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Chapter 17.04

GENERAL PROVISIONS

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Article I. General Provisions

17.04.010 Title.

This title shall be known as the “zoning ordinance” of the city of Port Orford. (Ord. 278 § 1.010, 1977)

17.04.020 Purposes.

The several purposes of this title are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to encourage any legitimate use of the land to locate in such a place in the city that it may prosper without harm to its neighbors or to the economy of the city as a whole; to aid in the rendering of fire and police protection; to provide for adequate light and air; to lessen congestion; to encourage the orderly growth of the city; to prevent undue concentration of the population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage and transportation; and in general to promote public health, safety, convenience and general welfare. (Ord. 278 § 1.020, 1977)

17.04.030 Definitions

As used in this chapter the masculine includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

“Accessory structure or use” means a structure or use incidental and subordinate to the main use of the property, and which is located on the same lot with the main use.

“Alley” means a street which affords only a secondary means of access to property.

“Building” means a structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind.

“City” means the city of Port Orford.

“Dwelling, multifamily” means a building containing three or more dwelling units.

“Dwelling, single-family” means a detached building containing one dwelling unit.

“Dwelling, single-family” means a detached

building containing one dwelling unit.

“Family” means an individual, or two or more persons related by blood, marriage, legal adoption or guardianship, living together in a dwelling unit in which board and lodging may also be provided for not more than four additional persons, excluding servants; or a group of not more than five persons, who need not be related by blood, marriage, legal adoption or guardianship living together in a dwelling unit.

“Farming” or “farm use” means the commercial cultivation of the ground; the raising or harvesting of crops or other plants including trees or the feeding, breeding or management of animals including fowl, fish and bees, or any combination thereof and including uses and structures incidental to the above uses.

“Floor area” means the area included in surrounding walls of a building, or portion thereof, exclusive of vent shafts and courts.

“Gable” means the upper, usual triangular part of an end wall enclosed by the sloping ends of a ridged roof.

“Grade (ground level)” means the average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

“Health care established” means an establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care and nursing service on a continuous basis.

“Height of buildings” means the vertical distance from the “grade” to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

“Hip” means the external angle in which adjacent roof slopes meet each other.

“Home occupation” means a lawful occupation carried on within a dwelling or an enclosure of less than four hundred (400) square feet in a dwelling or building accessory to a dwelling, by members of a family occupying the dwelling as a residence provided the residential character of the building is maintained and the occupation conducted in such a way as to not

give an outward appearance of a business in the ordinary meaning of the term, except as provided in Section 17.16.050, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

“Kennel” means a lot or building in which four or more dogs or cats four months of age or older are kept commercially for board, propagation or sale.

“Lot” means a parcel or tract of land.

“Lot area” means the total horizontal area within the lot lines of a lot.

Lot, Corner. “Corner lot” means a lot abutting on two intersecting streets neither of which is an angle greater than one hundred thirty-five (135) degrees.

Lot, Depth. “Lot depth” means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, Interior. “Interior lot” means a lot other than a corner lot.

Lot Line, Front. “Front lot line” means, in the case of an interior lot, the lot lines separating the lot from the street other than an alley, and in the case of a corner lot, the shortest line along a street other than an alley.

Lot Line, Rear. “Rear lot line” means a lot line which is opposite and most distant from the front lot line and in the case of an irregular, triangular, or other shaped lot, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot lines.

Lot Line, Side. “Side, lot line” means any lot line not a front or rear lot line.

“Lot line” means the property line bounding a lot.

“Lot width” means the average horizontal distance between the side lot lines, excluding appendages of less than (30) feet in width.

“Manufactured home” means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

“Mobile home” means a vehicle or structure

constructed with wheels for movement on public highways, that has sleeping, cooking and plumbing facilities; is intended for human occupancy and permanent residential purposes and that met the Oregon mobile home law in effect at the time of construction. The removal of the wheels does not alter this definition. A mobile home shall only be sited within an established mobile home park.

“Mobile home park” means a place where four or more mobile homes are located within five hundred (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.

“Nonconforming structure or use” means a lawful existing structure or use at the time the ordinance codified in this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

“Parking space” means a rectangle not less than twenty (20) feet long and eight and one-half feet wide together with maneuvering and access space required for a standard full-size American automobile to park within the rectangle.

“Person” means a natural person, firm, partnership, association or corporation.

“Planned unit development” means a single development in which a combination of uses compatible with the comprehensive plan and with neighboring properties is permitted subject to the procedural requirements of this title. Some examples are: a planned housing project including single- and multiple-family homes, apartment houses, and a shopping center; or a recreation complex including the principle use, parking, sanitary facilities and concessions or other similar uses.

“Prefabricated structure” means a building or subassembly which has been in whole or substantial part manufactured or assembled using closed construction at an off-site location to be wholly or partially assembled on-site; but does not include a manufactured structure. (Ord. 2004-05 § New, 2004)

“Recreational vehicle” means a vacation trailer or self-propelled vehicle or structure designed for frequent or constant highway use and for vacation recreational purposes, but not for normal residential purposes, and may be equipped with plumbing, sink or toilet.

“Retirement home” means a facility providing housing for retired persons, which may include provisions for dining, health care, recreation, etc.

“Roadside stand” means a temporary structure designed for the purpose of retail sale of farm commodities grown on the premises.

“Sign” means a presentation or representation, other than a house number, by word, letters, figures, designs, pictures or colors publicly displayed so as to give notice relative to a person, a business, an article of merchandise, a service, and assemblage, a solicitation or a request for aid or other type of advertising. This includes the surface face upon which the representation is displayed.

Stable, Private. “Private stable” means an accessory building where not more than one horse per twenty thousand (20,000) square feet of property is kept for the noncommercial use of owner and guests.

“Street” means the entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and including, but not limited to, “roads,” “highways,” “lanes,” “places,” “avenues” and “alleys.”

“Structural alteration” means any change to the supporting members of a structure including foundation, bearing walls, or partitions, columns, beams or girders, or any structural change in the roof.

“Structure” means that which is built or constructed. An edifice or building or piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having location on the ground.

“Tourist facility” means hotels, motels, trailer parks and restaurants, etc.

“Trailer or camping vehicle park” means a lot upon which two or more occupied trailer or

camping vehicles are sited or parked for consideration.

“Use” means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained.

“Yard” means an open space on a lot which is unobstructed from the ground upward, extending as otherwise provided in this title.

“Yard, Front. “Front yard” means a yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of any building.

Yard, Rear. “Rear yard” means a yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of any building.

Yard Side. “Side yard” means an open space between the front and rear yards measured horizontally and at right angles from the side lot line to the nearest point of any building.(Ord. 411-94 Att. A (part), 1994; Ord. 278 § 1.030, 1977)

17.04.040 Compliance with provisions.

No structure or lot shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered contrary to the provisions of this title. (Ord. 278 § 1.040, 1977)

17.04.050 Classification of zones.

For the purpose of this title, the city or portion thereof is divided into zones designated as follows:

Zones	Abbreviated Designation
Residential 1	1-R
Residential 2	2-R
Commercial	4-C
Industrial	5-I
Controlled Development	6-CD
Marine Activity	7-MA
Public Facilities and Park	8-PF

(Amended during 1996 codification; Ord. 278 § 1.050, 1977)

17.04.060 Location of zones.

The boundaries for the zones listed in this title are indicated on the city zoning map which is adopted and made a part of this title by this reference. The boundaries may be modified in accordance with zoning map amendments which may be adopted by reference. (Ord. 278 § 1.060, 1977)

17.04.070 Zoning Map.

A zoning map or zoning map amendment adopted by Section 17.04.060 or by an amendment thereto shall be prepared by authority of the planning commission or be a modification by the city council of a map or map amendment so prepared. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amend-ment. A certified print of the adopted map or map amendment shall be maintained in the office of the city administrator as long as this ordinance remains in effect. (Ord. 278 § 1.070, 1977)

17.04.080 Interpretation.

The provisions of this title shall be held to the minimum requirements fulfilling its objectives. Where the conditions imposed by a provision of this title are less restrictive than comparable conditions imposed by any other provision of this title or of any other city ordinance, resolution or regulation, the provisions which are more restrictive shall govern. (Ord. 278 § 10.010, 1977)

Article II. Procedures for Land Use Actions

17.04.090 General.

The following procedures govern the conduct of public hearings for land use actions in the city of Port Orford. (Ord. 99-05 § 1, 1999)

17.04.100 Notice.

A. Published Notice.

1. When published notice is required to be given, such notice shall include the following information:

a. Date, time, and place of hearing on the proposed action;

b. The type of action to be considered, including, but not limited to changes in the text of the zoning or subdivision ordinances, changes in the comprehensive plan, or changes in the comprehensive plan map or zoning map;

c. A brief summary of the proposed action;

d. A statement the hearing is open to the public and all interested parties are encouraged to attend.

2. Published notice for proposed ordinance text amendments and legislative zone changes shall be advertised in a newspaper of general circulation once a week for two consecutive weeks. The last publication shall be at least seven calendar days prior to the date of the hearing.

B. Written Notice to Affected Property Owners and Interested Parties.

1. When required to be given, written notice to affected property owners and interested parties shall include the following information:

a. Date, time and place of hearing;

b. The type of action being considered, including but not limited to, applications for conditional use permits, variances, or amendments to the zoning ordinance;

c. A reasonably written description of the location of the subject property, which may include but is not limited to any one of the following: a map, postal address, legal description, or tax map designation;

d. The nature of the pending issue or proposed use;

e. A list of the applicable criteria upon which a decision will be based;

f. A statement that written comments addressing the findings necessary for a decision may be submitted.

g. A statement that failure to raise an issue during a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker and opportunity to respond to the issue

precludes appeal on that issue.

h. A general explanation of the requirements for testimony and conduct of the hearing:

i. A statement that the application materials are available for inspection or can be copied at a reasonable cost and staff reports may likewise be inspected seven days prior to the hearing;

j. A name of an officer or employee of the city, along with phone number, from whom additional information can be obtained.

2. Written notice shall be mailed to all property owners within two hundred fifty (250) feet of the external boundaries of the legally described property in the application for all permits and variances.

3. Written notice of a public hearing on a zone use application shall be provided to the owner of an airport, defined by the Department of Transportation as a "public use airport," if the property subject to the zone use hearing is:

a. Within five thousand (5,000) feet of the side or end of a runway of an airport determined by the Department of Transportation to be a "visual airport," or

b. Within ten thousand (10,000) feet of the side or end of the runway of an airport determined by the Department of Transportation to be an "instrument airport."

4. Written notice of a proposed change in zone designation for a mobile home or a manufactured dwelling park shall be mailed to the mailing address for each tenant in the park. Written notice shall be mailed at least twenty (20) days before a hearing.

5. Property Owners.

a. For the purposes of this subsection (B)(5), "property owner" is defined as the person identified as the owner of record on the latest adopted tax rolls of Curry County.

b. Written notice shall be mailed to the property owners identified in subsection (B)(2) of this section. Failure of a property owner to receive written notice shall not invalidate any action taken by the planning commission or city council, if a good faith attempt was made to comply with the requirements of this article for notice. (Ord. 99-05 § 2, 1999)

17.04.110 Hearing authority.

The planning commission shall be the initial hearings authority for development proposals which require a quasi-judicial hearing. (Ord. 99-05 § 3, 1999)

17.04.120 Disqualification.

A. No member of a hearings body shall participate as a hearings officer in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal: the hearings 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 previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment;

2. The member has a direct private interest in the proposal;

3. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

B. A member of a hearings body who owns property within the area entitled to receive notice of the public hearing shall state this fact as a potential conflict of interest. If the member's impartiality or ability to vote on the matter is not impaired, the member shall so state and may either participate or abstain.

C. Any proponent or opponent of a proposal to be heard by the hearings body may challenge the qualification of any member to participate in the hearing and decision. This challenge must state facts by affidavit in writing relating the member's bias, personal interest, or other facts which would preclude the member from participating in an impartial manner. This challenge shall be delivered to the city recorder not less than forty-eight (48) hours preceding the time set for public hearing. The challenge shall be incorporated into the record of the hearing.

D. No officer or employee of the city who has

a financial or other private interest in a proposal shall participate in discussion or give an official opinion to the hearings body without first declaring for the record the nature and extent of such interest.

E. Hearings body members shall reveal any significant prehearing or ex parte contacts with regard to any matter at the commencement of the public hearing 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 may either participate or abstain. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearings body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.

F. An abstaining or disqualified member of the hearings 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 hearings body, and making full disclosure of status or position at the time of addressing the hearings body.

G. 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 states that he or she has reviewed the evidence received. (Ord. 99-05 § 4, 1999)

17.04.130 General rules for hearing.

A. Persons may speak only after being recognized by the presiding officer and must state their full name and address for the record.

B. The hearings body will consider only testimony and information that is relevant to the issue of the requested change and will not allow immaterial or repetitious testimony. (Ord. 99-05 § 5, 1999)

17.04.140 Burden of proof and criteria for decision.

A. The burden of proof is upon the proponent. The more drastic the change or the greater the impact of the proposal in the area, the greater is the burden upon the proponent.

B. The proposal must be supported by proof that it conforms to the applicable elements of the comprehensive plan and to applicable provisions of this ordinance, especially the specific criteria set forth for the particular type of decision under consideration.

C. The applicant and any opponent may submit to the hearings body a set of written findings or statements of factual information which are intended to demonstrate the request is in compliance or noncompliance with the required criteria.

D. All of the documents or evidence relied on by an applicant must be submitted to and available from the local government at least twenty (20) days in advance of the hearing, and the staff report to be used at the hearing must be available at least seven days in advance of the hearing. Any party to the application may request and receive a continuance for failure to comply with these requirements. (Ord. 99-05 § 6, 1999)

17.04.150 Order of proceedings.

A. The presiding officer will call the public hearing to order and state the case. The presiding officer may establish the time allowed for the presentation of information.

B. Any objections on jurisdictional grounds shall be noted in the record.

C. Disqualifications shall be determined. Members shall announce all potential conflicts of interest.

D. Staff shall present a report which includes the applicable criteria which must be addressed. Staff shall also state that testimony and evidence must be directed toward the applicable criteria or other criteria in the plan or land use regulation which the person believes is applicable to the decision and that failure to raise an issue with sufficient detail to afford the decision makers and parties an opportunity to respond to the issue. City staff may also present additional information whenever allowed by the presiding officer during the proceedings.

E. The hearings body may inspect the area in dispute for purposes of evaluating the proposal.

F. The applicant or those representing the applicant shall present information.

G. Evidence or inquiries by those persons who support the proposed change shall be presented.

H. Evidence or inquiries by those persons who oppose the proposed change shall be presented.

I. Evidence or inquiries by those persons who do not necessarily support or oppose the proposed change shall be presented.

J. Rebuttal testimony may be presented by representatives of those supporting or opposing the proposed change. The scope of material presented during rebuttal shall be limited to matters which were brought up during the course of the hearing. Rebuttal shall be first presented by the applicant or his or her representative and then by those opposed to the proposed change. The presiding officer shall limit rebuttal to avoid redundancy. If new evidence is submitted by the applicant, opponents have the opportunity to rebut. Any participant may request and receive approval for the record to remain open seven days after the hearing.

K. At the close of presentation of information, rebuttal, and written argument, the presiding officer shall declare that the hearing is closed. Thereafter, no further information shall be received except for specific questions from the hearings body to clarify earlier evidence directed to staff or one of the parties. The opportunity for brief rebuttal shall also be afforded to adverse parties.

L. Once a hearing has been closed, it shall be reopened only upon vote of the hearings body, and only after a showing that:

1. A clarification of testimony is needed by the hearings body; or

2. There is evidence which was not reasonably available at the time of the hearing, the information is now available to the person seeking to reopen the hearing; and the information is factual, substantive, and material.

M. If the hearing is reopened to admit new

evidence, then any person may raise new issues relating to the new evidence. (Ord. 99-05 § 7, 1999)

17.04.160 Decision.

Following the hearing, the hearings body shall approve, conditionally approve, or deny the application or if the hearing is an appeal, affirm, reverse, or remand that decision that is on appeal. A decision for a development permit shall be made by the hearings body or designate within the time period required by ORS 227.178 and 227.180. The date of decision is the date upon which the final order is signed. (Ord. 99-05 § 8, 1999)

17.04.170 Findings and order.

The hearings body shall prepare findings of fact and a written order which shall include;

A. Notice of the decision to deny or approve the proposed change;

B. A statement of the applicable criteria and standards against which the proposal was tested, a statement of the facts which the hearings body used to conclude compliance or noncompliance with the criteria and standards and a statement as to whether the proponent has met the burden of proof;

C. Special conditions or time limits placed upon approval and a specific statement of what is required to achieve compliance with the conditions;

D. Notification of rights to appeal;

E. Limitation on reapplication in cases of denial. (Ord. 99-05 § 9, 1999)

17.04.180 Disposition.

Within fourteen (14) business days of the adoption of findings of fact and conclusions, the applicant and all other parties to the decision, whether they appeared orally or in writing, shall receive written notice of the final action. The notice shall state the disposition of the final action, contain instructions for obtaining a copy of the full written final order for the action and contain information for filing an appeal. (Ord.

99-05 § 10, 1999)

17.04.190 Record of proceedings.

The secretary to the hearings body shall be present at each hearing and shall have the proceedings recorded stenographically or electronically.

A. Testimony shall be transcribed if required for judicial review or if ordered by the hearings body. Ordinarily, minutes of each hearing shall be written and then approved by the hearings body.

B. The hearings body shall, where practicable, retain as part of the record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the evidence and whether it was 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 owner.

C. The findings and order shall be included in the record.

D. A person shall have access to the record of the proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense. (Ord. 99-05 § 11, 1999)

17.04.200 Right of review.

A. A decision regarding a planning commission action may be appealed to the city council by an appellant with standing to appeal by filing a notice of appeal with the city council within fifteen (15) days of the date the notice was mailed.

B. The council may review a planning commission decision on its own motion in accordance with all of the procedural provisions for appeals in this article. (Ord. 99-05 § 12, 1999)

17.04.210 Requirements of notice of appeal.

A notice of appeal shall contain all of the following:

A. Identification of the decision to be reviewed.

B. Statement of the interest of the appellant and whether the appellant has “standing to appeal” as follows:

1. In the case of administrative decision, the person:

a. Was a person entitled to receive mailed notice of the decision, or

b. Was a person whose interests are adversely affected by the decision.

2. In the case of quasi-judicial decisions by the Planning Commission, the person:

a. Appeared before the Planning Commission orally or in writing, or

b. Was a person entitled to receive mailed notice of the hearing prior to the decision or any one requesting notice of the decision and was a person whose interests are adversely affected by the decision.

3. A person is “adversely affected” by a decision if the decision infringes upon the use and enjoyment of his or her property or otherwise detracts from his or her personal interests. For the purposes of council review under Section 17.04.190B, the city is “adversely affected.”

C. Reasons the appellant feels aggrieved by the decision, and how the appellant feels the reviewing body erred in its decision. (Ord. 99-05 § 13, 1999)

17.04.220 Notification of appeal.

Written notice of the public hearing to review an appeal shall be provided to the applicant; appellant, and all parties entitled to receive mailed notice prior to or after the original decision. This notification shall comply with Section 17.04.100B of this article. (Ord. 99-05 § 14, 1999)

17.04.230 Scope of review.

A. The reviewing body may limit the scope of the review to the record and receive oral and written arguments based on the record from any party of the initial proceedings. The record

presented to the reviewing body shall include:

1. A factual report prepared by the person or body who rendered the decision after initial review;

2. All written and illustrative material submitted by any party and considered in reaching the decision under review, including the staff report;

3. A transcript or minutes of a hearing.

B. During the review of the appeal, the reviewing body may admit new testimony and other evidence. (Ord. 99-05 § 15, 1999)

17.04.240 Decision.

A. The reviewing body may affirm, reverse, or modify in whole or in part the decision being appealed. When the reviewing body reverses or modifies a decision, it shall set forth its findings and state its reasons for taking this action as applied to the relevant required criteria and standards set forth in this ordinance. If a matter is remanded back to the planning commission for further consideration, the council shall state its reasons for so doing.

B. The appellant and affected property owners shall receive written notice for the final action within fourteen days of the decision. (Ord. 99-05 § 16, 1999)

17.04.250 Findings and order.

The findings and order shall be prepared in accordance with Section 17.04.170 of this chapter.

17.04.260 Reapplication following denial.

Upon final denial of a development proposal, a new application and fee for the same area or any portion may not be submitted for a period of one year from the date of denial. However, the applicant may submit a written statement to the planning officer showing how the proposal has been sufficiently modified to overcome the findings for denial or that conditions have changed sufficiently to justify reconsideration of the original or a similar proposal. Upon

consideration of the statement, the planning officer may waive the one year waiting period. (Ord. 99-05 § 18, 1999)

17.04.270 Enforcement.

A. The location, erection, construction, maintenance, repair, alteration, occupancy, or use of any building, structure, sign, or land, including subdividing or partitioning, contrary to the provisions of this ordinance or to any permit issued hereunder, is an unlawful public nuisance.

B. Method of Enforcement.

1. The city, in addition to other remedies, may institute appropriate actions or proceedings to abate, correct, remove, prevent or restrain the unlawful location, erection, construction, maintenance, repair, alteration, occupancy or use.

2. The owner of the land, building, or premises where a violation has been committed or the lessee or tenant of a building where such a violation has been committed or exists, or the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any such violation or who maintains any land, building, or premises in which such violations exist, shall be guilty of a violation of this ordinance and shall be subject upon conviction to a fine or not more than two hundred dollars (\$200.00). Each day under which the violation continues shall be considered a separate offense. (Ord. 99-05 § 19, 1999)

Chapter 17.08

ADMINISTRATION

Sections:

- 17.08.010 Zoning of annexed areas.**
- 17.08.020 Enforcement**
- 17.08.030 Authorization of similar uses.**
- 17.08.040 Appeal.**
- 17.08.050 Form of petitions, applications and appeals.**
- 17.08.060 Time limit for city decision.**
- 17.08.070 Violation–Penalty.**

17.08.010 Zoning of annexed areas.

Where an area is zoned by Curry County at the time of annexation to the city, the Curry County zoning regulations applicable to the annexed area shall continue to apply until the city council enacts City of Port Orford zoning in the annexed area. (Ord. 278 § 9.000, 1977)

17.08.020 Enforcement.

The city council or its agent shall have the power and duty to enforce the provisions of this title. (Ord. 278 § 9.010, 1977)

17.08.030 Authorization of similar uses.

The city council may permit in a particular zone a use not listed in this title, provided the use is of the same general type as the uses permitted there by this title. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone. (Ord. 278 § 9.020, 1977)

17.08.040 Appeal.

An action or ruling of the planning

commission pursuant to this title may be appealed to the city council within fifteen (15) days after the planning commission has rendered its decision, or may be designated for hearing by the city council. Written notice of an appeal shall be filled within the fifteen (15) day period, and if the city council does not designate the action or ruling for hearing, the decision of the planning commission shall be final. If an appeal is filed, or the city council elects to hear the matter, the city council shall receive a report from the planning commission and shall hold a public hearing on the subject. (Ord. 278 § 9.030, 1977)

17.08.050 Form of petitions, applications and appeals.

Petitions, applications and appeals provided for in this title shall be made on forms provided for the purpose, or as otherwise prescribed by the city in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. Where plans must be submitted, the plans submitted shall show the site and its relationship to adjacent property at a suitable scale and with sufficient supplemental drawings or material to show all elements necessary to indicate the dimensions and arrangement of the proposed development and its relationship to surrounding properties and streets. (Ord. 278 § 9.040, 1977)

17.08.060 Time limit for city decision.

The city shall render a final decision regarding all land use applications applicable to this title within one hundred twenty (120) days of receipt of a complete application (Ord. 278 § 9.050, 1977)

17.08.070 Abatement and Penalty.

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 code violation, and upon conviction shall be subject to the following: (Ord. 2003-03 § 5, 2003)

- A. A civil penalty not to exceed \$750.00 per violation; each day that the violation persists after written notice has been provided to the offender shall constitute a separate and distinct violation.

- B. In addition to any monetary penalty assessed, the City may institute appropriate actions or proceedings to abate, correct, remove, prevent, restrain or eliminate any violation of this ordinance.

Chapter 17.12

USE ZONES

Sections:

17.12.010	Residential zone (1-R).
17.12.020	Residential zone (2-R).
17.12.030	Commercial zone (4-C)
17.12.040	Industrial zone (4-C).
17.12.050	Controlled development zone (6-CD).
17.12.060	Marine activity zone (7-MA).
17.12.070	Public facilities and park zone (8-PF).
17.12.080	Shoreland overlay Zone (9-SO).

17.12.010 Residential zone.

A. Purpose of Classification. The 1-R zone is designed to be applied to residential areas where dwellings are appropriate.

B. Uses Permitted Outright. In a 1-R zone, the following uses and their accessory uses are permitted outright:

1. Single-family dwelling or duplex;
2. Manufactured home, in accordance with Section 17.16.040;
3. Private stable where building site is one acre or more;
4. Farming where building site is one acre or more, but not including commercial livestock production;

C. Conditional Uses Permitted. In a 1-R zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Mobilehome park;
2. Church or school;
3. Grange hall or community building;
4. Public use facility or public utility, including but not limited to fire stations;
5. Recreational vehicle temporarily used during construction of a permitted use or to relieve a hardship for a period not to exceed

twelve (12) months;

6. Utility facility, including substation or pumping station or private generator;

7. Commercial communications transmitter or receiver antenna;

8. Planned unit development on a lot not less than three acres.

D. Lot Size. Except as provided in Section 17.20.030 and 17.20.040 in a 1-R zone:

1. Lot sizes suitable for building shall be dependent on the availability of public water and sewage systems. If the lot is not served by both a public water and sewer system, the lot area shall conform to the state requirements established for on-site water supply and sewage disposal.

2. When both a public water and sewage system are available:

a. For uses other than a mobilehome park, the minimum lot area shall be five thousand (5,000) square feet; or

b. For a mobilehome park, the minimum shall be eight thousand (8,000) square feet or two thousand (2,000) square feet per unit, whichever is greater.

3. The minimum lot width shall be fifty (50) feet.

E. Setback Requirements. Except as provided in Sections 17.20.010 and 17.20.020 in 1-R zone yards shall be as follows:

1. The front yard shall be a minimum of ten feet.

2. The side yard shall be a minimum of five feet.

3. The rear yard shall be a minimum of five feet.

F. Height of Buildings. Except as provided in Section 17.20.050 in a 1-R zone no building shall exceed thirty-five (35) feet in height. (Ord. 411-94 Att. A (part), 1994: Ord. 278 §§ 2.110–2.150, 1977)

17.12.020 Residential zone (2-R)

A. Purpose of Classification. The 2-R zone is designed to be applied to residential areas where higher density housing is appropriate.

B. Uses Permitted Outright. In a 2-R zone,

the following uses and their accessory uses are permitted outright:

1. Single-family dwelling or duplex;
2. Manufactured home, in accordance with Section 17.16.040;
3. Multiple-family dwelling;
4. Private stable where building site is one acre or more;
5. Farming where building site is one acre or more, but not including commercial livestock production;
6. Home occupation.

C. Conditional Uses Permitted. In a 2-r zone, the following uses and their accessory uses are permitted when authorized in accordance with chapter 17.32:

1. Mobilehome park;
2. Church or school;
3. Grange hall or community building;
4. Public use facility or public utility, including but not limited to fire stations;
5. Recreational vehicle temporarily used during construction of a permitted use or to relieve a hardship for a period not to exceed twelve (12) months;
6. Utility facility, including substation or pumping station or private generator;
7. Commercial communications transmitter or receiver antenna;
8. Planned unit development on a lot not less than three acres;
9. Hospital, sanitarium, retirement home, medical or dental clinic.

D. Lot Size. Except as provided in Sections 17.20.030 and 17.20.040 in a 2-R zone:

1. Lot sizes suitable for building shall be dependent on the availability of public water and sewage systems. If the lot is not served by both a public water and sewer system, the lot area shall conform to the state requirements established for on-site water supply and sewage disposal.

2. When both a public water and sewage system are available:

- a. For uses other than a mobilehome park, the minimum lot area shall be five thousand (5,000) square feet; or
- b. For a mobilehome park, the minimum shall be eight thousand (8,000) square feet or two

thousand (2,000) square feet per unit, whichever is greater.

3. The average lot width shall be a minimum of fifty (50) feet.

E. Setback Requirements. Except as provided in Sections 17.20.010 and 17.20.020 in a 2-R zone, yards shall be as follows:

1. The front yard shall be a minimum of ten feet.
2. The side yard shall be a minimum of five feet.
3. The rear yard shall be a minimum of five feet.

F. Height of Buildings. Except as provided in Section 17.20.050 in a 2-R zone no building shall exceed thirty-five (35) feet in height. (Ord. 411-94 Att. A (part), 1994; Ord. 278 §§ 2.210–2.250, 1977)

17.12.030 Commercial zone (4-C)

A. Purpose of classification. The 4-C zone is designed to apply to areas where more complete commercial facilities are necessary for community convenience.

B. Uses Permitted Outright. In a 4-C zone, the following uses and their accessory uses are permitted outright, provided that such use of operation does not create a nuisance because of odor, noise, dust, smoke or gas:

1. Single-family dwellings;
2. Multiple-family dwellings;
3. Hotel or motel;
4. Club or lodge hall;
5. Hospital, sanitarium, retirement home, medical or dental clinic;
6. Retail or service establishment;
7. Automobile service station;
8. Machinery, farm equipment, marine or automotive sales, service, storage or repair;
9. Building material storage yard;
10. Plumbing, electrical or paint contractor's storage, repair or sales shop;
11. Tire retreading or vulcanizing shop;
12. Wholesale, trucking and storage establishment;
13. Machine shop or cabinet shop;
14. Manufacturing, repairing, compounding, processing, storage, research, assembling or

fabricating activities except those specifically listed in Section 17.12.040C;

15. Park playground, fire station, library or museum.

C. Conditional Uses Permitted. In a 4-C zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Mobilehome park and / or recreational vehicle park;

2. Planned unit development on a lot of at least three acres in area;

3. Utility facility, including substation or pumping station or private generator;

4. Communications transmitter, receiver, antenna or tower;

5. Wind generator.

6. Prefabricated structure. (Ord.2004-05 § New, 2004)

D. Lot Size. Except as provided in Sections 17.20.030 and 17.20.040 in a 4-C zone, the minimum lot size shall be as determined by the county health department as necessary for proper installation and operation of water supply and sewage disposal systems. If both a public and mutual water supply and a public sewage disposal system are available, there shall be no minimum lot area.

E. Height of Buildings. Except as provided in Section 17.20.050 in a 4-C zone, no building shall exceed forty-five (45) feet in height. (Ord. 278 §§ 2.310–2.340, 1977)

17.12.040 Industrial zone (5-I).

A. Purpose of Classification. The industrial zone is generally intended to provide for limited or light industrial uses. Conditional uses in this zone are designed for heavier industrial uses.

B. Uses Permitted Outright. In a 5-I zone, the following uses and their accessory uses are permitted outright:

1. Single-family dwellings;

2. Multiple-family dwellings;

3. Hotel or motel;

4. Club or lodge hall;

5. Hospital, sanitarium, retirement home, medical or dental clinic;

6. Retail or service establishment;

7. Automobile service station;

8. Trailer or camping vehicle park;

9. Machinery, farm equipment, marine or automotive sales, service, storage or repair;

10. Building material storage yard;

11. Plumbing, electrical or paint contractor's storage, repair or sales shop;

12. Tire retreading or vulcanizing shop;

13. Wholesale trucking and storage establishment;

14. Machine shop or cabinet shop;

15. Manufacturing, repairing, compounding, processing, storage, research, assembling or fabrication activities except those specifically listed in subsection C of this section;

16. Utility facility, including substation or pumping station or private generator;

17. Communications transmitter, receiver, antenna or tower.

C. Conditional Uses Permitted. In a 5-I zone, the following and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Manufacturing plant, including lumber and plywood mills;

2. Rendering plant or slaughterhouse;

3. Pulp or paper mill;

4. Cement or asphalt plant;

5. Airport or heliport;

6. Church or school;

7. Park, playground, fire station, library or museum;

8. Planned unit development on a lot of at least three acres in area;

D. Lot Size. Except as provided in Sections 17.12.030 and 17.12.040 in a 5-I zone, the minimum lot size shall be as determined by the State Health Department as necessary for proper installation and operation of water supply and sewage disposal systems. If both a public or mutual water supply and a public sewage disposal system are available, there shall be no minimum lot area. (Ord. 278 § 2.410–2.430, 1977)

17.12.050 Controlled development zone (6-CD)

A. Purpose of Classification. The purpose of the 6-CD zone is to recognize and protect natural resources, such as significant fish and wildlife habitats, ecological area, wetland and watershed and areas necessary to maintain or protect the quality of air, land and water resources. Future development is to be controlled in order to enhance these unique qualities.

B. Uses Permitted Outright. In a 6-CD zone, the following uses and their accessory uses are permitted outright:

1. Wildlife and water life sanctuaries;
2. Recreational uses which do not involve the use of structures;
3. Hunting, fishing and similar activities;
4. Aquaculture and accessory facilities.

C. Conditional Uses Permitted. In a 6-CD zone the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Wildlife and water life sanctuaries;
2. Recreational uses which do not involve the use of structures;
3. Hunting, fishing and similar activities;
4. Aquaculture and accessory facilities.

C. Conditional Uses Permitted. In a 6-CD zone the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Public utility facilities;
2. Communication facilities;
3. Structures for recreation activities;
4. Extraction of natural materials;
5. Public or private natatorium, wayside, day use parks, school study areas. (Ord. 278 §§ 2.510, 2.520, 1977)

17.12.060 Marine activity zone (7-MA)

A. Purpose of Classification. The marine activity zone is to provide areas suitable for uses which depend upon or are benefitted by a waterfront location, and to reserve such areas for these uses.

B. Uses Permitted Outright. In a 7-MA zone, the following uses and their accessory uses are permitted outright:

1. Boat launching or moorage facilities, marina, boat charter service;

2. Piers, docks, bulkheads, jetties and backfills;

3. Seafood processing, storage and sales;

4. Boat and marine equipment sales, service, storage, rental or repair;

5. Fishing supply storage, manufacturing and sales;

6. Retail sales of water sporting goods or similar commodities;

7. Dredging and fill maintenance;

8. Offices which are related to marine activity;

9. Experimental laboratory for research or marine coastal production or resource;

10. Aquaculture and accessory facilities;

11. Open recreation area and park or recreational facility.

C. Conditional Uses Permitted. In a 7-MA zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32:

1. Eating and drinking establishments;
2. Motel or hotel;
3. Gift, novelty, or specialty shops, including the manufacture of such goods;
4. Government structure and use of land;
5. Storage of marine-oriented materials;
6. Public utility or public communication facilities;
7. Small boat manufacturer.

D. Lot Size. Except as provided in Sections 17.12.030 and 17.12.040 in a 7-MA zone, the minimum lot size shall be as determined by the county health department as necessary for proper installation and operation of water supply and sewage disposal systems. If both a public and a mutual water supply and public sewage disposal system are available, there shall be no minimum lot area.

E. Height of buildings. Except as provided in Section 17.12.050 in a 7-MA zone, no building shall exceed forty-five (45) feet in height. (Ord. 278 §§ 2.610–2.640, 1977)

17.12.070 Public facilities and park zone (8-PF)

A. Purpose of Classification. The 8-PF zone is designed to identify and reserve publicly

owned areas for the development of needed public facilities and service.

B. Uses Permitted Outright. In an 8-PF zone, the following uses and their accessory uses are permitted outright:

1. Schools, including nursery or day care center;
2. Parks or recreational facilities;
3. Public utilities and services;
4. Public parking;
5. Government structure, office or use;
6. Community centers;
7. Cemeteries.

C. Conditional Uses. In an 8-PF zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 17.32, and when it is found that the site is not needed for or is inappropriate for a permitted use, the proposed use is an interim use, or the use is to be conducted in conjunction with a permitted use:

1. A nongovernmental business or professional office conducted in a public building;
2. A single-family dwelling, or a manufactured home in accordance with the provisions of Section 17.16.040 and in conjunction with a permitted use. (Amended during 1996 codification; Ord. 278 §§ 2.710, 2.720, 1977)

17.12.080 Shoreland overlay zone (9-SO).

A. Purpose of classification. The purpose of the 9-SO zone is to protect shoreland resources identified in the comprehensive plan and to apply development standards to all uses within the shoreland boundary as applicable.

B. Uses Permitted Outright. In the 9-SO zone, the following uses are permitted outright. If they are conditional uses in the underlying zone, they shall be subject to the conditions referenced in Chapter 17.32.

1. Uses allowed in the underlying zone;
2. Propagation and harvesting of forest products consistent with the Oregon Forest Practices Act;
3. Water-dependent commercial and recreational developments;
4. Aquaculture;

5. Single-family residences on existing lots or parcels;

6. Dredged material disposal (DMD), mitigation or restoration on sites designated in the comprehensive plan.

C. Conditional Uses Permitted. In the 9-SO zone the following uses and their accessory uses are permitted in accordance with Chapter 17.32.

1. Uses permitted conditionally and other uses allowed in the underlying zones;
2. Water-dependent commercial uses;
3. Water-dependent industrial uses;
4. Subdivisions and partitions;
5. Temporary use of dredged material disposal (DMD), mitigation or restoration sites;
6. Other uses not listed in subsection B of this section which are permitted in the underlying zone;
7. Riprap, shoreline or erosion-control structure.

D. Additional Coastal Resources. Except where findings are contained in the comprehensive plan, uses in areas identified as coastal wetlands, significant wildlife resources, coastal headlands, exceptional coastal landscapes or historic and archeological sites, shall require affirmative findings that the above resources are protected. These resources are identified on the coastal shorelands inventory.

E. Riparian Vegetation Protection. Except as necessary for water-dependent uses, all developmental mineral extraction activities shall be set back fifty (50) feet from the streambank of all perennial streams to protect riparian vegetation as identified in the comprehensive plan. A lesser distance may be approved based on a specific site investigation as part of the permit application process and concurrence with the lesser distance by the Oregon Department of Fish and Wildlife and Division of State Lands.

F. Solutions to Erosion and Flooding Problems.

1. Nonstructural solutions to problems of erosion and flooding shall be preferred to structural solutions. Where shown to be necessary and allowed, water- and erosion-control structures such as jetties, bulkheads, seawalls,

and similar protective structures and fill shall be designed to minimize adverse impacts on water currents, erosion and accretion patterns.

2. Further, where listed as a permitted activity within this zone, rerap shall only be allowed upon findings that:

a. Land use management practices and nonstructural solutions are inadequate;

b. Adverse impacts on water currents, erosion and accretion patterns are minimized. (Ord. 278 §§ 2.810–2.850, 1977)

Chapter 17.16

SUPPLEMENTARY PROVISIONS

Sections:

17.16.010	Floodplains.
17.16.020	Maintenance of minimum requirements
17.16.030	Zone boundaries.
17.16.040	Manufactured homes on individual lots.
17.16.050	Home occupations.
17.16.060	Archaeological provisions.
17.16.070	Historical site provisions.
17.16.080	Development in areas of geological hazard.

17.16.010 Floodplains.

Portions of zones maybe subject to flooding. The floodplain zones are superimposed on and made an official part of the Port Orford zoning maps. Restrictions, conditions and regulations for the construction of buildings and uses of land lying in the floodplain zone are subject to federal regulations as set forth in the National Flood Insurance Act of 1968 (Title XII of the Housing and Urban Development Act of 1968, Public Law 90-448 and amendments), adopted by this reference.(Ord. 278 § 3.010, 1977)

17.16.020 Maintenance of minimum requirements.

No lot area, existing on or after the effective date of the ordinance codified in this title shall be reduced in area, dimension, or size below the minimum required by this title, nor shall any lot area, yard or other open space which is required by this title for one use be used as the lot area, yard, or other open space requirement for any other use. (Ord. 278 § 3.050, 1977)

17.16.030 Zone boundaries.

Unless otherwise specified, zone boundaries are property lines, the centerline of streets, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, the entire parcel shall be placed in the zone that accounts for the greater area of the lot by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedure for a zone change shall be followed. (Ord. 278 § 3.060, 1977)

17.16.040 Manufactured homes on individual lots.

A manufactured home placed on an individual lot shall comply with the following provisions.

A. The manufactured home shall be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.

B. The manufactured home shall have the hitch, wheels and axles removed and be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is not more than twelve (12) inches above grade.

D. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings.

E. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code. Evidence demonstrating that the manufactured home meets "Super Good Cents" energy efficiency standards is

deemed to satisfy the external thermal envelope certification requirement. Additional certification shall not be required.

F. The manufactured home shall have a garage or carport constructed of like materials. (Ord. 411-94 Att. A (part), 1994; Ord. 278-84, 1984; Ord. 278 § 3.070, 1977)

17.16.050 Home occupations.

Home occupations in a dwelling or an accessory structure shall comply with the following provisions:

A. The home occupation must be secondary to the main use of the property as a residence.

B. No materials or mechanical equipment shall be used which will be detrimental to the residences because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.

C. No materials or commodities shall be delivered to or from the property which are of such bulk or quantity as to require bulk delivery by a commercial vehicle or a trailer or the parking of customer vehicles in a manner or frequency as to cause disturbance or inconvenience to nearby residents or so as to necessitate off-street parking.

D. One sign, not internally lighted, ten square feet or less.

E. No outdoor storage related to the occupation.

F. Should additional space or employees be required for the operation of a home occupation, requests shall be made to the planning commission. (Ord. 278 § 3.080, 1977)

17.16.060 Archaeological provisions.

Upon encountering archaeological artifacts on any property in Port Orford, the following sequence of events shall occur:

A. All disturbances of the site shall immediately cease.

B. The developer shall notify the planning director of the discovery and the planning director shall notify the appropriate agencies, including the State Archaeologist.

C. The State Archaeologist, or other appropriate agency charged with the preservation of antiquities shall have ten working days to conduct a preliminary review of the site to include determination of the significance of the site.

D. If, during this ten-day period, the site is determined not to be archaeologically significant, resumption of development may occur.

E. If the site is determined to be archaeologically significant by the above process or is presently identified in the comprehensive plan inventory, further disturbance on the site shall cease for an additional thirty (30) days to allow acquisition by the appropriate agency or negotiations for development of the site. If such activities are not initiated by the appropriate agency within this time period, resumption of development may occur. (Ord. 278. § 3.090, 1977)

17.16.070 Historical site provisions.

A. Those historical sites and structures identified in the comprehensive plan shall be subject to the provisions of this section. The planning commission may authorize the alteration, moving, renovation or change the use of any site, structure or object so identified subject to the provisions stated below.

B. Whenever application shall be made for the alteration, moving, renovation, demolition or change of use of any historical site, and before any permit shall be issued the following procedures.

1. The applicant for a permit shall present to the planning director information concerning the proposed action, and the planning director shall make findings and recommendations to the planning commission which shall include the following:

a. Whether the site, structure or object has maintained the required characteristics for historical significance;

b. Whether it has deteriorated or changed so as to become hazardous to public health, safety or welfare;

c. Whether historical significance will be

substantially affected by the proposed change;

d. Whether the financial or other hardship to the owner in presenting the historic significance is outweighed by the public interest in preserving historic values;

e. Whether there are alternative ways in which historic values may be preserved if the proposed action is carried out;

f. Whether the proposed action or change will have any substantial economic, social, environmental or energy consequences and the effect of such consequences on the public and private interests involved;

g. Whether there are sources of compensation or financial assistance available to compensate the owner in the event that preservation of the property is recommended by the commission.

2. a. After receiving a report from the planning director the planning commission shall hold a hearing after not less than ten days' written notice mailed or delivered to the owner and ten days' notice of hearing published in a newspaper of general circulation.

b. The planning commission shall receive evidence concerning the issuance of the permit and it shall make a determination of the matter, which may include determination that historic significance no longer exists, that the interests of the owner outweigh the public interest involved, that historic values can be preserved by issuing the permit either with or without conditions, or that compensation should be awarded to the owner for losses sustained in preserving historic values. (Ord. 278 § 3.100, 1977)

17.16.080 Development in areas of geological hazard.

Uses allowed in any zone which are subject to the geological hazards as identified on the Langlois/Cape Blanco Quadrangle and Port Orford Quadrangle Geological Hazard Maps in DOGAMI Bulletin 90 "Land Use Geology of Western Curry County" and other locally known areas of geologic hazard based on evidence of past occurrences shall be subject to the following requirements at such time as a proposal is

submitted to the city for the development of the land or land division.

A. A site investigation report shall be prepared by a geologist or engineering geologist licensed in the state of Oregon at the applicant's expense. Structural recommendations contained in the site investigation report must have construction plans stamped by a professional engineer registered in the state of Oregon.

B. The report shall contain the following information.

1. A map of the subject property which shows the following:

a. The location of the proposed development or use;

b. The geological formation(s) present at the property or site;

c. The location of all significant geological structural features such as faults, folds, etc.; and

d. The location of all identified geological or topographical features related to earth movement or geological instability.

2. A report which contains text describing the following:

a. General Information.

i. Name and certification of the person preparing the report;

ii. Scope and purpose of the report;

iii. General description of the site;

iv. Description of the natural drainage pattern;

v. Description of existing structures and development, if any;

vi. Description of proposed development plan, including all excavation, fill, roads, proposed structures, etc.

b. Geologic Description of the Subject Property or Site.

1. Lithology of all geological formations;

2. Structural features (stratification, faults, folds, etc.);

3. Surficial or unconsolidated deposits;

4. Hydrologic conditions;

5. Seismic considerations for the area and proposed development;

6. Coastal hazards (if applicable);

7. Results of all engineering tests on rock or soil, subsurface data from drill holes or test pits, or other data obtained from the site investigation.

c. Assessment of geologic Factors at the Subject Property or Site.

1. General suitability of proposed land use to geologic conditions;

2. Areas that are unsuitable for development, if any, based on topography and slope and stability of geologic units;

3. Problems caused by geologic features or conditions on adjacent properties;

4. Other problems encountered on the subject property or site.

d. Recommendations for Proposed Development if the Subject Property or Site is Suitable for Development.

1. Recommendations for site grading or filling including a prediction of stability based on geologic factors and load capabilities of soils and/or fills;

2. Recommendations for drainage form the subject property or site following development;

3. Recommendations for setback from physical features or property lines, if any;

4. Recommendations for footing and/or foundation construction and backfilling, if any;

5. Recommendations for vegetation preservation, removal and revegetation as related to slope stability and potential erosion;

6. Recommendations for protecting adjacent properties or the surrounding area from any adverse effects of the proposed development.

C. The applicant shall use the site investigation report to provide a development plan that adequately addresses the issues identified in the report and protects the proposed development and surrounding lands from natural hazard due to any geological instability. (Ord. 0195-02, 1995)

Chapter 17.20

EXCEPTIONS

Sections:

- 17.20.010 Projections from buildings.**
- 17.20.020 General exception to yard requirements.**
- 17.20.030 General exception to lot size requirements.**
- 17.20.040 Waiver of minimum lot size.**
- 17.20.050 General exception to building height limitations.**
- 17.20.060 Temporary Use**

17.20.010 Projections from buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and similar architectural features may project into a required yard not more than two feet. (Ord. 278 § 4.010, 1977)

17.20.020 General exception to yard requirements.

Roadside stands, fences, hedges, walls and signs may be located within a required yard. (Ord. 278 § 4.020, 1977)

17.20.030 General exception to lot size requirements.

If, at the time of passage of the ordinance codified in this title, a lot, or aggregate of contiguous lots or land parcels held in a single ownership has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or aggregate holdings may be occupied by a use permitted outright in the zone subject to other requirements of the zone and providing,

if there is an area deficiency, residential use shall be limited to a single-family residence. (Ord. 278 § 4.030, 1977)

17.20.040 Waiver of minimum lot size.

The minimum lot size of any zone may be waived in granting a conditional use permit for utility facilities, communication facilities and wind generators, when in the opinion of the city council, such a waiver would not be inconsistent with the intent of the zone or the purpose of this title (Ord.278 § 4.040, 1977)

17.20.050 General exception to building height limitations.

The following type of structure or structural parts are not subject to the building height limitations of this title: chimney, tank, church spire, belfry, dome, monument, fire and hose towers, observation tower, mast, aerial, cooling tower, elevator shaft, transmission tower, smokestack, flagpole, radio or television towers, and other similar projections. (Ord. 278 § 4.050, 1977)

17.20.060 Temporary Use.

A. The following uses are deemed to be temporary in nature and shall be allowed in any zoning designation provided that the city has issued a permit or other approval for the use under the relevant city regulations:

- 1. The occupation of a recreation vehicle for a period not to exceed sixty (60) days as provided under Chapter 8.20 Requiring Siting Permits for the Occupation of Recreational Vehicles of the Port Orford Municipal Code. (Ord. 2003-05 § 5, 2003)

Chapter 17.24

278 § 4.110, 1977)

NONCONFORMING USES

17.24.020 Alteration of nonconforming structure.

Sections:

- 17.24.010 Continuation of nonconforming use of structure.**
- 17.24.020 Alteration of nonconforming structure.**
- 17.24.030 Discontinuance of a nonconforming use.**
- 17.24.040 Reinstatement of a discontinued nonconforming use..**
- 17.24.050 Completion of structure.**
- 17.24.060 Unoccupied buildings.**

Except for signs, a structure conforming as to use, but nonconforming as to height, setback or coverage may be altered or extended providing alteration or extension does not increase the deviation from the standards of this title. A nonconforming sign shall not be altered or extended except to make it comply with the requirements of this title. (Ord. 278 § 4.120, 1977)

17.24.030 Discontinuance of a nonconforming use.

17.22.010 Continuation of nonconforming use of structure.

Subject to the following limitations, the city council may authorize the reinstatement or resumption of a discontinued nonconforming use where such resumption or reinstatement is necessary to allow reasonable amortization of a capital investment or to avoid causing unreasonable hardship.

A. Subject to the provisions of Sections 17.24.020 through 17.24.06, a nonconforming structure or use may be continued and maintained in reasonable repair; however, the expansion of a nonconforming use shall be at the discretion of the city council who may impose such conditions as it finds necessary to carry out the intent of the particular zone and this title. Applications for such expansions of a nonconforming use shall be made in the same manner as for a conditional use set forth in Chapter 17.32.

A. If a nonconforming use is discontinued it shall not be reinstated or resumed unless specifically approved by the city council.

B. If nonconforming use is changed it shall be changed only to a use conforming with the zoning regulations and once changed it shall not be changed back again to the original nonconforming use. (Ord. 278 § 4.140, 1977)

B. If a nonconforming structure or a structure containing a nonconforming use is destroyed or damaged by any cause to an extent requiring the discontinuance of the use while effecting repairs, a future structure or use on the lot, shall conform to the provisions of this title unless reinstatement or resumption of the original use or reconstruction of the original structure is specifically approved by the city council. (Ord.

17.24.050 Completion of structure.

Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a building for which construction work has commenced prior to the adoption of the ordinance codified in this title. (Ord. 278 § 4.150, 1977)

17.24.060 Unoccupied Buildings.

If a building is unoccupied on the effective date of the ordinance codified in this title then

the last use of evidence shall be considered to be its use of record and the one-year period of discontinuance allowed by Section 17.24.030 shall commence on the effective date of the ordinance codified in this title. (Ord. 278 § 4.160, 1977)

Chapter 17.28

PLANNED UNIT DEVELOPMENTS

Sections:

- 17.28.010 Standards and requirements.**
17.28.020 Procedure.

17.28.010 Standards and requirements.

The following shall be observed when a planned unit development proposal is submitted for consideration.

A. An applicant shall submit fifteen (15) copies of a preliminary development plan to the planning commission for study at least seven days prior to the commission meeting at which it is to be considered. The preliminary plan shall include the following information:

1. Proposed land uses, building locations and housing unit densities;
2. Proposed circulation pattern indicating the status of street ownership;
3. Proposed open space uses;
4. Proposed grading and drainage pattern;
5. Proposed method of water supply and sewage disposal;
6. Economic and supporting data to justify any proposed commercial and industrial elements in the area not so zoned;
7. Relation of the proposed development to the surrounding area and to the comprehensive plan.

B. Prior to discussion of the plan and a planning commission meeting, copies shall be given to the city engineer and county sanitarian for study and comment.

C. In reviewing the preliminary plan, the commission must determine that:

1. Special physical conditions or objectives or development exist to warrant a departure from standard regulation requirements.
2. Resulting development will not be inconsistent with the comprehensive plan objectives or zoning provisions of the area.

3. The area around the development can be planned to be in substantial harmony with the proposed plan.

4. The plan can be completed within a reasonable period of time.

5. Any proposed commercial or industrial development can be justified economically.

6. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside and adjacent to the planned unit development.

7. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.

D. If the planning commission finds that the foregoing provisions are satisfied, the proposal shall be processed in accordance with the procedure used for establishing a subdivision. If the planning commission finds to the contrary, they may recommend the application be denied or returned to the applicant for revision.

E. In addition to the requirements of this section, the planning commission shall follow the procedure for considering an amendment as required in Chapter 17.32.

F. Permits for the construction in a planned unit development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the commission for processing as an amendment to this title.

G. An approved planned unit development shall be identified on the zoning map. (Ord. 278 § 5.020, 1977)

Chapter 17.32

CONDITIONAL USES

Sections:

- 17.32.010 Authorization to grant or deny conditional use.**
- 17.32.020 Application for a conditional use.**
- 17.32.030 Public hearing on a conditional use.**
- 17.32.040 Notification of public agencies.**
- 17.32.050 Additional standards governing conditional uses.**
- 17.32.060 Time limit on a permit for conditional use.**

- 17.32.010 Authorization to grant or deny conditional use.**

Uses designated in this title as conditional uses may be permitted, enlarged or altered in accordance with the requirements of Sections 17.20.020 through 17.20.060. In permitting conditional use, the council may impose conditions in addition to the provisions set for uses within each zone in order to protect the best interests of the surrounding property, the neighborhood or the city as a whole. These conditions may include, but are not limited to, increasing the lot size or setbacks, controlling the location or number of vehicular access points, increasing the street width, limiting the height of buildings to protect the light and air of adjacent properties, increasing the amount of off-street parking or loading, or other provisions necessary to minimize any conflict between the proposed conditional use and the use of adjacent properties. Change in use or contraction of site area, or alteration of structure or uses classified as conditional, existing prior to the effective date of the ordinance codified in this title shall conform to all regulations pertaining to

conditional uses. (Ord. 278 § 6.010, 1977)

17.32.020 Application for a conditional use.

A request for a conditional use, modification of an existing conditional use or a reinstatement of a discontinued nonconforming use may be initiated by the property owner or his authorized agent by filing an application with the planning commission or its designated agent. The application shall include plans of the proposed use, or modification of an existing use, or reinstatement of a discontinued nonconforming use. The application shall be accompanied by a fee as established by the city council.(Ord. 278 § 6.020, 1977)

17.32.030 Public hearing on a conditional use.

Before acting on a conditional use, it shall be considered by the planning commission at a public hearing. The planning commission or its designated agent shall give notice or the hearing by sending notices by mail not less than ten days prior to the day of the hearing to the property owners within two hundred (200) feet of the exterior boundaries of the property involved and by posting on the official bulletin board at the City Hall a notice not less than five days prior to the hearing. The names for this purpose shall be obtained from the records of the count assessor. Failure of a person specified in this section to receive the notice shall not invalidate any proceedings in connection with the application for a conditional use. The commission may continue a public hearing in order to obtain more information or to serve further notice to persons it decides are affected by the proposed conditional use. Agent shall notify the applicant for a conditional use of the action of the planning commission within five days after a decision has been rendered. (Ord. 278 § 6.030, 1977)

17.32.040 Notification of public agencies.

For conditional uses within the MA, CD and SO zones, the following agencies shall be notified by mail, no less than ten days prior to the date of the public hearing:

A. State Agencies.

1. Division of State Lands;
2. Department of Fish and Wildlife.
3. Department of Environmental Quality;
4. Department of Forestry.

B. Federal Agencies.

1. Army Corps of Engineers;
2. National Marine Fisheries Service;
3. U.S. Fish and Wildlife Service;

C. Other Notification.

1. State Water Resources Department (uses including appropriation of water only);
2. State department of geology and Mineral Industries (mining and mineral extraction only);
3. State department of energy (generating and other energy facilities only);
4. Department of Economic Development (docks, industrial, and port facilities, and marinas only). (Ord. 278 § 6.031, 1977)

17.32.050 Additional standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located and the other standards in this title, conditional uses must meet the following standards:

A. Conditional Uses, Generally.

1. Setbacks. In a residential zone, yards shall be at least two-thirds the height of the principal structure. In any zone additional yard requirements may be imposed.

2. Limitation on Access to property and on Openings to Buildings. The city may limit or prohibit vehicle access from a conditional use to a residential street, and it may limit or prohibit building openings within fifty (50) feet of residential property in a residential zone if the openings will cause glare or excessive noise or will otherwise adversely affect adjacent residential property.

3. The city may require assurances to

guarantee development in accordance with the standards established and conditions imposed in granting a conditional use.

B. Church, Hospital, Nursing Home, Convalescent Home, Retirement Home.

1. A church, hospital, nursing home, convalescent home or retirement home may be authorized as a conditional use after consideration of the following factors:

a. Sufficient area provided for the building, required yards, and off-street parking (related structures and uses such as a manse, parochial school or parish house are considered separate principal uses with additional lot area required);

b. Location of the site relative to the service area of the church, hospital or home;

c. Probable growth needs;

d. Site location relative to land uses in the vicinity; and

e. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets.

2. A church, hospital, nursing home, convalescent home, or retirement home may be built to exceed the height limitations of the zone in which it is located to a maximum height as determined by the State Fire Marshal if the total floor area of the building does not exceed one and one-half times the area of the site and if yard dimensions in each case are equal to at least two-thirds of the height of the principal structure.

C. Schools.

1. Nursery schools shall provide and maintain at least one-hundred (100) square feet of outdoor play area per child. A sight-obscuring fence at least four feet but not more than six feet high shall separate the play area from abutting lots.

2. Elementary school shall provide a basic site area of five acres plus one additional acre for each one hundred (100) pupils of predicted ultimate enrollment or as otherwise prescribed by state law.

3. Secondary school shall provide a basic site of ten acres plus one additional acre for each one hundred (100) pupils of predicted ultimate enrollment or as otherwise prescribed

by state law.

D. Communications Transmitter, Receiver, Antenna or Tower, Utility Station, Substation, or Wind Generator.

1. In any residential zone, all equipment storage on the site shall be within an enclosed building.

2. The use shall be fenced and provided with landscaping.

3. The minimum lot size for a public utility facility may be waived on finding by the planning commission that the waiver will not result in noise or other detrimental effect to adjacent property.

4. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be so located, designed and installed as to minimize their conflict with scenic values.

E. Mobilehome Park.

1. A mobilehome park may be permitted as a conditional use provided it meets the requirements of Chapter 446, Oregon Revised Statutes, and the Rules Governing the Construction and Sanitary Operation of Travelers' Accommodations and Trail Parks adopted by the Oregon State Board of Health.

2. In addition, the following minimum standards shall apply:

Parking Space requirement. A parking space shall be provided for each mobilehome space on the site. In addition, guest parking spaces shall also be provided in every mobilehome park within two hundred (200) feet of the mobilehome spaces served and at a ratio of one parking space for each two mobilehome spaces. Parking spaces shall have durable and dustless surfaces adequately maintained for all-weather use and shall be properly drained.

F. Commercial Amusement Establishment. A commercial amusement or recreational establishment may be authorized after consideration of the following factors.

1. Adequacy of access from principal streets together with the probable effect on traffic volumes of abutting and nearby streets;

2. Adequacy of off-street parking;

3. Adequacy of building and site design provisions to maintain a reasonable minimum of

noise and glare from the building site.

G. Controlled Development Overlay Zone. The following criteria and conditions are applied to specific uses and activities in the controlled development overlay zone (6-CD).

1. A site investigation report shall be prepared at the applicant's expense, containing the following information.

a. Location of the proposed use and the area affected;

b. The types of beach, dune or natural hazard present at the specific site;

c. Existing vegetation and vegetation to be removed;

d. A revegetation plan or other methods of erosion control;

e. Proposed grading or fill plan;

f. Areas subject to flooding, erosion, sand accretion, landslides, and other natural hazards;

g. Findings that adequate measures have been taken to protect the groundwater from drawdown which would lead to loss of stabilization vegetation, loss of water quality or intrusion of salt water into water supplies.

2. The city will use the content of the applicant's report to impose conditions which will control erosion, protect against flooding, sand accretion, or other hazards, protect the surrounding area from adverse effects of development.

3. Structures shall be permitted in the zone only under the following provisions:

a. Site-specific review by all affected agencies and by the planning commission to determine that:

i. Visual impact is minimized,

ii. Waterfront access is not impaired,

iii. A negative impact on adjacent property is not created, and

iv. A long-term recurring cost to the public is not incurred;

b. The proposed structure will not negatively impact riparian vegetation that is important for water quality or fish and wildlife habitat.

H. Shoreland Overlay Zone.

1. The following criteria and conditions are applied to specific uses and activities in the

shoreland overlay zone (9-SO).

2. Dredged material disposal (DMD) sites.

Temporary uses within a designated DMD site shall be permitted only upon satisfying all of the following criteria:

a. The proposed use must not entail substantial structural or capital improvements, permanent buildings, or non-temporary water and sewer connections.

b. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable area or potential dredged material volume of the site, such as extensive site grading/excavation or elevation from fill. (Ord. 278 § 6.040, 1977)

I. Prefabricated Structure.

1. Prefabricated structure intended for permanent placement and use:

a. The prefabricated structure shall be placed on a permanent foundation that has perimeter walls and suitable strength and support capability to meet the state building code requirements for wind and seismic loads applicable to the City.

b. The prefabricated structure shall have all axles and wheels removed. and be placed on an excavated and backfilled site to be no more than twelve (12) inches above grade or have a porch or deck and landscaping along the side(s) of the structure that face the street(s) to make it appear as though it was constructed onsite.

c. The prefabricated structure shall be connected to any needed utility services in accordance with all state building codes and City utility codes.

d. If the prefabricated structure is accessory to an existing commercial structure it shall be placed on the parcel in a manner such that it has the appearance of being an addition to the existing structure. This can be achieved by using similar exterior paint, siding material or facade features as the existing structure.

2. Temporary prefabricated office structures.

a. Temporary prefabricated structures may only be placed on a vacant or developed parcel in association with a construction project or similar event. The requirements of this section do not apply to prefabricated structures placed on property for less than

thirty (30) days.

b. The temporary prefabricated structure shall be tied down or anchored so as to not to be overturned or substantially moved during high winds.

c. The temporary prefabricated structure shall be connected to any needed utility services in accordance with all applicable state building codes and City utility codes.

d. A conditional use permit for a temporary prefabricated structure shall not exceed a period of two (2) years; however, the Planning Commission may grant one extension for an additional one (1) year upon finding that the structure is needed to allow completion of the construction project and there have been no valid violations of the conditions on the permit by the applicant. (Ord. 2004-05 § New, 2004)

17.32.060 Time On a Permit for Conditional Use.

Authorization of a conditional use shall be void after one year or year or such lesser time as the authorization may specify unless substantial construction has taken place. However, the planning commission may extend authorization for an additional period not to exceed one year, upon written application to the planning commission. (Ord. 278 § 6.050, 1977)

Chapter 17.36

VARIANCES

Sections:

- 17.32.010 Authorization to grant or deny variances.**
- 17.32.020 Application for a variance.**
- 17.32.030 Circumstances for granting a variance.**
- 17.32.040 Notice of public hearing on variance.**
- 17.32.050 Notice to applicant.**

17.36.010 Authorization to grant or deny variances.

The city council may grant variances from the provisions of this title where it has been shown that owing to unusual topographic conditions, unusual conditions as to the shape of property or the location of a building on property, or other conditions over which the applicant has had no control, the literal interpretation of this title would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting the variance the city council may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. (Ord. 278 § 7.010, 1977)

17.36.020 Application for a variance.

A request for a variance may be initiated by a property owner or his authorized agent by filing an application with the planning commission or its designated agent. (Ord. 278 § 7.020, 1977)

17.36.030 Circumstances for granting a variance.

A variance may be granted only in the event that all of the following circumstances exist:

A. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity.

B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

C. The variance would not be materially detrimental to the purposes of this title, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy,

D. The variance requested is the minimum variance which would alleviate the hardship.(Ord. 278 § 7.030, 1977)

17.36.040 Notice of public hearing on variance.

Before authorization for a variance is granted it shall be considered by the planning commission at a public hearing. Notice of the hearing on a variance shall be given by the planning commission or its designated agent to property owners abutting the property where the variance is requested and other adjacent property owners deemed to be affected by the request. Names for the purpose of notification shall be obtained from the records of the county assessor. Failure of a person specified in this section to receive the notice shall not invalidate any proceedings in connection with the application for a variance. The planning commission may continue a public hearing in order to obtain more information or to serve further notice to persons it decides are affected by the proposed variance. (Ord. 278 § 7.040, 1977)

17.36.050 Notice to applicant.

The city council or its designated agent shall notify the applicant for a variance of the action of the city council within five days after a decision has been rendered.(Ord. 278 § 7.050, 1977)

Chapter 17.44

MEASURE 37 CLAIMS PROCESSING

Sections:

- 17.44.010 Purpose.
- 17.44.020 Definitions.
- 17.44.030 Claim Filing Procedures.
- 17.44.040 City Administrator Investigation and Recommendations.
- 17.44.050 City Council Public Hearing.
- 17.44.060 City Council Action on Claim.
- 17.44.070 Processing Fee.

17.44.010 Purpose.

This Real Property Compensation Ordinance is intended to implement the provisions added to Chapter 197 of Oregon Revised Statutes by Ballot Measure 37 (November 2, 2004). These provisions establish a prompt, open, thorough and consistent process that enables property owners an adequate and fair opportunity to present their claims to the city; preserves and protects limited public funds; and establishes a record of the city’s decision capable of circuit court review. (Ord. 2005-02 § 2004)

17.44.020 Definitions.

As used in this Ordinance, the following words and phrases mean:

City Administrator. The City Administrator of the City of Port Orford, or his or her designee.

Claim. A claim filed under Ballot Measure 37.

Exempt Land Use Regulation. A land use regulation that:

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

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

Land Use Regulation. Includes:

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

ordinances, and transportation ordinances;

- d. Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
- e. Statutes and administrative rules regulating farming and forest practices.

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

Planning Director. The Planning Director of the City of Port Orford, or his or her designee.

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

17.44.030 Claim Filing Procedures.

- 1. A person seeking to file a claim under sections 1 - 7 of this ordinance must be the present owner of the property that is the subject of the claim at the time the claim is submitted. The claim shall be filed with the city administrator's office, or another city office if so designated by the city administrator.
- 2. A claim shall include:
 - a. The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each;
 - b. The address, tax lot, and legal description of the real property that is the subject of the claim, together with a title report issued no more than 30 days prior to the submission of the claim that

reflects the ownership interest in the property, or other documentation reflecting sole ownership of the property by the claimant, and the date the property was acquired;

- c. The current land use regulation(s) that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property;
- d. The amount of the claim, based on the alleged reduction in value of the real property supported by an appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon; and
- e. Copies of any leases or Covenants, Conditions and Restrictions ("CCR's) applicable to the real property, if any, that impose restrictions on the use of the property.

- 3. Notwithstanding a claimant's failure to provide all of the information required by subsection (2) of this section, the city may review and act on a claim. (Ord. 2005-02 § 2004)

17.44.040 City Administrator Investigation and Recommendation.

- 1. Following an investigation of a claim by the planning director, the city administrator shall forward a recommendation to the city council that the claim be:
 - a. Denied;

17.44.010

- a. Investigated further;
 - b. Declared valid, and waive or modify the land use regulation, or compensate the claimant upon completion of an appraisal; or
 - c. Evaluated with the expectation of the city acquiring the property by condemnation. (Ord. 2005-02 § 2004)
2. The City Council's decision to waive or modify a land use regulation or to compensate the owner shall be based on whether the public interest would be better served by compensating the owner or by removing or modifying the challenged land use regulation with respect to the subject property. (Ord. 2005-02 § 2004)

17.44.050 City Council Public Hearing.

The City Council shall conduct a public hearing before taking final action on a recommendation from the City Administrator. Notice of the public hearing shall be provided to the claimant, to owners and occupants of property within 300 feet of the perimeter of the subject property, and neighborhood groups or community organizations officially recognized by the City Council whose boundaries include the subject property. (Ord. 2005-02 § 2004)

17.44.060 City Council Action on Claim.

1. Upon conclusion of the public hearing, and prior to the expiration of 180 days from the date the claim was filed, the City Council shall:
 - a. Determine that the claim does not meet the requirements of Measure 37 and this Ordinance, and deny the claim; or
 - b. Adopt a Resolution with findings therein that supports a determination that the claim is valid and either direct that the claimant be compensated in an amount set forth in the Resolution for the reduction in value of the property, or remove, modify or direct that the challenged land use regulation not be applied to the property.

17.44.070 Processing Fee.

1. The city council may, at its discretion, establish a processing fee by resolution.
2. The city administrator shall maintain a record of the city's costs in processing a claim, including the costs of obtaining information required by section 3 of this ordinance which a property owner does not provide to the city. Following final action by the city on the claim at the local level, the city administrator shall send to the property owner a bill for the actual costs, including staff and legal costs, that the city incurred in reviewing and acting on the claim less any processing fee previously collected. (Ord. 2005-02 § 2004)