatic and shoreland resources, and minimize interference with recreational fishing.

(i) Piling installation may be allowed only if all of the following criteria are met:

(i)..... A substantial public benefit is demonstrated, and

(ii)..... The proposed use does not unreasonably interfere with public trust rights, and

(iii)..... Feasible alternative upland locations do not exist, and

(iv)..... Potential adverse impacts are minimized.

(j) Shoreline stabilization measures shall meet the criteria of Section 4.120.

(k) Fill may be permitted only if all of the following criteria are met:

(i) ..... If required for a water-dependent use requiring an aquatic location, or if specifically allowed in the SA zone, and

(ii)..... A substantial public benefit is demonstrated, and

(iii)..... The proposed fill does not unreasonably interfere with public trust rights, and

(iv)..... Feasible upland alternative locations do not exist, and

(v)..... Adverse impacts are minimized.

(l) A fill shall cover no more area than the minimum necessary to accomplish the proposed use.

(m) Projects involving fill may be approved only if the following alternatives are examined and found to be infeasible.

(i) ..... Construct some or all of the project on piling.

(ii)..... Conduct some or all of the proposed activity on existing upland areas;

(iii)..... Approve the project at a feasible alternative site where adverse impacts are less significant.

(5) Zone Boundary Determination. At such time that a development is proposed in the vicinity of an area designated Special Area Wetlands, the City may require a site investigation to determine the exact location of the zone boundary. The site investigation shall be performed by a qualified agent such as a biologist from the U.S. Army Corps of Engineers or the Division of State Lands.

[Amended by Ordinance #277, August 28, 1990]



**Section 3.090. Lower Density Residential Zone (R-3).** In an R-3 zone the following regulations shall apply:

(1) **Uses Permitted Outright.** In an R-3 zone, the following uses and their accessory uses are permitted outright:

(a) Single family dwellings, including modular housing and manufactured homes, duplexes and multifamily homes. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Home occupation (See Section 4.090)

(c) Churches and community meeting buildings.

(d) Manufactured dwelling or recreational vehicle used during construction of a permitted use for which a building permit has been issued, but not to exceed 6 months duration.

(e) Manufactured dwelling placed in an approved manufactured dwelling park or subdivision.

(f) Recreational vehicle placed in an approved recreational vehicle park.

(g) Family day care center.

(h) Residential home and residential facility.

(i) Signs subject to Section 4.050.

[Amended by Ordinance #277, August 28, 1990]

(2) **Conditional Uses Permitted.** In an R-3 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

(a) Public utility structure, such as a substation.

(b) Government or municipal structure.

(c) Hospital, sanitarium, nursing home, or rest home.

(d) Limited commercial uses in Planned Unit Developments.

(e) Recreational vehicle parks, manufactured dwelling parks, and manufactured dwelling subdivisions.

(f) Parks and publicly owned recreation areas.

(g) Bed and breakfast.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards.** In an R-3 zone, the following standards shall apply:

(a) Minimum lot size in an R-3 zone shall be 5,000 square feet where sanitary sewer service is available, or will be made available, except as provided in (h) below; otherwise, minimum lot size shall be 7,000 square feet.

[Amended by Ordinance #163, May 14, 1979]

(b) Density limits for this area shall be 9 dwellings per acre, except as provided in (h) below.

[Amended by Ordinance #163, May 14, 1979]

(c) Minimum lot width is 50 feet, except that for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

[Amended by Ordinance #93-299, March 24, 1993]

(d) Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

[Amended by Ordinance #93-299, March 24, 1993]

(e) Minimum front yard setback shall be 10 feet from the street right-of-way.

[Amended by Ordinance #163, May 14, 1979]

(f) Minimum setback on all other sides shall be 5 feet from the lot line.

[Amended by Ordinance #163, May 14, 1979]

(g) Maximum building height shall be 24 feet, except where the Planning Commission determines a greater height to be appropriate.

(h) Where a proposed use is to be a Planned Unit Development involving residential structures, the Planning Commission may authorize an additional two dwelling units per acre if the development is properly designed. Aesthetic, geologic and environmental factors shall be taken into account. The Planning Commission may require an engineering, geologic, or structural analysis where it appears that steep slopes or wetlands are to be used for construction purposes rather than open space. The Planning Commission may attach any reasonable conditions it sees fit in the course of the Planned Unit Development process.

(i) The requirements of Section 4.041, Shorelands Development Criteria, shall be met where uses are to be located within 50 feet of a lake within the Rockaway Beach Urban Growth Boundary.

(j) A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

[Section (j) added by Ordinance #93-299, March 24, 1990]

**Section 3.091. Residential Manufactured Dwelling Zone - RMD Zone.** In an RMD Zone, the following regulations apply:

(1) **Uses Permitted Outright.** In an RMD Zone, the following uses and their accessory uses are permitted outright:

(a) Single-family dwellings, including modular and Manufactured homes. Manufactured homes shall be subject to the standards of Section 4.091.

[Amended by Ordinance #94-308, February 9, 1994]

(b) Duplex.

(c) Manufactured dwelling subject to Section 4.095.

(d) Signs subject to Section 4.050.

(e) Manufactured dwelling or recreational vehicle used during the construction or placement of a permitted use for which a building or placement permit has been issued, but not to exceed six months duration.

(f) Recreational vehicle.

(g) Home occupation subject to Section 4.090.

(h) Family day care center.

- (i) Residential home.
- (j) Structural shoreline stabilization.

[Amended by Ordinance #277, August 28, 1990]

(2) **Conditional Uses Permitted.** In an RMD Zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:

- (a) Church and community meeting building.
- (b) Parks and publicly owned recreation areas.
- (c) Public or private school.
- (d) Golf course and associated facilities.
- (e) Hospital, sanitarium, rest home and nursing home.
- (f) Day care center.
- (g) Government or municipal structure.
- (h) Private recreation use such as tennis court, swimming pool, or racquetball facility.
- (i) Public utility structure such as a substation.
- (j) Bed and breakfast.
- (k) Manufactured dwelling park or recreational vehicle park.
- (l) Residential facility.

[Amended by Ordinance #277, August 28, 1990]

(3) **Standards.** In an RMD Zone, the following standards shall apply:

(Title amended by Ordinance #277, August 28, 1990)

(a) The minimum lot size shall be 3,500 square feet for lots existing at the time of adoption of Ordinance 235. Lots platted after the adoption of Ordinance 235 shall have a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(b) The density of duplexes shall be: for lots existing prior to the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 3,500 square feet; for lots platted after the adoption of Ordinance 235, a duplex is permitted on a lot with a minimum size of 5,000 square feet.

[Amended by Ordinance #235, June 25, 1985]

(c) Minimum lot width is 50 feet, except that for lots between 3,500 and 4,999 square feet, the minimum lot width shall be 35 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(d) Minimum lot depth is 70 feet, except for lots between 3,500 and 4,999 square feet, the minimum lot depth shall be 60 feet.

[Amended by Ordinance #93-299, March 24, 1990]

(e) The minimum front yard shall be 15 feet for lots of more than 3,500 square feet. For lots of 3,500 square feet or less, the minimum front yard shall be 10 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

[Amended by Ordinance #257, May 24, 1988]

(f) Minimum side yard shall be 5 feet except that on the street side of a corner lot it shall be 15 feet.

[Amended by Ordinance #235, June 25, 1985]

(g) The minimum rear yard shall be 5 feet. Notwithstanding the above, oceanfront structures shall conform to Section 5.060(1)(b).

[Amended by Ordinance #257, May 24, 1988]

(h) The maximum building height shall be 24 feet, except that on the oceanfront it shall be 20 feet.

[Amended by Ordinance #239, February 11, 1986]

(i) A minimum of 30% of the lot will be maintained in natural vegetation or landscaping.

[Amended by Ordinance #93-299, March 24, 1990]

**Section 3.092. Flood Hazard Overlay Zone - FHO Zone.** Purpose and objectives: It is the purpose of this Flood Hazard Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In advancing these principles and the general purposes of the Rockaway Beach Comprehensive Plan and Zoning Ordinance, the specific objectives of this zone are:

(1) To combine with the present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City.

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

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

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

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

(6) To ensure that potential home and business buyers are notified that property is in a flood area.

(7) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

[Amended by Ordinance #251, May 12, 1987]

**Section 3.093. Definitions.** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

[Amended by Ordinance #251, May 12, 1987]

(1) **Area of Shallow Flooding.** Means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depth range is from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

[Amended by Ordinance #251, May 12, 1987]

(2) **Area of Special Flood Hazard.** The land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always include the letter A or V.

[Amended by Ordinance #251, May 12, 1987]

(3) **Base Flood.** A flood having a one percent chance of being equaled or exceeded in any given year.

[Amended by Ordinance #251, May 12, 1987]

(4) **Breakaway Walls.** Means a wall that is not a part of the structural support of the 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.

[Amended by Ordinance #251, May 12, 1987]

(5) **Coastal High Hazard Area.** The area subject to high velocity water, including but not limited to, storm surge or tsunamis. The map is designated on a FIRM as Zone VI-30 or VE Zone.

[Amended by Ordinance #251, May 12, 1987]

(6) **Development.** Any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

[Amended by Ordinance #251, May 12, 1987]

(7) **Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

[Amended by Ordinance #251, May 12, 1987]

(a) The overflow of inland or tidal waters, and/or

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

(8) **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.

[Amended by Ordinance #251, May 12, 1987]

(9) **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.

[Amended by Ordinance #251, May 12, 1987]

(10) **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, 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 in Section 3.096(6)(a).

[Amended by Ordinance #251, May 12, 1987]

(11) **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chasses 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.

[Amended by Ordinance # 251, May 12, 1987]

(12) **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

[Amended by Ordinance #277, August 28, 1990]

(a) Existing manufactured Home Park or Subdivision: is one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Rockaway Beach's floodplain management regulations. (July 25, 1978) The construction of facilities includes, at a minimum, the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

[Amended by Ordinance #277, August 28, 1990]

(13) **Mean Sea Level (MSL).** The average height of the sea for all stages of the tide.

[Amended by Ordinance #251, May 12, 1987]

(14) **New Construction.** Structures for which the start of construction commenced on or after the effective date of this amendment to the Zoning Ordinance.

[Amended by Ordinance #251, May 12, 1987]

(15) **Start of Construction.** 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 excavation for 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.

[Amended by Ordinance #251, May 12, 1987]

(16) **Structure.** A walled and roofed building including a gas or liquid storage tank that is principally above ground.

[Amended by Ordinance #251, May 12, 1987]

(17) **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started, or

(b) 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. The terms do not, however, include either:

(i) ..... 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

(ii)..... any alteration of a structure, listed on the National Register of Historic Places or a State Inventory of Historic Places.

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #277, August 28, 1990]

(19) **Substantial Damage.** Pertains to flood related damage where the cost of restoring the structure would equal or exceed 50 percent of the market value of the structure before the damage occurred.

[Amended by Ordinance #277, August 28, 1990]

(20) **Recreational Vehicle.** means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) primarily designed as temporary living quarters for camping, travel or seasonal use.

[Amended by Ordinance #277, August 28, 1990]

(21) **Recreational Vehicle, Highway Ready.** A recreational vehicle that is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

[Amended by Ordinance #277, August 28, 1990]

(22) **Special Flood Hazard (SFHA).** Areas subject to inundation from the waters of a 100-year flood.

[Amended by Ordinance #277, August 28, 1990]

### **Section 3.094. General Provisions.**

(1) **Lands To Which This Ordinance Applies.** This ordinance shall apply to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the City of Rockaway Beach.

[Amended by Ordinance #251, May 12, 1987]

(2) **Basis For Establishing The Areas Of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled 'The Flood Insurance Study for the City of Rockaway Reach', dated January 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at Rockaway Beach City Hall.

[Amended by Ordinance #251, May 12, 1987]

(3) **Compliance.** No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

[Amended by Ordinance #251, May 12, 1987]

(4) **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance 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 ordinance does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. The ordinance shall not create liability on the part of the City of Rockaway Beach, or any officer or employee thereof, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

[Amended by Ordinance #251, May 12, 1987]

**Section 3.095. Administration.**

(1) **Establishment of Building/Development Permit.** A Building/Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.094(2). The permit shall be for all structures including manufactured homes, as set forth in the 'definitions' and for all developments including fill and other activities, also as set forth in the 'definitions'. Application for a Building/Development Permit shall be made to the City Recorder on forms furnished by him, and shall specifically include the following information:

[Amended by Ordinance #277, August 28, 1990]

(a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.

[Amended by Ordinance #251, May 12, 1987]

(b) Elevation in relation to mean sea level to which any structure has been floodproofed.

[Amended by Ordinance #251, May 12, 1987]

(c) Certification by a registered professional engineer or architect that the floodproofing method for any non-residential structure meets the floodproofing criteria in Section 3.096(6)(b).

[Amended by Ordinance #251, May 12, 1987]

(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

[Amended by Ordinance #251, May 12, 1987]

(2) **Duties and Responsibilities.** The duties of the City Recorder shall include, but not be limited to permit review:

(a) Review of all development permits to determine that the permit requirements of this ordinance have been satisfied.

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

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

[Amended by Ordinance #277, August 28, 1990].

(3) **Uses of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 3.094.(2), Basis for Establishing the Areas of Special Flood Hazard, the City Recorder shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 3.096(6)(a), Specific Standards, Residential Construction, and Section 3.096(6)(b), Specific Standards, Non-residential Construction.

[Amended by Ordinance #277, August 28, 1990]

(4) **Information to be Obtained and Maintained.** Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 3.095(3) obtain:

(a) Verify and record actual elevation (in relation to Mean Sea Level) of the lowest floor (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 Mean Sea Level), and

(ii)..... maintain the floodproofing certifications required in Section 3.095(i)(c). [Amended by Ordinance No. 94-312, June 8, 1994]

(c) Maintain for public inspection all records pertaining to the provisions of this ordinance.



(d) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.

[Amended by Ordinance #251, May 12, 1987]

(5) **Alterations of Watercourses.** The City Recorder shall:

(a) Notify adjacent communities and the Oregon Water Resources Department 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.

[Amended by Ordinance #251, May 12, 1987]

(6) **Interpretation of FIRM Boundaries.** The City Recorder shall make interpretations where needed, as to the 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 interpretations as provided in Section 3.095(7).

[Amended by Ordinance #277, August 28, 1990]

(7) **Appeals and Variance Procedures.**

(a) An appeal of a ruling or interpretation regarding a requirement of this ordinance shall be as established in Section 11.070.

[Amended by Ordinance #94-312, June 8, 1994]

(b) The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination in the enforcement or administration of this ordinance.

[Amended by Ordinance #251, May 12, 1987]

(c) An action or ruling of the Planning Commission may be appealed pursuant to Section 11.070(2).

[Amended by Ordinance #94-312, June 8, 1994]

(d) Variances shall be issued or denied in accordance with Article 8 and any amendment thereto.

[Amended by Ordinance #251, May 12, 1987]

(e) The administrative procedure for hearing a variance shall be as established in Section 11.070.

[Amended by Ordinance #94-312, June 8, 1994]

(f) When a variance is granted, the City Recorder shall give written notice that the structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and that:

[Amended by Ordinance #277, August 28, 1990]

(i)..... The issuance of the variance to construct a structure below the base flood level will result in increased premium rates for flood insurance as high as \$25 for every \$100 of insurance coverage; and

(ii)..... Such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions.

[Amended by Ordinance #277, August 28, 1990]

### **Section 3.096. Provisions for Flood Hazard Reduction.**

#### **General Standards.**

In the Flood Hazard Overlay Zone (FHO Zone) the following provisions are required:

(1) **Anchoring.**

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

[Amended by Ordinance #251, May 12, 1987]

(b) 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). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval.

[Amended by Ordinance #277, August 28, 1990]

(2) **Construction Materials and Methods.**

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

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment, and other service facilities shall be elevated to one foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.

[Amended by Ordinance #277, August 28, 1990]

(3) **Utilities.**

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

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

(4) **Subdivision Proposals.**

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

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

(d) 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 developments which contain at least 50 lots or 5 acres (whichever is less).

[Amended by Ordinance #251, May 12, 1987]

(5) **Review of Building Permits.** Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 3.095(3)), 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.

[Amended by Ordinance #251, May 12, 1987]

(6) **Specific Standards.** In all areas of special flood hazards (FHO Zone) where baseflood elevation data has been provided as set forth in Section 3.094(2), Basis For Establishing The Areas of Special Flood Hazard, or Section 3.095(3), Use of Other Base Flood Data, the following provisions are required:

[Amended by Ordinance #251, May 12, 1987]

(a) **Residential Construction.** New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. 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 and must meet or exceed the following minimum criteria:

(i)..... 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.

(ii)..... The bottom of all openings shall be no higher than one foot above grade.

(iii)..... Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

[Amended by Ordinance #251, May 12, 1987]

(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 one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

[Amended by Ordinance #251, May 12, 1987]

(i)..... Be floodproofed so that the portion of the structure that lies below the base flood level is watertight with walls substantially impermeable to the passage of water.

[Amended by Ordinance #277, August 28, 1990]

(ii)..... Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

[Amended by Ordinance #251, May 12, 1987]

(iii)..... 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 City Recorder as set forth in Section 3.095 (4)(b)(ii).

[Amended by Ordinance #277, August 28, 1990]

(iv)..... Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 3.096(6)(a).

[Amended by Ordinance #251, May 12, 1987]

(v)..... 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).

[Amended by Ordinance #251, May 12, 1987]

(c) **Manufactured Homes.**

..... (i) All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 3.096(1)(b).

..... (ii) All manufactured homes placed or substantially improved in existing manufactured home parks or subdivisions shall be elevated on reinforced piers or other foundation elements that are no less than 36 inches in height above grade or have their lowest floor at or above the base flood elevation, if this allows for the use of a lower foundation.

..... A manufactured home which incurs substantial damage as the result of a flood, must be elevated to or above the base flood elevation.

[Amended by Ordinance #277, August 28, 1990]

(d) **Recreational Vehicles.** Recreational vehicles may occupy a site in a Special Flood Hazard Area for periods of 180 consecutive days or greater providing they are fully licensed and highway ready. Recreational vehicles that do not meet these criteria become manufactured homes and must be anchored and elevated pursuant to Section 3.096(1)(b) of this ordinance.

[Added by Ordinance #94-312, June 8, 1994]

(7) **Coastal High Hazard Area.** Coastal high hazard areas (V Zones) are located within the areas of special flood hazard established in Section 3.094. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

[Amended by Ordinance #251, May 12, 1987]

(a) All new construction and substantial improvements in Zones V-1-V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

(i)..... the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and

(ii)..... the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equalled or exceeded in any given year (100-year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (i) and (ii) of Section 3.096(7)(a).

[Section 3.096(7)(a) amended by Ordinance #277, August 28, 1990]

(b) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1-V30 and VE, and whether or not such structures contain a basement. The City Recorder shall maintain a record of all such information.

[Amended by Ordinance #277, August 28, 1990]

(c) All new construction shall be located landward of the reach of mean high tide.

[Amended by Ordinance #251, May 12, 1987]

(d) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

[Amended by Ordinance #251, May 12, 1987]

(i)..... breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

[Amended by Ordinance #251, May 12, 1987]

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

[Amended by Ordinance #251, May 12, 1987]

(e) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

[Amended by Ordinance #251, May 12, 1987]

(f) Prohibit the use of fill for structural support of buildings.

[Amended by Ordinance #251, May 12, 1987]

(g) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

[Amended by Ordinance #251, May 12, 1987]

**(8) Areas of Shallow Flooding (AO Zone).** Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable usually characterized as sheet flow. In these areas, the following provisions apply:

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

(b) New construction and substantial improvement of nonresidential structures shall, either:

(i)..... have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or 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 floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect.

(c) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

[Amended by Ordinance #251, May 12, 1987]

### **Section 3.097. Restrictions and Prohibited Uses.**

(1) **Restrictions.** Restrictions regarding height, rear yards, side yards, front yard setbacks, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Hazard Overlay Zone area.

[Amended by Ordinance #251, May 12, 1987]

(2) **Prohibited Uses.** It shall be unlawful to erect, alter, maintain or establish in a flood hazard overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Article 7.

[Amended by Ordinance #251, May 12, 1987]

### **Section 3.100. Hazards Overlay Zone (HO).**

**Purpose.** The purpose of this zone is to avoid development hazards in areas of the City and the urban growth boundary which have compressible soils, steep slopes, active foredunes, or conditionally stable foredunes subject to ocean undercutting or wave overtopping. The following special regulations apply to all properties which lie wholly or partially within one or more of these areas. (Refer to Section 3.092, Flood Hazard Overlay Zone)

[Amended by Ordinance #94-312, June 8, 1994]

**Section 3.102. Zone Boundaries** The boundaries of the HO Zone shall be the same as the boundaries of the Brailier (peat) soils, areas with 25% or greater slopes, and active foredunes, or conditionally stable foredunes subject to ocean undercutting or wave overtopping. These areas shall be mapped and shall be a part of the Zoning Ordinance. The underlying zoning regulations shall remain in effect and all development shall be subject to the requirements of both the underlying zone and the Hazards Overlay Zone.

[Amended by Ordinance #243, May 13, 1986]

**Section 3.104. Site Investigation Reports Required.** A site investigation shall be required by the city for all development in the Hazards Overlay Zone. The city building official shall require the site investigation in all areas in which planning commission approval is not required. Otherwise, the planning commission shall require the investigation as part of a subdivision, partitioning, conditional use, or other development approval. Site investigation reports shall be performed by a qualified engineering geologist, soils scientist, or both, where deemed necessary. In areas requiring specialized knowledge, such as active foredunes, the city shall require that a person with experience or training in such areas be employed.

[Amended by Ordinance #221, August 24, 1982]

**Section 3.106. Method For Minimizing Soils Hazards.**

- (1) Unless the planning commission determines that an adequate soils survey has already been undertaken, for the entire portion of the site proposed for development, the owner or developer will have a new soil survey of the site prepared to determine the nature and extent of compressible soils on the site, near the surface and at varying depths.
- (2) The method used to conduct the soil survey must be acceptable to a qualified soil scientist or soils engineer approved by the planning commission.
- (3) If the detailed soil survey indicates that significant amounts of compressible soils are in locations desired for development, the developer or owner shall have a report prepared by a licensed soils engineer which indicates suitable techniques to minimize potential soil hazards to facilities on the parcel or nearby property.

[Amended by Ordinance #221, August 24, 1982]

**Section 3.108. Method For Minimizing Dune Hazards.**

- (1) Construction shall be permitted within the following areas only where a valid exception has been taken to Beaches and Dunes Goal Implementation Requirement 2 and only after a dune hazard report has been performed by a qualified person:
  - (a) Active foredunes.
  - (b) Conditionally stable foredunes which are located within coastal high hazard areas (V-zones) as identified on FIRM maps, or which are within 200 feet of the oceanward toe of the foredune.
  - (c) Interdune areas which are located within coastal high hazard areas (v-zones) as identified on FIRM maps.

The purpose of the dune hazard report is to identify and describe the existing or potential hazards in the area proposed for development. The report shall be based on a site inspection conducted by a licensed geologist. The dune hazard report shall include a legal description of the property and the following information presented in a format that is readily understandable to the general public.

[Amended by Ordinance #277, August 28, 1990]

- (i)..... Identification of dune landforms.
- (ii)..... History of dune stabilization in the area.
- (iii)..... History of erosion or accretion in the area, including long-term trends.
- (iv)..... General topography including spot elevations.
- (v)..... Areas subject to flooding as shown on National Flood Insurance Program maps for Rockaway Beach.
- (vi)..... Location of any beachfront protective structures in the vicinity.

Where the dune hazard report finds that the parcel is located in an area subject to recent or active erosion, the report shall present findings on the average retreat of the shoreline and a conclusion that a structure will be reasonably protected from erosional hazard for a minimum of 50 years.

The dune hazard report shall also make recommendations with regard to the following, when found to be appropriate:

- (i)..... Temporary and permanent sand stabilization programs;
- (ii)..... Methods of protecting adjacent property from any adverse effects of the proposed development;
- (iii)..... Restrictions on proposed grading activities for placement of structures, road, or dunes.

Where the dune hazard report identifies potential hazards in the siting of a structure, the City shall require that the appropriate elements of the structure be designed by a civil engineer so that proposed alterations and structures are properly designed to address the hazards described in the dune hazard report.

[Amended by Ordinance #277, August 28, 1990]

(2) Removal of vegetation shall be limited to that which is necessary to perform construction activities, and shall not be done earlier than (thirty) 30 days prior to the start of construction. If construction takes place between the months of November and May, temporary sand control measures such as mulching, fencing, or matting shall be employed. Immediately after construction, the site shall be revegetated. Unless an exception to Goal 18 has been taken, foredunes shall 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), and only if the breaching and restoration after breaching is consistent with sound principles of conservation. Fore-dune grading may be permitted consistent with the requirements of Section 4.130.

[Amended by Ordinance #243, May 13, 1986]

(3) Seawalls of rip-rap or concrete shall be adequately designed to withstand ocean erosion hazards. The impact of seawalls on adjacent property shall be addressed by the applicant. Seawalls shall be as visually unobtrusive as possible; the City may require that seawalls be revegetated with sand and beach grass wherever possible. Seawalls shall not restrict public access to the beach at street ends.

[Amended by Ordinance #221, August 24, 1982]

### **Section 3.110. Method For Minimizing Steep Slope Hazards.**

(1) Site investigation reports shall describe the percent of slope of the property, the existence of previous landslides, the geologic and soils type, and the existing drainage patterns. The report shall discuss the feasibility of construction on the site, appropriate safeguards to counter building hazards, the location of roads and utilities. The report shall also analyze the potential cumulative impact of development in the area. A drainage plan shall be prepared for all proposed development in steep slope areas. The drainage plan shall take into consideration the cumulative impact of development in the area. Drainage improvements shall be designed to minimize down slope impacts.

[Amended by Ordinance #277, August 28, 1990]

(2) The policies pertaining to steep slope areas and hillsides in the Comprehensive Plan shall be addressed by the applicant and adhered to.

[Amended by Ordinance #221, August 24, 1982]

(3) No logging, clearing, or grading of steep slopes shall be permitted prior to the site investigation, and subsequent decision of the Planning Commission.

[Amended by Ordinance #221, August 24, 1982]

### **Section 3.112. Issuance of Permits in Potential Hazard Areas.**

The proposed use will be permitted only if:

(1) The site investigation provides a finding that there is no significant building hazard on the property in question or on surrounding properties which could threaten the safety of a proposed structure; or

(2) A feasible engineering solution to the building hazard(s) is proposed which could eliminate the hazard to the proposed structure or surrounding properties.

[Amended by Ordinance #221, August 24, 1982]



**Section 3.114. Additional Provisions.**

- (1) The City may charge the applicant, owner, or developer a reasonable fee for the cost of reviewing the adequacy of the site investigation for any potentially hazardous area.
- (2) The City may require the owner or developer to post a performance bond to insure against adverse effects of the development.

[Amended by Ordinance #221, August 24, 1982]

**Section 3.120. Open Space Zone (OS).**

In an OS Zone the following regulations shall apply:

- (1) **Uses Permitted Outright.** In an OS Zone the following uses are permitted outright:
  - (a) Parks and publically owned recreation area.

[Amended by Ordinance #277, August 28, 1990]

- (2) **Conditional Uses Permitted.** In an OS Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 6:
  - (a) Public utility structure such as a substation.

[Amended by Ordinance #277, August 28, 1990]

- (3) **Standards.** In an OS Zone the following standards shall apply:
  - (a) Outdoor recreation areas or parks shall consist of low intensity, primarily nonstructural uses such as city parks, waysides, and natural or scientific research or observation areas;
  - (b) Structures shall be limited to minimal uses necessary for the activity, such as public restrooms, small shelters, and utility buildings;
  - (c) Activities involving alterations of wetlands (fill or removal of 50 cubic yards or more of material) shall be done only after a US Army Corps of Engineers and Division of State Lands permit is obtained.

[Amended by Ordinance #277, August 28, 1990]

**Section 3.130. Wetland Notification Overlay Zone.**

**Purpose.** It is the purpose of the Wetland Notification Overlay Zone to establish a procedure that ensures that the permitting requirements of the Division of State Lands and the US Army Corps of Engineers are met in those wetland areas of the City which have not been designated Special Area Wetland.

[Amended by Ordinance #277, August 28, 1990]

**Section 3.131. Zone Boundaries.** The boundaries of the Wetland Notification Overlay Zone shall conform to areas so designated in the Comprehensive Plan map titled 'Wetland Areas of Rockaway Beach'.

[Amended by Ordinance #277, August 28, 1990]

**Section 3.132. General Provisions.**

- (1) No person shall do any site preparation work in conjunction with a use permitted in the underlying zoning district in which the property is located, without first notifying the City of the proposed action. Site preparation work is defined as any grading, filling, drainage, excavation or tree removal on the subject property.
- (2) The required notification shall take the form of a description of the location of the property and a sketch describing the site preparation work to be undertaken.
- (3) Upon receipt of the notification, the City shall meet with the applicant and inform him/her that the subject property and proposed site preparation activities may be subject to the jurisdiction of the Division of State Lands and the US Army Corps of Engineers.
- (4) The applicant shall contact the Division of State Lands and the US Army Corps of Engineers and seek a determination of whether the subject property and proposed site preparation activities are subject to their jurisdiction.
- (5) If the US Army Corps of Engineers and/or the Division of State Lands determines that it has jurisdiction, the applicant shall receive a permit from these agencies before site preparation work may begin.
- (6) If the Division of State Lands and/or the US Army Corps of Engineers determines that it does not have jurisdiction, the applicant may begin site preparation work upon presenting the City with a written confirmation of such a determination, and subject to applicable City requirements.

[Amended by Ordinance #277, August 28, 1990]

#### Article 4. Supplementary Provisions.

**Section 4.010. Access Requirement.** Every lot shall abut a street or alley for at least 25 feet, or have vehicular access by means of a recorded easement.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.020. Clear Vision Areas.** A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad.

(1) A clear vision area shall consist of a triangular area, two sides of which are lot lines, measured from the corner intersection of the street lot lines for a distance specified in this regulation (15 feet), or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of each is a line across the corner of the lot joining the non-intersecting ends of the other two sides of the triangle.

(2) A clear vision area shall contain no planting, fence, wall structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the street center line grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of 8 feet above the grade level.

(3) The minimum distance for the clear vision area shall be 15 feet from the intersection of the streets as illustrated below.

[Section (3) amended by Ordinance #235, June 25, 1985]

**Section 4.030. Maintenance of Minimum Ordinance Requirements.** No lot area, yard, other open space, or off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance. \_

**Section 4.040. Dual Use of Required Open Space.** No required open space shall be used for construction of buildings. Satellite receivers shall not be located in the front yard or street side yard.

[Amended by Ordinance #93-299, March 24, 1990]

**Section 4.041. Shoreland Development Criteria.** The Planning Commission shall review all development within 50 feet of the shore of any lake in the Rockaway Beach Urban Growth Boundary to ensure that the development:

(1) Maintains existing riparian vegetation in accordance with Section 4.150.

(2) Maintains the scenic quality of existing undeveloped shoreline area such as along the east side of Lake Lytle; or improves the appearance of developed shoreline areas such as those adjacent to Clear Lake or Seaview Lake.

(3) Does not require the fill of any wetland or aquatic areas, except for water-dependent uses.

(4) Existing public access to the shoreline shall be maintained in accordance with Section 4.140. New commercial development shall make provision for public access to the shoreline.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.043. Multifamily Siting Criteria.** In any zone where a multifamily dwelling is proposed, the Planning Commission shall review the plans under the following criteria:

- (1) The placement of the structure takes advantage of natural features such as streams, shorelines, or hillsides. Existing trees are retained wherever feasible.
- (2) Ingress and egress points shall be located to minimize impact on any adjacent residential uses.
- (3) Parking areas are located to minimize impact on any adjacent residential uses. Parking areas which provide for eight or more vehicles shall be screened from adjacent residential uses by means of a fence or sight-obscuring hedge.
- (4) A minimum of 25% of the lot area shall be devoted to open space.
- (5) Where the proposed structure is located in a residential zone the following setbacks shall be met:
  - (a) Front Yard:..... one-story structure 10 feet  
..... two-story structure 15 feet  
..... three-story structure 20 feet
  - (b) Rear Yard:..... one-story structure 10 feet  
..... two-story structure 15 feet  
..... three-story structure 20 feet
  - (c) Side Yard:..... one-story structure 5 feet  
..... two-story structure 10 feet  
..... three-story structure 15 feet

[Amended by Ordinance #277, August 28, 1990]

**Section 4.050. Sign Requirements.**

- (1) No sign shall be placed in or extend over a required street right-of-way except sidewalks. Signs over sidewalks shall not be less than 8 feet from the sidewalk grade. Where no sidewalk exists, the 6 feet of right-of-way on either side of the street shall be considered the sidewalk.
- (2) There shall be no moving or flashing signs, and light from a sign shall be directed away from a residential use or zone, and shall not be located so as to detract from a motorist's view.
- (3) Signs shall be limited to the following:
  - (a) Commercial uses, other than motel, hotel, or timeshare condominium; one square foot of sign area for each lineal foot of street frontage, but not to exceed 75 square feet in area.
  - (b) Motel, hotel, or timeshare condominiums; 75 feet in area.
  - (c) Light industrial; 24 square feet in area.
  - (d) Nonresidential uses such as churches or schools; 12 square feet in area.
  - (e) Multifamily and condominiums; 12 square feet in area.

- (f) Home occupation; 4 square feet in area.

[Section (3) amended by Ordinance #235, June 25, 1985]

(4) Sign area shall be calculated such that one side of an opposing-sided or non-parallel sign may be used for the purposes of measuring square footage. The larger side must be used for the determining factor.

(5) Off premise signs shall be no larger than 24 square feet in area.

[Amended by Ordinance #235, June 25, 1985]

**Section 4.060. Off-Street Parking and Off-Street Loading Requirements.** At the time a new structure is erected, or the use of an existing structure is enlarged, off-street parking spaces, loading spaces, and access thereto shall be provided as set forth in this section, unless greater requirements are otherwise established.

If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this ordinance except as exempted in Subsection (12).

(1) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.

(2) 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, except where the Planning Commission determines that the various uses are to be used at different times of the day, such that the same parking spaces may be reduced by the number of spaces required by the smaller use.

(3) Owners of two or more uses, structures, or parcels of land may agree to utilize 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 the joint use.

(4) Required parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not further than 200 feet from the building or use they are required to serve.

(5) 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. Spaces required for employees shall be applicable to each shift.

(6) Areas used for standing and maneuvering of vehicles shall have durable surfaces maintained adequately for all weather use and be drained to prevent the ponding of water or the collection of water in a public right-of-way, or the flowing of water across public sidewalks.

(7) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or uses, or adjacent to city parks or natural areas, shall be designed to minimize disturbances of residents by the erection between the uses of a sight-obscuring fence of at least four feet and not more than six feet in height, or a buffer of natural vegetation such as trees or shrubs, except that clear vision areas shall be preserved.

(8) Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high.

(9) Artificial lighting which may be provided shall not create or reflect substantial glare in a residential zone or on any adjacent dwelling, community park, or designated natural area.

(10) Uses located on US Highway 101 shall have parking facilities designed so that vehicles do not back into the right-of-way.

[Amended by Ordinance #235, June 25, 1985]

(11) 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 25 students.

(12) 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 number and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance may be used for loading and unloading operations during periods of the day when not required to take care of the parking needs. Parking spaces designated 'loading zone only' or 'trucks and delivery only' shall be provided in addition to the required number of spaces.

(13) Retail and service connected businesses (excluding residences, hotels, motels, and other transient lodging) located in the C-1 Zone (See Exhibit A), shall be exempt from off-street parking requirements.

[Amended by Ordinance #93-299, March 24, 1990]

(14) Parking spaces shall be of the following dimensions:

(a) Spaces for normal-sized vehicles: 18 feet by 9 feet.

(b) Spaces for compact vehicles (designated as such) shall be 16 feet by 8 feet.

(15) Spaces for compact vehicles shall be allowed in parking lots with four or more spaces. Up to 50% of the total spaces may be designated for compact cars.

(16) Off-Street Parking Space Requirements.

(a) Dwelling..... Two spaces per dwelling unit.

(b) Motel, hotel, inn..... One and one-quarter spaces for guest cottage,..... each guest accommodation plus or rooming house..... two spaces for any manager's ..... dwelling.

[Amended by Ordinance #277, August 29, 1990]

(c) Hospital, nursing..... One space for each three beds home..... plus one space for each employee.\*

(d) Church, club, or..... One space for each six seats, similar place of..... or one space for each 50 sq. assembly..... ft. of floor space.

(e) Library..... One space for each 400 sq. ft. .... of floor area plus one space ..... for each employee.\*

(f) Dance hall, skating..... One space for each 500 sq. ft. rink or similar use..... of dance floor or skating area ..... plus one space for each employee

(g) Bowling alley..... Two spaces for each alley plus ..... one space for each employee.\*

- (h) Retail store,..... One space for each 400 sq. ft. eating or drinking..... of floor area, plus one space establishment..... for each employee.\* [Amended by ..... Ordinance #235, June 25, 1985]
- (i) Service or repair..... One space for each 600 sq. ft. shop, retail store..... of floor area plus one space handling bulky..... for each employee.\* merchandise
- (j) Bank or office..... One space for each 600 sq. ft. (not medical or..... of floor area plus one space dental)..... for each employee.\*
- (k) Medical or dental..... One space for each 300 sq. ft. clinic..... of floor area plus one space ..... for each employee.
- (l) Schools (grades..... One space per employee plus 1-9)..... adequate parking for busses ..... kept on premises.
- (m) Schools (grades..... One space for each employee 10-12)..... plus one space for each four ..... students.
- (n) Manufacturing uses,..... One space for each employee on testing, research,..... largest shift, plus visitor processing, or..... parking as may be determined assembly..... by the Planning Commission.

\*Employees per shift or on duty.

**Section 4.065. Street and Drainage Standards.** At the time any new structure is erected, or an owner or developer wishes to develop any platted street in the City, they shall comply with the City's street and drainage standards:

[Amended by Ordinance #203, April 28, 1981]

(1) Street and road construction shall provide for drainage and shall not be diverted so as to create a drainage problem for other property owners.

[Amended by Ordinance #203, April 28, 1981]

(2) All driveways or entrances must include a culvert at the expense of the owner of sufficient size to handle drainage and storm runoff.

[Amended by Ordinance #203, April 28, 1981]

(3) Streets shall be constructed to meet all applicable City standards. (See Figures A, B, and C.)

A)..... Typical cross section for lanes.

B)..... Typical cross section for residential streets.

C)..... Typical cross section for primary collectors.

[Amended by Ordinance #203, April 28, 1981]

(4) The Public Works Superintendent may waive or reduce paving requirements where he or she determines that proposed development and future use of a street right of way will be limited by topography, growth potential or other limiting factors.

[Amended by Ordinance #93-299, March 24, 1990]

SEE FOLLOWING PAGES FOR FIGURES A, B, AND C.

**Section 4.070. Fence Requirements.**

(1) Fences located in the clear vision area shall not exceed 2 1/2 feet from the ground level, or 2 1/2 feet from the street level, whichever is lower.

(2) Fences may be constructed up to the property line, unless jointly owned by adjoining property owners in which case it may be on the property line.

(3) All fences or portions thereof shall be located in such a way as to not be detrimental to abutting property, and shall not obstruct views from adjacent property.

(4) Fences shall not be made of barbed wire or other sharp or dangerous material.

(5) Fences greater than six feet in height shall be referred to the Design Review Board for determination that the fence is in compliance with (3) above, and is generally attractive in appearance. [Amended by Ordinance No. 01-371, September 12, 2001]

(6) Fences less than six feet in height may be referred to the Design Review Board by the Building Official or City Recorder if there is a need for interpretation of (3) above.



#### **Section 4.080. Design Review Board.**

- (1) A Design Review Board is hereby established as a subcommittee of the Planning Commission.
- (2) The Board shall consist of the City Building Official, one member of the Council, and one member of the Planning Commission.
- (3) All members shall serve a two year term at which time they shall be reappointed or replaced.
- (4) The Board shall consider and evaluate all fences, decks, signs, and other structures as may be referred to them by the Council, Planning Commission, Building Official, or City Recorder.

**Section 4.090. Home Occupations.** The home occupation provision is included in recognition of the needs of many people who are engaged in small scale business ventures which could not be sustained if it were necessary to lease commercial quarters for them, or which, in the nature of the home occupation, cannot be expanded to full scale enterprise.

It is the intent of this section that home occupations be allowed which are unobtrusive by nature, which do not cause disruption of the surrounding neighborhood, or have an adverse effect on the adjacent properties or environment.

- (1) **Standards.** A home occupation shall mean any occupation or profession carried on by a person residing on the premises provided the following conditions are satisfied:
  - (a) No sign is used other than a nameplate not over one square foot in area.
  - (b) There is no display or outside storage that would indicate that the lot is being used in whole or primarily for purposes other than residential.
  - (c) The lot, including the building, retains the characteristics of a residential zone.
- (2) **Complaint Procedures.** The Planning Commission shall review home occupations upon receipt of two written complaints from two separate households located within 250 feet of the boundary of the affected property, or a complaint from the Building Official of the City. Complaints shall set forth the nature of the objection. The complaints shall be considered by the Planning Commission at a public hearing. The hearing procedure shall be the same as outlined in Article 11. [Amended by Ordinance No. 94-312, June 8, 1994] Criteria for judging objections shall include:
  - (a) Generation of excessive traffic.
  - (b) Monopoly of on-street parking areas.
  - (c) Frequent deliveries and pickups by motor freight.
  - (d) Noise in excess of that created by normal residential use (either in terms of volume or hours of occurrence).
  - (e) Smoke, fumes, or odors in excess of those created by normal residential use.
  - (f) Other offensive activities not in harmony with a residential neighborhood.
- (3) **Action by Planning Commission.** The Planning Commission, upon hearing the evidence may:
  - (a) Approve the use as it exists.
  - (b) Require the use to be terminated.
  - (c) Impose appropriate restrictions, such as limiting the hours of operation, establishing a phasing out of the use, or other measures insuring compatibility with the neighborhood.
  - (d) The determination of the Planning Commission becomes final 10 days after the date of decision, unless appealed to the City Council, in accordance with Article 11. [Amended by Ordinance No. 94-312, June 8, 1994]

**Section 4.091. Standard for Manufactured Homes.** At the time a manufactured home is sited in any applicable zone the following standards shall apply:

- a) The manufactured home shall be multi-sectional and enclose a space of not less than 1000 square feet.
- b) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, except as provided in 3.096(6)(c).
- c) The manufactured home shall have a pitched roof with a nominal pitch of at least three feet in height for each twelve feet in width.
- d) The manufactured home shall have exterior siding and roofing material commonly used on residential homes within the community or which is comparable to the predominant materials commonly used on surrounding homes as determined by the City Recorder and/or City Planner.
- e) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single family homes constructed under the state building code as defined in ORS 455.010.
- f) The manufactured home shall have a garage or carport constructed of materials similar to the manufactured home. Where surrounding homes have predominantly garages rather than carports, the City Recorder and/or City Planner may require that the manufactured home construct a garage rather than a carport.
- g) All other requirements of the Zone shall apply.

[Section 4.091 added by Ordinance #94-308, February 9, 1994]

**Section 4.095. Manufactured Dwelling Siting Criteria.** At the time a manufactured dwelling is sited in any applicable zone, the following standards shall apply:

[Amended by Ordinance #94-308, February 9, 1994]

- (1) A manufactured dwelling shall conform to all state standards at the time of construction, and shall comply with all state and city rules and regulations regarding siting.

[Amended by Ordinance #94-308, February 9, 1994]

- (2) A manufactured dwelling used for permanent residency shall have a minimum size of 600 sq. ft. of floor space.
- (3) A manufactured dwelling shall be securely anchored to a permanent foundation system recommended by the manufacturer of the manufactured dwelling. This foundation system shall include provisions for tie-downs to protect the manufactured dwelling against wind and storm damage. Plans and specifications for the foundation system shall be submitted to the Building Official in conjunction with the placement permit application. Lacking a continuous foundation, the unit shall have a continuous skirting of non-decaying, non-corroding material extending at least 6 inches into the ground or to an impervious surface. The skirting or continuous foundation shall have provisions for ventilation and access to the space under the unit, but such opening shall be secure against the entrance of animals. The construction of the tie-downs and skirting or continuous foundation, whichever is applicable, shall be completed within 30 days following placement of the unit upon the site.
- (4) A storage space having an area of at least 96 square feet shall be provided in an accessory building. The building shall be substantially compatible with the manufactured dwelling and shall be constructed and completed within 90 days following placement of the manufactured dwelling on the site.
- (5) A minimum of two off-street parking spaces shall be provided for manufactured dwellings.
- (6) Additions may be attached to the manufactured dwelling provided such additions are structurally compatible with the manufactured dwelling. A building permit is required for all additions.
- (7) Cabanas and awnings compatible with a manufactured dwelling may be added at any time.

- (8) No manufactured dwelling shall be placed on any lot until water and sewer service have been applied for and the proper hookups made.
- (9) No manufactured dwelling shall be occupied prior to the issuance of a placement permit.
- (10) No roof shall be constructed over the manufactured dwelling which is independent of the unit.
- (11) No manufactured dwelling shall be sited which is more than 5 years old.

[Section 4.095 (11), added by Ordinance #94-308, February 9, 1994]

[Section 4.095 amended by Ordinance #277, August 28, 1990]

**Section 4.096. Recreational Vehicle Siting Criteria.** At the time a recreational vehicle is sited in an RMD zone, the following standards shall apply:

- (1) The recreational vehicle shall comply with all state installation and placement requirements.
- (2) A minimum of two off-street parking spaces shall be provided for each recreational vehicle.
- (3) A storage space having an area of at least 96 sq. ft. shall be provided in an accessory building. The building shall be compatible with the recreational vehicle and shall be constructed and completed within 90 days following placement of the recreational vehicle on the site.
- (4) No recreational vehicle shall be occupied prior to the issuance of a placement permit.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.100. Recreation Vehicle Parks.**

- (1) Recreation vehicle (RV) camping areas or parks shall be allowed as conditional uses in the CU, RMH, and R-3 zones.
- (2) RV areas shall be at least one acre in size.
- (3) RV areas shall be connected to City water and sewer, and shall have toilet facilities, lavatories and showers with hot water in a ratio of one of each fixture per 10 RV spaces.
- (4) Each RV space shall be at least 1,000 sq. ft., exclusive of common streets, restroom areas or common open space areas.
- (5) A minimum distance of 10 feet shall separate the location of one recreational vehicle within its space from the interior road right-of-way.
- (6) A minimum distance of 10 feet shall separate the location of a recreational vehicle within its space from any community or service buildings constructed in conjunction with the recreational vehicle park.
- (7) Each site shall have direct access to an interior road right-of-way.
- (8) All recreational vehicles in the park shall be assigned to a space. No space shall have more than one recreational vehicle assigned to it.
- (9) Roads shall have a minimum paving width of 20 feet and be constructed to standards required by the Public Works Superintendent. [Amended by Ordinance NO. 94-312, June 8, 1994]

(10) A buffer of at least 10 feet shall be maintained around the perimeter of the park where abutting a residential zone. Within the buffer, either a sight-obscuring fence or dense evergreen vegetation, which attains a mature height of at least eight feet shall be provided.

(11) Wherever possible, existing tree cover and natural vegetation shall be maintained.

(12) Where RV parks are to be located near shoreline areas, recreational vehicle spaces and community and service buildings shall be set back from the shoreline at least 25 feet, and shall maintain public access to the water.

(13) 50% of the total area shall be open space or landscaped area.

(14) All standards of the Oregon Department of Commerce for recreational vehicle parks shall be met.

(15) Preliminary plans which contain all the information specified by OAR 814-29-080 shall be submitted to the City when requesting a conditional use.

[Section 4.100 amended by Ordinance #277, August 28, 1990]

**Section 4.110. Manufactured Dwelling Park Standards.** This section is intended to regulate location of manufactured dwelling parks and to provide additional standards of development for such areas recognizing that a manufactured dwelling park is a unique type of residential use which deserves special consideration due to its impact upon the community, its road and utilities.

[Amended by Ordinance #277, August 28, 1990]

(1) **Location Standards.** At the time a manufactured dwelling park is sited in any applicable zone, the following standards shall apply

[Section 4.110(1) amended by Ordinance #94-308, February 9, 1994]

(a) The minimum lot area for a manufactured dwelling

park shall be one acre.

(b) Spaces in manufactured dwelling parks shall be sized as follows:

(i)..... Spaces for double-wide units (units with a width of 16 feet or greater) shall be a minimum of 5,000 sq. ft.

(ii)..... Spaces for single-wide units (units with a width greater than 8 feet) shall be a minimum of 3,500 sq. ft.

(iii)..... Spaces for park model units (park model units are defined as small manufactured dwellings designed for permanent occupancy and does not include recreational vehicles) shall be a minimum of 3,000 sq. ft.

[Amended by Ordinance #277, August 28, 1990]

(2) **Setback Requirements.**

(a) Manufactured dwellings shall be located within their designated spaces in such a way that there shall be a minimum of ten feet between any manufactured dwelling and any other building in the manufactured dwelling park other than structures accessory to an individual manufactured dwelling.

(b) Manufactured dwellings shall be located a minimum of ten feet from any street or road and conform to the clear vision requirements of Section 4.020.

(c) Manufactured dwellings shall be located no less than twenty feet from any property line. A vegetated buffer which attains a mature height of at least eight feet and having a width of at least ten feet shall be provided within this twenty foot setback. Any buffer shall conform to the clear vision requirements of Section 4.020.

[Amended by Ordinance #277, August 28, 1990]

(3) **Access Requirements.**

- (a) Interior access drives shall be provided within the park, shall be continuous unless provided with adequate turn-around area or cul-de-sac, and shall have a minimum width of 24 feet.
- (b) Walkways, not less than four feet wide, shall be provided from each manufactured dwelling space to service buildings and along one side of all access drives.
- (c) All access drives and walkways within the manufactured dwelling park shall be surfaced according to standards established by the City.

[Amended by Ordinance #277, August 28, 1990]

(4) **Required Improvements.**

- (a) Each manufactured dwelling space shall have a pad with adequate base, with crushed rock or better surface. The pad shall have a minimum area equal to that of the manufactured dwelling which will be located on the space.
- (b) Off-street parking shall be provided with a minimum of two parking spaces for each manufactured dwelling space. Parking spaces shall be of crushed rock or better surfacing. Required access drives shall not be considered as fulfilling this requirement.
- (c) Provisions for storage shall be made as follows:
  - (i)..... A storage building with a minimum floor area of 96 square feet shall be provided for each manufactured dwelling space; and
  - (ii)..... A centralized storage area for such items as boats, trailers and camping vehicles shall be provided. Such a storage area shall contain a minimum of 100 sq. ft. for each manufactured dwelling space and be enclosed by a sight-obscuring fence or a vegetative buffer approved by the Planning Commission.
- (d) All manufactured dwelling parks shall be served by the City's sewer system and water system. The design and layout of sewer and water lines is subject to the review and approval of the Public Works Superintendent. [Amended by Ordinance No. 94-312, June 8, 1994]
- (e) Drainage improvements shall be made as may be required by the Public Works Superintendent. [Amended by Ordinance No. 94-312, June 8, 1994]
- (f) Signs are limited to one identification sign with a maximum area on one side of 12 sq. ft., and limited to 8 feet above the ground level. Such a sign may be indirectly illuminated, but shall not contain exposed neon or similar tubing and shall not flash, rotate, or move in any way.

[Amended by Ordinance #277, August 28, 1990]

- (5) **Plans Required** Applications for manufactured dwelling park permits shall be accompanied by complete plans and specifications of the proposed park and all permanent buildings, indicating the proposed methods of compliance with these requirements. Such plans shall be to a scale of not less than 1 inch to 50 feet. A performance bond may be required in an amount to be determined by the Planning Commission to insure that a development proposed is completed as approved and within the time limit agreed to.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.120. Shoreline Stabilization Standards.**

**(A) General Standards.**

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

In the placement of stabilization materials, factors to be considered include, but are not limited to effects on bird and wildlife habitat, uses of lands and waters adjacent to the bank, effects on fishing areas, effects on aquatic habitat, relative effectiveness of the various structures, engineering feasibility, erosion, flooding and sedimentation of adjacent areas.

(2) Emergency repair to shoreline stabilization facilities is permitted, notwithstanding the other regulations in these standards, subject to those standards imposed by the State of Oregon, Division of State Lands, and the US Army Corps of Engineers.

[Section 4.120 added by Ordinance #221, August 24, 1982, amended by Ordinance #277, August 28, 1990]

**(B) Standards for Revegetation and Vegetation Management.**

(1) Plant species shall be selected to insure that they provide suitable stabilization and value for wildlife. Justification shall be presented as to the necessity and feasibility for use of a bank with a slope greater than 2:1 (horizontal to vertical). Trees, shrubs and grasses native to the area are generally preferred.

(2) The area to be revegetated should be protected from traffic or other activities that would hinder plant growth.

[Added by Ordinance #221, August 24, 1982]

**(C) Standards for Rip-Rap and Seawalls.**

(1) There is a critical need to protect a structure that is threatened by erosion hazard.

[Amended by Ordinance #277, August 28, 1990]

(2) Good engineering and construction practices shall be used in the placement of rip-rap, with regard to slope, size, composition and quality of material, excavation of the toe trench, placement of a gravel fill blanket and operation of equipment in the water. State and federal regulations should be consulted in this regard.

[Amended by Ordinance #277, August 28, 1990]

(3) Rip-rapped banks should be vegetated where feasible.

[Amended by Ordinance #277, August 28, 1990]

(4) Shoreline protection measures shall not restrict existing public access to public shorelines.

[Amended by Ordinance #277, August 28, 1990]

(5) Shoreline protection measures shall be designed to minimize their impacts on the aesthetic qualities of the shoreline.

[Amended by Ordinance #277, August 28, 1990]

(6) Shoreline protection measures shall be designed and constructed to minimize negative impacts on adjacent property.

(7) Shoreline protection measures shall be designed and constructed to avoid long-term or recurring costs to the public.

(8) Bankline protection is not in itself a way to increase land surface area. Where severe erosion has occurred, fill may be used to obtain the desired bank slope and restore the previous bankline. Any extension of the bankline into traditional aquatic areas shall be subject to the standards for fill.

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

(10) Beachfront protective structures for beach and dune areas shall be permitted only where development existed as of January 1, 1977. 'Development' means 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 Goal 18 exception has been approved.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.130. Foredune Grading.** Grading or sand movement necessary to maintain views or to prevent sand inundation may be allowed for structures in foredune areas only if the area is committed to development, or is within an acknowledged urban growth boundary, and only as part of an overall plan for managing foredune grading. A foredune grading plan prepared by a qualified expert shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

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

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

(6) Foredune grading in the Nedonna Beach area must conform to the requirements of the adopted Nedonna Beach Foredune Grading Plan.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.135. Dune Construction Standards.** Removal of vegetation shall be limited to that which is necessary to perform construction activities, and shall not be done earlier than 30 days prior to the start of construction. If construction takes place between the months of November and May, temporary sand control measures such as mulching, fencing or matting shall be employed. Immediately after construction, the site shall be revegetated.

[Added by Ordinance #243, May 13, 1986]

**Section 4.140. Maintenance of Access.** The City shall review under ORS 271.080 - 271.230, proposals for the vacation of public easements or rights-of-way which provide access to or along ocean beaches or lakes. The City shall review under the provisions of ORS 271.300 - 271.360, proposals for the sale, exchange, or transfer of public ownership which provides access to ocean beaches or lakes. Existing public ownership rights-of-way and similar public easements which provide access to or along ocean beaches or lakes shall be retained or replaced, if they are sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.

[Amended by Ordinance #277, August 28, 1990]

**Section 4.150. Riparian Vegetation.** Riparian vegetation adjacent to the lakes and streams in Rockaway Beach shall be protected in accordance with the following provisions:

- (1) The following areas of riparian vegetation are defined:
  - (a) Fifteen feet on either side of McMillan, Steinhilber, Finney, Rock, Heitmiller, Saltair, and Spring Creeks and any other known stream bed. [Amended by Ordinance No. 95-325A, May 10, 1995.]
  - (b) Fifteen feet adjacent to Seaview Lake, Marie Lake and the unnamed lake at Minnihaha Avenue.
  - (c) Twenty-five feet adjacent to Spring Lake and Lake Lytle where there are no adjacent wetlands.
  - (d) The extent of wetland vegetation adjacent to Crescent Lake, Lake Lytle, Clear Lake and that portion of Spring Lake that is bordered by wetlands.
- (2) All structures and uses shall be located outside of areas listed in (1) above with the following exceptions:
  - (a) Where direct water access is required in conjunction with a water-dependent use; or
  - (b) Access to a lot where the proposed access is only reasonable alternative; or
  - (c) Structural shoreline stabilization; or
  - (d) Trails or other pedestrian walkways that provide access to the water.
- (3) For areas described in (1) a), b), and c) above, all trees 6 inches in diameter at four and one-half feet above grade, and 50% of the understory vegetation shall be retained within the areas listed with the following exceptions:
  - (a) Removal of dead, diseased, or dying trees, or trees that pose an erosion hazard.
  - (b) Removal of vegetation necessary to provide for uses listed in (2), above.
  - (c) Vegetation removal in conjunction with an approved in-water project.
  - (d) The removal of noxious weeds as defined by the City's nuisance ordinance.
- (4) For all areas described in (1) d) above, all riparian vegetation shall be retained with the following exceptions:
  - (a) Removal of vegetation necessary to provide for uses listed in (2) above.
  - (b) Removal of dead, diseased, or dying trees.
  - (c) Vegetation removed in conjunction with an approved in-water project.
- (5) The City may approve the removal of riparian vegetation not vegetation removal has been reviewed and approved by the Oregon department of Fish and Wildlife.

[Amended by Ordinance #277, August 28, 1990]



**Section 4.160. Archeological Site Protection.**

(1) The City Recorder shall review building permits, and other proposed land use actions, that may affect known archeological sites. If it is determined that a proposed building permit or land use action may affect a known archeological site, the City shall notify the State Historic Preservation Office. Such notification shall request assistance in determining whether the proposed action will in fact affect the identified archeological site. If the State Historic Preservation Office determines that a site would be affected, it shall be requested to also develop appropriate measures protect the site and its contents (appropriate measures are defined in Section 4.160 (3)).

No permit shall be issued unless one of the following has occurred:

- (a) The State Historic Preservation Office determines that the proposed action will not affect the archeological site; or
  - (b) The State Historic Preservation Office has developed a program for the preservation or excavation of the site and the implementation of that program is made a condition of approval for either the building permit, or land use action, e.g., conditional use permit; or
  - (c) The City has received no comment from the State Historic Preservation Office within twenty days of the date of written notification.
- (2) Native American cairns, graves, and other significant archeological resources, uncovered during construction or excavation shall be preserved until a plan for their excavation or reinterment has been developed by the State Historic Preservation Office. In development of the plan, the State Historic Preservation Office shall consider the appropriate measures listed in Section 4.160(3).
- (3) In the development of a program to protect an archeological site, the State Historic Preservation Office shall give consideration to the following appropriate measures:
- (a) Paving over the site without disturbance of any human remains or cultural objects.
  - (b) Redesigning the proposed construction or excavation so as to avoid disturbing the site.
  - (c) Setting the site aside for non-impacting portions of the proposed development, such as storage.
  - (d) If permitted pursuant to the substantive and procedural requirements of ORS 97.750, contracting with a qualified archeologist to excavate the site and remove any cultural objects and human remains at the developer's expense.

[Section 4.160 added by Ordinance #277, August 28, 1990]

## Article 5. Exceptions

**Section 5.010. Zone Boundaries.** If a zone boundary as shown on the map divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary.

**Section 5.020. Authorization of Similar Uses.** The Planning Commission may permit in a particular zone a use not listed in this ordinance, provided the use is of the same general type as the uses permitted there by this ordinance.

**Section 5.030. General Provisions Regarding Accessory Uses.** An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

- (1) A guest house may be maintained accessory to a dwelling, provided there are no cooking facilities in the guest house.
- (2) An accessory structure separated from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided it is no closer than five feet to a property line, no higher than 12 feet, and no larger than 120 square feet.

**Section 5.040. Projections from Buildings.** Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 24 inches into a required yard, except that unsupported eaves may extend up to one half the distance of a required setback.

**Section 5.050. General Exception to Lot Size Requirements.** If a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the County Clerk at the time of the passage of this ordinance has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single family dwelling or to the number of dwelling units consistent with the density requirements of the zone. In no case shall a lot with less than 1,750 square feet be considered buildable. If more than two existing recorded lots are reconfigured through a lot line adjustment, replatted or otherwise changed within a calendar year, the new lots will conform to the requirements of the zone. When substandard lots are aggregated to meet minimum lot size requirements of the zone, any remaining lots shall meet the minimum lot size requirements of the zone.

[Amended by Ordinance #93-299, March 24, 1990]

### **Section 5.060. General Exceptions to Yard Requirements.**

- (1) The following exceptions to the front yard requirements for a dwelling are authorized for a lot in any zone:
  - (a) The required front yard for a dwelling need not exceed the average depth of the nearest front yards of dwellings within 100 feet on both sides of the proposed dwelling on the same side of the street. However, in no event shall the permitted setback be less than 10 feet.

[Amended by Ordinance #277, August 28, 1990]

- (b) For all lots abutting the oceanshore, any yard abutting the oceanshore shall have a depth that is the average depth of all existing yards abutting the oceanshore for a distance of 200 feet in either direction from the parcel's property lines.

The average setback shall be measured from the Oregon Coordinate Line. In measuring structures, the most oceanward point of a structure which is higher than 36 inches above the existing grade shall be used.

[Amended by Ordinance #277, August 28, 1990]

(2) The required width of a side yard may be reduced to 10 percent of the width of the lot, but not less than 3 feet, except for the street side of a corner lot which must maintain an adequate clear vision area.

**Section 5.070. General Exception to Building Height Limitations.** Projections such as chimneys, antennas, flagpoles, and other similar objects (not including satellite dishes) not used for human occupancy are not subject to the building height limitations of this ordinance.

[Amended by Ordinance #93-299, March 24, 1990]

**Section 5.080. Planning Commission Exception.** The Planning Commission may authorize construction without a variance to the front lot line on oceanfront lots (the front lot line is considered the lot line on the street side at the opposite end of the lot from the oceanfront), in order to protect the structure from ocean erosion, and to maintain the structure within the oceanfront building line.

[Amended by Ordinance #162, April 10, 1979]

## Article 6. Conditional Uses.

**Section 6.010. Authorization to Grant or Deny Conditional Uses.** Conditional uses listed in this ordinance may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in Section 6.010 through Section 6.030. In the case of a use existing prior to the effective date of this ordinance and classified in this ordinance as a conditional use, any change in use or lot area or an alteration of structure shall conform with the requirements dealing with conditional uses.

[Amended by Ordinance #277, August 28, 1990]

**Section 6.020. Conditional Use Review Criteria.** Before a conditional use is approved, findings will be made that the use will comply with the following:

- (1) The proposed use is consistent with the policies of the Comprehensive Plan;
- (2) The location, size, design and operating characteristics of the proposed use are such that the development will have a minimum impact on surrounding properties. This standard is not applicable to multi-family dwellings, manufactured dwelling subdivisions and manufactured dwelling parks;
- (3) The use will not generate excessive traffic when compared to the traffic generated by uses permitted outright and adjacent streets have the capacity to accommodate the traffic generated;
- (4) Public facilities and services are adequate to accommodate the proposed use;
- (5) The site's physical characteristics in terms of topography and soils is appropriate for the intended use; and
- (6) The site has adequate area to accommodate the proposed use. The site layout has been designed to provide appropriate access points, on site drives, parking areas, loading areas, storage facilities, setbacks, buffers, utilities, or other facilities which are required by City ordinances or desired by the applicant.

[Amended by Ordinance #277, August 28, 1990]

### **Section 6.030. Conditional Use Procedure.**

- (1) A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Recorder, using forms prescribed pursuant to Section 11.030. The Planning Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties.
- (2) The procedure for reviewing a conditional use is as follows:
  - (a) Public notice shall be given in accordance with Section 11.040.
  - (b) A public hearing shall be held in accordance with Section 11.060.
  - (c) A decision on the conditional use application shall be made in accordance with Section 11.060(6).
  - (d) A decision of the Planning Commission may be appealed in accordance with Section 11.070.
  - (e) The Conditional Use Permit shall be null and void after one year, unless substantial construction has taken place.

[Amended by Ordinance #277, August 28, 1990]

- (3) In permitting a conditional use, or the modification of a conditional use, other than a housing type, the Planning Commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which are necessary to protect the adjacent property, an identified resource, or the City as a whole.

[Amended by Ordinance #277, August 28, 1990]

**Section 6.040. Non-Profit Conference Ground or Center.** In addition to standards governing conditional uses, the following standards shall also apply:

- (1) A minimum lot size of 5 acres.
- (2) Sixty (60) percent of the site is devoted to open space.
- (3) No structure, tent site, or recreational vehicle site shall be located within 50 feet of a property line.
- (4) Transient lodging, such as dormitories, tent sites, or recreational vehicle sites shall be restricted to the use by participants at the conference ground.

[Added by Ordinance #252, June 23, 1987]

## **Article 7. Nonconforming Uses.**

**Section 7.010. Continuation of Nonconforming Use.** Subject to the provisions of ORS 215.130 and subsequent provisions of this article, a nonconforming use or structure may be continued. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this ordinance, is not considered an enlargement or expansion of a nonconforming use, up to 20% in floor area, or in those cases not involving a structure, up to 10% in land area as existing on the effective date of this ordinance.

### **Section 7.020. Discontinuance of Nonconforming Use.**

(1) If a nonconforming use involving a structure is discontinued for a period of one year, further use of the property shall conform to this ordinance.

(2) If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this ordinance.

### **Section 7.030. Change of Nonconforming Use.**

(1) If a nonconforming use not involving a structure is replaced by another use, the new use shall conform to this ordinance.

(2) If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this ordinance unless the Planning Commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.

**Section 7.040. Destruction of a Nonconforming Use or Structure.** If a nonconforming use or a structure containing a nonconforming use is damaged or is destroyed by any cause other than the action of the property owner or his agents and it is not reconstructed within one year, a future structure or use on the site shall conform to this ordinance.

[Amended by Ordinance #277, August 28, 1990]

**Section 7.050. Completion of Structure.** Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a structure for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, provided the building, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the building permit is issued.

**Section 7.060. Alterations Necessary to Comply With Other Laws.** Alterations of nonconforming uses may be allowed when the Planning Commission determines that alterations are necessary to comply with other City, state, or federal requirements.

**Section 7.070. Enlargement or Expansion of a Nonconforming Use.** The Planning Commission, pursuant to the procedures of Article 6, Conditional Uses, may authorize the enlargement or expansion of a nonconforming use up to 20% of the existing building's floor area or for uses not involving a building up to 10% of the existing site's lot area.

[Amended by Ordinance #277, August 28, 1990]

## Article 8. Variances.

### **Section 8.010. Purpose.**

(1) The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties and unnecessary hardships 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 or from population densities, street location, or traffic conditions in the immediate vicinity.

(2) The power to grant variances does not extend to use regulations. In other words, no variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

### **Section 8.020. Criteria.**

(1) Variances to a requirement of this chapter with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, fences and walls, and other quantitative requirements may be granted only if, on the basis of the application, investigation, and evidence submitted by the applicant, that all four expressly written findings are made:

(a) That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the Comprehensive Plan; and

(b) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and

(c) That 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 near vicinity; and

(d) That the granting of the variance would support policies contained within the Comprehensive Plan.

Variances in accordance with this subsection should not ordinarily be granted if the special circumstances upon which the applicant relies are a result of the actions of the applicant or owner.

(2) Variances to requirements of this chapter with respect to off-street parking and loading facilities may be authorized as applied for or as modified, if, on the basis of the application, investigation, and the evidence submitted, the following express written findings are made:

(a) That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this chapter.

(b) That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets.

(c) That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this chapter.

Where a variance request is being reviewed under Section 8.020(2), only the criteria of Section 8.020(2) shall be addressed. The criteria of Section 8.020(1) are not applicable.

[Section 8.020(2) amended by Ordinance #277, August 28, 1990]

**Section 8.030. Conditions.** Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood and otherwise secure the purpose and requirements of this section. Guarantees and evidence may be required that such conditions will be and are being complied with.

[Added Section 8.040, this section was omitted in blue book]

**Section 8.040 Application.** Application for a variance in conformance with Section 11.030 shall be filed with the City Recorder on the form prescribed by the City, by any person with a legal interest in the property.

**Section 8.050. Variance Review Procedures.** The following procedures shall be followed in reviewing a request for a variance:

- (1) Public notice shall be given in accordance with Section 11.040.
- (2) A public hearing shall be held in accordance with Section 11.060.
- (3) A decision on the variance application shall be made in accordance with Section 11.060(6).
- (4) A decision of the planning commission may be appealed to the City Council in accordance with Section 11.070.

[Section 8.050 amended by Ordinance #277, August 28, 1990]

**Section 8.080. Compliance With Conditions of Approval.** Compliance with conditions of imposed in the variance, and adherence to the submitted plans as approved is required. Any departure from these conditions of approval and approved plans constitutes a violation of this chapter.

**Section 8.090. Vested Interest in Approved Variances.** A valid variance supersedes conflicting provisions of subsequent rezonings or amendments to this chapter unless specifically provided otherwise by the provisions of this section or in the conditions of approval of the variance.

**Section 8.100. Revocation.** Variances shall be automatically revoked if not exercised within one year of the date of approval.

**Section 8.110. Limitation on Refiling of Application.** Applications for which a substantially similar application has been denied shall be heard by the Planning Commission only after a period of six months has elapsed.

**Section 8.120. Time Limit for an Approved Variance.** The variance shall be null and void after one year, unless substantial construction has taken place.

## **Article 9. Amendments.**

**Section 9.010. Authorization to Initiate Amendments.** An amendment to the text of this ordinance or to a zoning map may be initiated by the City Council, Planning Commission, or by application of the property owner(s), contract purchaser(s), or his/her/their authorized agent.

[Amended by Ordinance #277, August 28, 1990]

**Section 9.015. Burden of Proof.** The burden of proof is placed upon the initiator of the amendment. That burden shall be to prove:

- (1) The proposed amendment fully accords with applicable Comprehensive Plan goals and policies; and
- (2) The proposed amendment is required to meet a land use need.

[Section amended by Ordinance #277, August 28, 1990]

**Section 9.020. Amendment Procedures.** The following procedures shall be observed in consideration of an amendment request:

- (1) A request shall be initiated by filing an application with the City pursuant to Section 11.030.
- (2) Notice of a public hearing shall be given pursuant to Section 11.040.
- (3) The Planning Commission shall hold a public hearing on the request pursuant to Section 11.060.
- (4) The Planning Commission will forward its recommendation to the City Council and the City Council will hold a public hearing pursuant to Section 11.060.
- (5) The City Council will make a decision on the request pursuant to Section 11.060(6).



[Amended by Ordinance #277, August 28, 1990]

**Section 9.030. Record of Amendments.** The City Recorder shall maintain records of amendments to the text and zoning map.

[Amended by Ordinance #193, December 9, 1980]

**Section 9.040. Limitation of Reapplications.** No application of property owner(s), contract purchaser(s), or his/her/their authorized agent, for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence of a change of circumstances warrant it.

[Amended by Ordinance #193, December 9, 1980]

**Section 9.050. Change of Zone for Manufactured Dwelling Parks.** If an applicant would change the zone of property which includes all or part of a manufactured dwelling park as defined by ORS 446.003, the City shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least 20 days but not more than 40 days, before the date of the first hearing on the application. The failure of a tenant to receive notice which was mailed shall not invalidate any zone change.

[Amended by Ordinance #277, August 28, 1990]

## Article 10. Planned Unit Development (PUD)

**Section 10.010. Intent.** This article is intended to provide for developments incorporating a single type or variety of housing types and related uses which are planned and developed as a unit. Such developments may consist of individual lots as part of a larger holding or as common building sites. Commonly owned land which is an essential and major element of the plan should be related to and preserve the long-term value of the homes and other development. It is the intent of this section to foster a more innovative approach to land development than is possible under the traditional lot by lot methods.

**Section 10.020. Purpose.** The purpose of this article is to provide a more desirable environment through the application of flexible and diversified land development standards following an overall comprehensive site development plan.

**Section 10.030. Permitted Buildings and Uses.** The following buildings and uses may be permitted as hereinafter provided. Buildings and uses may be permitted either singly or in combination provided the overall density of the Planned Unit Development does not exceed the density of the parent zone as provided in this ordinance.

- (1) Single-family dwellings including detached, attached, or semi-detached units, row houses, atrium or patio houses, provided each has its own separate plot.
- (2) Duplexes and multiple-family dwellings.
- (3) Accessory buildings and uses.
- (4) Commercial uses only when supported mainly by the PUD and only when economic feasibility can be shown.
- (5) Buildings or uses listed as permitted outright or conditionally in the parent zone on which the PUD is located.

### **Section 10.040. Development Standards.**

- (1) **Minimum Lot Size.** Planned Unit Developments shall be established only on parcels of land which are suitable for the proposed development and are determined by the planning commission to be in keeping with the intent of this ordinance. (This says 'site size' in 143, not 'lot size')
- (2) **Open Spaces.** In all residential developments, or in combination residential-commercial developments, 50% of the total area should be devoted to open space. Of this area, 25% of said open space may be utilized privately by individual owners or users of the PUD; however, 75% of this area should be common or shared open space. The Planning Commission may increase or decrease the open space requirement depending on the particular site and the needs of the development. In no case should the open space be less than 40% of the site.
- (3) **Density.** The density of a planned development shall not exceed the density of the parent zone, except as more restrictive regulations may be prescribed as a condition of the PUD permit. When calculating density, the gross area is used (total area including street dedications). Areas of public uses may be included in calculating allowable density.
- (4) **Subdivision of Lot Sizes.** Minimum area, width, depth, and frontage requirements for subdivision lots in a PUD may be less than the minimums set forth elsewhere in City ordinances, provided that the overall density is in conformance, and that lots conform to the approved preliminary development plan.
- (5) **Off-Street Parking.** Parking spaces shall conform to all provisions of this ordinance, except that the Planning Commission may authorize exceptions where warranted by unusual circumstances.
- (6) **Signs.** All signs of any type within a PUD are subject to design review and approval of the Planning Commission. They shall consider each sign on its merits based on its aesthetic impact on the area, potential traffic hazards, potential violation of property and privacy rights of adjoining property owners, and need for said sign.

(7) **Height Guidelines.** The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the Planning Commission may allow a variance of heights where it is determined that surrounding property will not be harmed.

(8) **Streets and Roads.** Necessary streets and roads within the PUD shall be dedicated to the public and constructed to City standards or shall be private roads maintained by an owner's association and constructed to standards as determined by the Planning Commission and City Engineer.

(9) **Dedication and Maintenance of Facilities.** The Planning Commission, or on appeal, the City Council may, as a condition of approval for a PUD require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated to the following uses:

(a) **Recreation Facilities:** The Planning Commission may require that suitable area for parks or playgrounds be set aside, improved, or permanently reserved for the owners, residents, employees or patrons of the PUD.

(b) **Common Area:** Whenever common area is provided, the Planning Commission or City Council may require that an association of owners or tenants be created into a non-profit corporation under the laws of the State of Oregon, which shall adopt such Articles of Incorporation and By-Laws and adopt and impose such Declaration of Covenants and Restrictions on such common areas that are acceptable to the Planning Commission. Said association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall not be less than 20 years, and it shall continue thereafter and until a majority vote of the members shall terminate it.

(c) **Easements:** Easements necessary to the orderly extension of public utilities may be required as a condition of approval.

(10) **Approvals.** The Planning Commission shall submit the preliminary development plan to the Fire District, City Engineer, County Sanitarian, power company, and other utilities which will serve the PUD and shall consider their recommendations in regard to approval of the proposal.

#### **Section 10.050. Procedure - Preliminary Development Plan.**

(1) The applicant shall submit four copies of the preliminary development plan to the Planning Commission prior to formal application for rezoning. Applications shall be accompanied by a fee prescribed in Section 11.050 of this ordinance. This plan and any written statements shall contain at least the following information:

(a) Proposed land uses and densities.

(b) Location and approximate dimensions and heights of structures.

(c) Plan of open spaces or common spaces.

(d) Map showing existing features of site and topography.

(e) Proposed method of utilities service and drainage.

(f) Road and circulation plan including off-street parking.

(g) Relation of the proposed development to the surrounding area and the Comprehensive Plan.

(h) Lot layout.

(i) A schedule, if it is proposed that the final development plan will be executed in stages.

(2) The Planning Commission shall consider the preliminary development plan at a public meeting, at which time they shall determine whether the proposal conforms to City ordinances. In addition, in considering the plan, the Planning Commission shall seek to determine that:

- (a) There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.
- (b) Resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area.
- (c) The proposed development will be in substantial harmony with the surrounding area, including vegetation and topography and any important natural areas such as marshes or wildlife habitats.
- (d) The plan can be completed within a reasonable period of time.
- (e) Any proposed commercial development can be justified economically.
- (f) The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
- (g) Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- (3) The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
- (4) Following this preliminary meeting, the applicant may proceed with his/her request for approval of the planned development by filing an application for an amendment to this ordinance with the City Recorder.

**Section 10.060. Procedure - Final Approval.**

- (1) Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file a final plan for the entire development or, when submission in stages has been authorized, for the first unit of the PUD, with the Planning Commission. The final plan shall conform in all respects with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan, plus the following:
  - (a) Contour map showing at least 2-foot intervals.
  - (b) Grading plan showing future contours if existing grade is to be changed more than two feet.
  - (c) Existing and proposed utility lines.
  - (d) Preliminary subdivision plan if property is to be subdivided.
  - (e) Location and dimensions of pedestrian ways, roads, malls, common open space, recreation area and parks.
  - (f) Location, dimensions, and arrangement of off-street parking including width of aisles, spaces, and other design criteria.
  - (g) Preliminary planting and landscaping plan.
  - (h) Preliminary architectural plans and elevations of typical structures.
  - (i) The applicant shall also submit drafts of appropriate deed restrictions or protective covenants to provide for the maintenance of common areas and to assure that the objectives of the PUD shall be followed.
- (2) Upon receipt of the final development plan, the Planning Commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved preliminary development plan, or require such changes in the proposed development or impose such conditions of approval as are, in its judgment, necessary to insure conformity to the applicable criteria and standards. In so doing, the Planning Commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.
- (3) After final concept approval by the Planning Commission, the PUD application will be sent to the City Council for consideration for final approval.

**Section 10.070. Mapping.** An approved PUD shall be identified on the zoning map with the letters 'PUD' in addition to the abbreviated designation of the parent zone.

**Section 10.080. Adherence to Approved Plan and Modification Thereof.**

- (1) Building permits in a PUD shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.
- (2) A performance bond may be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the time limits agreed to.
- (3) The developer shall show to the satisfaction of the Planning Commission that the proposal will be carried out in such a way that no significant damage will be done to the lakes, streams, beaches or wetlands in the City. Special attention will be paid to the impact of the PUD on slide-prone hillsides to insure that the damage will not be caused to surrounding property.

## **Article 11. Administrative Provisions.**

### **Section 11.020. Building Permits.**

- (1) No permit shall be issued by the Building Official for the construction, reconstruction, alteration or change of use of a structure or lot that does not conform to the requirements of this ordinance.
- (2) Building permits are required for any change, alteration or addition that affects the foundation, roofline, area of structure, or enclosure of existing porches, decks, patios, or carports.
- (3) No building permit shall be issued for any new construction, or any alteration or addition to an existing structure that increases the structural area toward any lot line, unless an official survey accompanies the application for a building permit. The survey shall also show the elevation of the building site.
- (4) Construction on property for which a permit has been issued must be started within 120 days from the date of issue. Construction must not be abandoned for over 120 days, or a new permit must be obtained at one-half the original fee. Building permits may be renewed only once.
- (5) If manufactured dwellings, recreational vehicles, or other temporary structures are used during the construction, water and sewer facilities must be installed within 90 days.

[Section (5) amended by Ordinance #277, August 28, 1990]

- (6) Premises may not be occupied unless furnished with water and sewer facilities.

### **Section 11.030. Application Information and Procedures.**

- (1) An application for a permit or zone change provided for in this ordinance shall consist of:
  - (a) A complete application form; and
  - (b) Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all partners in ownership of the affected property; and
  - (c) The required filing fee.
- (2) If the application is complete when first submitted, or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based on standards and criteria that were applicable at the time the application was first submitted.
- (3) If an application for a permit or zone change is incomplete, the City shall notify the applicant of the additional information required within 30 days of the receipt of the application. The applicant shall be given the opportunity to submit the additional information required. The application shall be deemed complete upon receipt of such additional information required. If the applicant refuses to submit the required additional information, the application shall be deemed complete on the 31st day after the governing body first received the application.
- (4) Where a proposed development requires more than one permit, or zone change request from the City, the applicant may request that the City consider all necessary permit and zone change requests in a consolidated manner. If the applicant requests that the City consolidate its review of the development proposal, all necessary public hearings before the Planning Commission shall be held on the same date.
- (5) All documents or evidence provided by the applicant shall be submitted to the City and be made available to the public at the time the notice of public hearing required by Section 11.040 is provided.

[Amended by Ordinance #277, August 28, 1990]

**Section 11.040. Notice of Public Hearing.**

(1) **Content of Legal Notice.** Notice of a public hearing shall be reasonably calculated to give actual notice and shall contain the following information:

- (a) The name of the applicant.
- (b) The date, time, place of hearing and who is holding the public hearing.
- (c) A description reasonably calculated to inform a person of the location of the property for which a permit or other action is pending, including the street address, and the subdivision lot and block designation, or tax map designation of the County Assessor. This is not required for legislative actions under this ordinance.
- (d) A concise description of the proposed development action.
- (e) A listing of the applicable criteria from the Zoning Ordinance and Comprehensive Plan known to apply to the issue.
- (f) A statement that a failure to raise an issue in person or by letter precludes appeal and that failure to specify as to which criteria the comment is directed precludes an appeal based on that criteria.
- (g) A statement describing where the complete application, criteria and other relevant information is available for review and how written comments may be submitted.
- (h) The name and phone number of a local government representative to contact for more information.
- (i) A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost, and that copies can be provided at reasonable cost.
- (j) A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that copies can be provided at reasonable cost.
- (k) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

(2) **Mailed Notice.**

(a) Mailed notice shall be sent by certified return receipt mail to property owners with the following distances from the exterior boundary of the subject property:

- (i) Legislative change to the Zoning Ordinance:..... None.
- (ii) Quasi-judicial change to the Zoning Ordinance: ..... 200 feet.
- (iii) Conditional use: ..... 200 feet.
- (iv) Variance request: ..... 200 feet.
- (v) Appeals: ..... parties of record.

(b) Mailed notice shall be sent to the applicant.

(c) Addresses for a mailed notice required by this ordinance shall be obtained from the County Assessor's Real Property Tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this ordinance for notice.

(3) **Published Notice.**

(a) Notice shall be given for the proposed actions described below by publication in a newspaper of general circulation of the City of Rockaway Beach.

- (i) Legislative changes to the Zoning Ordinance.
- (ii) Quasi-judicial change to the Zoning Ordinance.
- (iii) Conditional use.
- (iv) Variance subject to a public hearing.
- (v) Appeal of a Planning Commission decision.

(4) **Deadlines for Public Notice.** Notice shall be mailed or published not less than 20 days prior to the hearing requiring the notice.

[Amended by Ordinance #277, August 28, 1990]

**Section 11.050. Date of Public Hearing.** The Planning Commission shall hold a public hearing within 40 days of the filing of a complete application, unless the applicant grants an extension. [Amended by Ordinance #277, August 28, 1990]

**Section 11.055. Availability of Staff Reports.** Any staff report to be used at a public hearing shall be available at least seven days prior to the hearing. If additional documents or evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. This continuance period shall not be counted as part of the 120 day time limit in Section 11.080. [Amended by Ordinance #277, August 28, 1990]

**Section 11.060. Public Hearing Procedure and Requirements.**

- (1) Public hearings conducted under this ordinance shall follow the procedures and requirements of this section.
- (2) The following Procedural Entitlements shall be provided at the public hearing:
  - (a) An impartial review as free from conflicts of interest, personal bias, and pre-hearing ex-parte contact as is reasonably possible.
  - (b) No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:
    - (i)..... Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the last two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
    - (ii)..... The member owns property within the area entitled to receive notice of the public hearing.
    - (iii)..... The member has a direct private interest in the proposal.
    - (iv)..... For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.
  - (c) Hearing body members shall reveal any pre-hearing or ex-parte contacts with regard to any matter at the commencement of the first public hearing following the pre-hearing or ex-parte contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations. Disqualifications due to ex-parte contact may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.



(d) A party to a hearing, or a member of a hearing body, may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, pre-judgment, personal interest, ex-parte contact or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion.

(e) A party to a hearing may rebut the substance of the communication that formed the basis for an ex-parte contact declared by a member of the hearing body.

(f) No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.

(g) A reasonable opportunity for those persons potentially affected by the proposal to present evidence.

(h) A reasonable opportunity for rebuttal of new material.

(3) **Rights of Disqualified Member of the Hearing Body.**

(a) An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.

(b) A member absent during the presentation of 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.

(4) **Burden and Nature of Proof.** The burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this ordinance, especially the specific criteria set forth for the particular type of decision under consideration.

(5) **Nature of Proceedings.** An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

(a) Before receiving information on the issue, the following shall be addressed:

(i)..... Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.

(ii)..... Any abstentions or disqualifications shall be determined, based on conflict of interest, personal bias, or ex-parte contacts.

(iii)..... A statement by the person presiding that:

(a)..... Describes the applicable substantive criteria against which the application will be reviewed.

(b)..... Testimony and evidence must be directed toward the criteria which will be used to review the land use action, or other criteria in the Plan or land use regulation which a party believes to apply to the land use action; and

(c)..... Failure to raise an issue or address a criteria with sufficient specificity to afford the decision makers and parties to the hearing an opportunity to respond to the issues during the hearing precludes an appeal based on that issue or criteria.

(d)..... Describes the review and appeal process provided for by this ordinance.

(b) **Presentation.**

(i)..... The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.

(ii)..... The presiding officer may set reasonable time limits for oral presentations. The presiding officer may determine not to receive cumulative, repetitive, immaterial or derogatory testimony.

(c) Evidence shall be received from the staff and from proponents and opponents.

(i)..... Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Erroneous evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party to the hearing.

(ii)..... Members of the hearing body may take official notice of judicially cognizable facts of a general or technical nature within their specialized knowledge. Such notice shall be stated and may be rebutted.

(iii)..... The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

(d) The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. The time and date when the hearing is to resume shall be announced.

(e) The hearing body may view the area in dispute with notification to the parties, of the time, manner and circumstances of such a visit.

(f) At the conclusion of the public hearing, a participant in the public hearing may request that the record remain open for at least seven days for the purpose of submitting additional evidence. Such a request may only be made at the first de novo hearing held in conjunction with a permit application or Zoning Ordinance text or map amendment.

Whenever the record is supplemented in this manner, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. This extension of time shall not be counted as part of the 120 day limit in Section 11.060.

(g) When the hearing has been closed, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided.

(i)..... No testimony shall be accepted after the close of the public hearing unless the hearing body provides an opportunity for review and rebuttal of that testimony.

(6) **Decision.** Following the procedure described in Section 11.060(1)-(5), the hearing body shall approve, approve with conditions, or deny the application. If the hearing is in the nature of an appeal, the hearing body may affirm, affirm with modifications, or additional conditions, reverse, or remand the decision that is on appeal.

(a) The decision of the hearing body shall be by a written order signed by the chair or his/her designee.

(b) The order shall incorporate findings of fact and conclusions that include:

(i)..... A statement of the applicable criteria and standards against which the proposal was tested.

(ii)..... A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standard, briefly state how those facts support the decision.

(iii)..... In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.

(c) The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.

(7) **Record of Proceedings.** The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

(a) Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.

(b) The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.

(c) The findings shall be included in the record.

(d) A person shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

(8) **Notice of Decision.** Notice of a decision of a hearing body shall be provided to all parties to the hearing within five working days of the date that the final order was signed. The notice of the decision shall include:

(a) A brief description of the decision reached.

(b) A statement that the decision may be appealed by filing, with the City, an appeal within 15 calendar days of the date the final order was signed.

(c) A description of the requirements for an appeal, including the type of appeal that may be requested.

(d) A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing.

(e) A statement that the complete case, including the final order, is available for review at the City.

[Amended by Ordinance #277, August 28, 1990]

#### **Section 11.070. Request for Review of a Decision (Appeals).**

(1) A decision of a City administrative officer regarding a requirement of this ordinance may be appealed to the Planning Commission by an affected party filing an appeal with the City Recorder within 15 days of the date that notice of the decision was mailed by the City. The notice of appeal that is filed with the City shall indicate the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this ordinance.

(2) A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in Section 11.070(3).

(3) An appeal of a Planning Commission decision shall contain:

(a) An identification of the decision sought to be reviewed, including the date of the decision;

(b) A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;

(c) The specific grounds relied upon for the review, including a statement that the criteria against which review is being requested were addressed at the Planning Commission hearing; and

(d) If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 11.070(6).

(4) **Scope of Review.** The City Council shall determine, as a non-public hearing item, that the scope of the review will be one of the following:

(a) Restricted to the record made in the decision being appealed.

(b) Limited to the presentation of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter.

- (c) A de novo hearing.
- (d) A remand of the matter to the hearing body for additional consideration.
- (5) **Review on the Record.**

(a) Unless otherwise provided for by the City Council, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include:

(i)..... All exhibits, materials, pleadings, memoranda, and motions submitted by any party and received or considered in reaching the decision under review.

(ii)..... The final order and findings of fact adopted in support of the decision being appealed.

(iii) The request for an appeal filed by the appellant.

(iv)..... The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.

(b) All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issues that are the subject of the review.

(c) The City Council shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.

(d) In considering the appeal, the City Council need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.

(e) The appellant shall bear the burden of proof.

(6) **Review Consisting of Additional Evidence or De Novo Review.**

(a) The City Council may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The City Council shall grant a request for a new hearing only where it finds that:

(i)..... The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or

(ii)..... A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and

(iii)..... The request is not necessitated by improper conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

(b) Hearings on appeal, either de novo or limited to additional evidence on specific issues, shall be conducted in accordance with the requirements of Sections 11.040 - 11.060.

(7) **Review Body Decision.**

(a) Upon review, the City Council may affirm, reverse, or modify in whole or in part, a determination or requirement of the decision that is under review. When the City Council modifies or renders a decision that reverses a decision of the Planning Commission, the City Council shall set forth its findings and state its reasons for taking the action and shall be in conformance with the requirements of Section 11.060(6). When the City Council elects to remand the matter back to the Planning Commission for further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

(b) Notice of the City Council decision shall be provided to all parties to the hearing within five working days of the date that the final order is signed. The notice of the decision shall include:

(i)..... A brief description of the decision reached.

(ii)..... A statement that the decision may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal within 21 days.

(iii)..... A statement that the complete case, including the final order, is available for review at the City.

[Amended by Ordinance #277, August 28, 1990]

**Section 11.080. Final Action on Application for Permit or Zone Change Request.** The City shall take final action on an application for a permit or a zone change within 120 days of the receipt of a complete application. The 120 day period does not apply to an amendment to the Comprehensive Plan or Zoning Ordinance, or the adoption of a new land use regulation. At the request of the applicant, the 120 day period may be extended for a reasonable period of time.

[Amended by Ordinance #277, August 28, 1990]

**Section 11.090. Filing Fees.** Following permit fees will be set by the Council by resolution.

- (1) Zoning amendment proposed by property owner
- (2) Conditional use request
- (3) Variance request
- (4) Planned development
- (5) Appeal
- (6) Plan review
- (7) Street vacation request

[Amended by Ordinance #93-299, March 24, 1990]

**Section 11.100. Authorization of Similar Uses.** The Planning Commission may permit in a particular zone a use not listed in the ordinance, provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone.

**Section 11.200. Interpretation.** Where a provision of this ordinance is less restrictive than another ordinance or requirement of the City, the provision or requirements which are more restrictive shall govern.

**Section 11.300. Severability.** The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

**Section 11.400. Repeal and Continuity.** Interim Zoning Ordinance No. 92, and all amendments thereto, are hereby repealed, effective upon the date of the enactment of this Ordinance No. 143. All violations of Ordinance No. 92 or previous zoning ordinances of this City, including nonconforming uses, shall continue as violations of this ordinance unless specifically authorized herein, and all permits, including temporary permits, and conditional uses granted under previous ordinances shall continue in effect and no rights shall be acquired by the repeal of Ordinance No. 92 that are not specifically approved herein.

### **Section 11.500. Enforcement and Penalties.**

- (1) **Enforcement.** It shall be the duty of the City Council to enforce this ordinance. All departments, officials and public employees of the City of Rockaway Beach, vested with the duty or authority to issue permits shall conform to the provisions of this ordinance and shall issue no permit, certificate or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this ordinance. Any permit, certificate, or license issued in conflict with the provisions of this ordinance, intentionally or otherwise, shall be void.
- (2) **Penalties for Violation.** Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this ordinance, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$200.00 or by imprisonment in the county jail for a term not to exceed 100 days or both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed or continued by such person, firm or corporation and shall be punishable as herein provided.
- (3) **Injunctive Relief.** The foregoing sanctions shall not be exclusive, and where the public health, safety, morals or general welfare will be better served thereby, the City Council may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon. In the enforcement of provisions prohibiting nuisances caused by odor, sound, vibration and the like, the City Council may seek injunction against the specific device, activity or practice causing the nuisance.
- (4) **Evidence.** In any prosecution for causing or maintaining any condition or use of, or activity on, or constructing, moving or maintaining any structure on, any premises in violation of this zoning ordinance, a person in possession or control of the premises, as owner or lessee at the time of the violation, or continuance thereof, shall be presumed to be the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure. This presumption shall be rebuttable and either the City or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other person in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him or her by this ordinance. For the purposes hereof, the person to whom the premises are taxed according to the records of the Tillamook County Assessor and/or Tillamook County Tax Collector shall be prima facie the person in possession or control of the premises.

Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, or displaying the real or assumed business name of a person or proprietor thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.

- (5) **Abatement.** Where, because of the absence of the responsible person, or persons from the City or from the state, as the case may be, the courts of the City of Rockaway Beach or the State of Oregon cannot secure effective jurisdiction over the person or persons responsible for the cause or continuation of a structure or condition erected or maintained in violation of this ordinance, or where the City Council deems it important to the public interest that the unlawful structure or condition be removed or corrected without delay, the City Council may, after notice and hearing, order the removal of the unlawful structure or condition and, if such removal or correction is not effected within the time prescribed in the order, the City Council shall cause such abatement, going upon the premises with such men or equipment as may be necessary and the City Council shall thereafter by ordinance assess the cost of abatement against the real property. The lien of the assessment shall be enforced in the same manner as in the case of street improvement liens. Notice of hearing shall be sufficient if given 30 days in advance of the hearing, either by personal delivery or by mailing the same to the last known address of the owner of the property as shown by the County Assessor's and/or County Tax Collector's records. The order shall be served upon the owner or responsible person in the manner prescribed for the notice of hearing, and the owner or responsible person shall have such period of time after service of the order but no less than 30 days, as the City Council may deem to be reasonably necessary to accomplish the requirements of the order. The notice of hearing and the abatement order shall contain a notice to the property owner, or other persons served, that the City of Rockaway Beach shall not be responsible for the condition or storage of the component parts of, or personal property situated within, the structure following abatement by the City. The remedy of abatement shall be in addition to, and not in lieu of, the other remedies prescribed by this section.

[Amended by Ordinance #181, March 25, 1980]