

CITY OF DEPOE BAY

ORDINANCE NO. 310

AN ORDINANCE AMENDING ORDINANCE NO. 24 (ZONING ORDINANCE), AS AMENDED; AMENDING SECTION 3.410 PLANNED DEVELOPMENT (PD), ENACTING PROVISIONS REQUESTED AS RESULT OF REVIEW OF THE DEPOE BAY ZONING ORDINANCE BY THE CITY OF DEPOE BAY; AND DECLARING AN EMERGENCY

WHEREAS, the Depoe Bay Planning Commission has reviewed the Zoning Ordinance and considered proposed revisions and additions thereto; and

WHEREAS, the Depoe Bay Planning Commission held public hearings on October 14, 2015 and November 18, 2015 to obtain public comment on proposed revisions to the Zoning Ordinance; and

WHEREAS, the Depoe Bay Planning Commission, after considering public testimony, approved certain changes to the Zoning Ordinance and has recommended those changes to the Depoe Bay City Council; and

WHEREAS, the Depoe Bay City Council held public hearings on March 15, 2016 and has concluded deliberations on the recommended changes to the Zoning Ordinance, including considering public testimony and staff recommendations;

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

1. Ordinance No. 24, as amended, is hereby amended in the following particulars:
  - a. Section 3.410 Planned Development (PD), is replaced in its entirety as shown in the text attached hereto, marked Exhibit A.

WHEREAS, the adoption of this ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is hereby declared to exist and this ordinance shall be in full force and effective immediately upon its adoption by the City Council of the City of Depoe Bay and approved by the Mayor.

Introduced and passed the first reading in a regular meeting of the City Council of the

City of Depoe Bay, Oregon, on this 1<sup>ST</sup> day of November, 2016.

Passed at the second reading, placed on final passage, and adopted by the City Council

of the City of Depoe Bay, Oregon, on this on this 1<sup>ST</sup> day of November, 2016.

Approved by the Mayor of the City of Depoe Bay, Oregon, this 2nd day of Nov.  
\_\_\_\_\_, 2016.

CITY OF DEPOE BAY

  
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Mayor Pro-Tem: Council Pres. Robert Gambino

ATTEST:

  
\_\_\_\_\_  
City Recorder

## PLANNED DEVELOPMENT ZONE

### Section 3.410: Planned Development Zone (PD)

1. Purpose: The purpose of the planned development procedure is to encourage and promote creativity and innovation in site planning, design and development through the application of flexible land development standards. Application of the Planned Development procedure is intended to:
  - a. Allow for and encourage development designs which provide suitable recognition of the physical, topographic, cultural, historical and natural resource values and constraints present on a particular site;
  - b. Respect the surrounding context and enhance community character;
  - c. Provide open space;
  - d. Provide pedestrian and bicycle facilities, such as sidewalks in commercial and high density areas, hiking trails, and bicycle trails;
  - e. Permit greater flexibility in the siting of buildings and other physical improvements, and in the mixing of housing types, in order to accomplish desirable design objectives;
  - f. Provide adequate, structurally sound public and private streets and utilities;
  - g. Ensure that development occurs in a manner consistent with the intent and purpose of the goals and policies of the comprehensive plan;
  - h. Ensure the safety of the residents of the City and visitors to the City;
  - i. Allow logical, efficient development or redevelopment of adjacent properties within the PD and properties adjacent to the PD;
  - j. Supersede the provisions of Article 14 when the latter are expressly contrary to a specific provision of this Section 3.410, or upon application to and approval by the Planning Commission, provided such approval is consistent with the purpose of this Section 3.410.
  - k. Allow for flexibility of land uses, e.g. allow tourist accommodations in residential zones with standards and ensure the developer and/or management company is responsible for all management of the tourist accommodation including but not limited to responding to noise, trash, overcrowding, and parking complaints. The intent is to place all responsibility on the developer, management, HOA, or property owner, provide the public with easily-accessible management contact, and minimize City time and expense related to the tourist accommodation use.

2. General Requirements: The following general requirements shall govern Planned Developments:

- a. A Planned Development may be established in any zone other than the T-C zone.
- b. On land subject to an approved Planned Development, only those uses, structures and other forms of development, which have been set forth and authorized in a development plan approved in accordance with the provisions of this section, or accessory use to such forms of development, may be established.
- c. A Planned Development may include any uses permitted outright or conditionally in the underlying zone. Where the underlying zone is residential, any uses permitted in R-1 through R-5 zones may be permitted when compatible with each other and harmonious with adjacent uses.
  - 1) The one exception to subsection c above is the possible approval of short-term rentals (tourist accommodations per DBZO Section 1.030 Definitions and including time shares) to a subsection of the Planned Development. The total area of the development that may be allocated to tourist accommodations in residential zoned areas shall be equal to or less than 15% of the total land area of the underlying R-1 through R5 zones. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres. Tourist accommodations in residential zones shall be limited to single family and two-family dwellings with a maximum number of five bedrooms. The tourist accommodation area shall be contiguous, cohesive, compatible with the entire development (use, architectural, traffic, etc.), buffered (space, sight, and sound buffered) from all adjacent uses other than commercial uses, and buffered from adjacent properties that are outside of the PD. The following City Standards shall apply, and the management entity may establish additional standards. These following standards shall be part of the tourist accommodation area CC&Rs.
    - a) Nuisance Control: No noise, lights, dust, smoke, odors, electromagnetic frequencies generated on-site in excess of the amounts normally associated with residential uses shall emanate off-site or interfere with surrounding residential or commercial uses.
    - b) Lighting: Outside lighting shall be restricted to low voltage lighting and/or motion sensor lighting for security.
    - c) Off-Street Parking: For tourist accommodation dwelling uses, off-street parking space requirements are:
      - a single family or two-family dwelling shall have one (1) on-site parking space for each bedroom. A minimum of two parking spaces shall be provided per dwelling.

- a multi-family dwelling shall have one (1) parking space for each bedroom located immediately adjacent to the unit. A minimum of two parking spaces shall be provided per dwelling.
  - a parking lot for overflow vehicles, consisting of one additional space per dwelling unit, that shall be in the immediate area of the tourist accommodations.
  - if a dwelling unit is a residence plus a tourist accommodation, two additional spaces are required on the same property.
- d) Solid Waste Disposal: For tourist accommodation dwelling uses, a minimum 96 gallon vessel shall be provided for each unit, and the unit shall have “carry-out” / “valet” (no need to put vessels at curb) service. A multi-unit dumpster type unit may be substituted, it must be enclosed to the sight-line. Weekly solid waste pick-up is required during all months of the year.
- e) Oregon State Law Compliance: It is the property owner’s responsibility to ensure that a tourist accommodation dwelling use remains in substantial compliance with Oregon State regulations for the following: Health, Safety, Building Code, Fire Code, Tourist Accommodation Statutes, and Uniform Housing Code.
- f) Occupancy: Tourist accommodation dwellings shall not exceed two (2) persons per bedroom plus one (1) additional person per dwelling.
- g) Signage: The management entity shall only have one exterior on-site sign for the tourist accommodation area. The sign shall identify the site as a tourist accommodation area; identify a local contact person; state that the local contact person is available 24 hours each day, 7 days a week to handle rentals and complaints; and identify the local contact person’s business license number. An interior sign with this same information shall be placed inside each tourist accommodation in a noticeable location, e.g. near the front door or in the kitchen.
- h) Business License: For a tourist accommodation dwelling, the property owner and property management company are required to have a City of Depoe Bay business license. In addition, for tourist accommodation dwelling uses, transient room tax ordinance provisions shall apply.
- i) Revocation: Any violation of the requirements or standards of this PD Zone or any other City Ordinance may result in revocation of the transient rental unit business license.

- d. Overall residential density shall be as provided for in the underlying zone or zones. Density shall be computed based on the total gross land area of the subject property, excluding area devoted to commercial or other nonresidential uses allowed in the underlying zone and resources protected under Goal 5, but including common areas.
- e. No building shall exceed the height allowed in the underlying zone
- f. Yards, setbacks, lot area, lot coverage and similar dimensional requirements may be reduced, adjusted or otherwise modified upon application to, and approval by the Planning Commission, consistent with the design objectives of the proposed development.
- g. In the event of a conflict between any applicable use zone provision and the allowances, limitations or requirements of an approved Preliminary Plan, the approved Preliminary Plan shall control.
- h. A Planned Development shall have a minimum of two (2) contiguous acres, exclusive of street right of way. A Planned Development with tourist accommodations in residential zones shall have a minimum of five (5) contiguous acres.
- i. Excluding streets and parking, at least 35% of the land will be dedicated or reserved for outdoor recreation, park or natural land.
- j. Paved concrete sidewalks shall be provided in commercial areas and along Highway 101. The exception to this is the Highway 101 right-of-way and the adjacent 40 foot wide designated Forested Corridor on both sides of Highway 101 right-of-way from South Point Street south to the city limits which shall instead include a four foot wide walking/biking path (Section 4.820.2.c applies). The Planned Development shall also include a connected pedestrian system/network.
- k. Parking shall conform to Section 4.030 and Diagram A of the DBZO, with the exception that all parking areas shall be paved.
- l. A minimum 5% of a parking area shall be landscaped. Landscaping in parking and common open space areas shall be installed according to plans approved by the City. Landscaping shall be installed in all yards adjacent to a public or private street prior to final building inspections.
- m. Natural existing landscaping may be used to meet landscaping requirements. Landscape design and landscaping areas shall serve their intended functions and shall not adversely impact surrounding areas. Required landscaping shall include a mix of vertical elements (trees) and horizontal elements (grass, shrubs, ground cover, etc.). Section 4.820 of the DBZO applies. Landscaped areas and open space shall be maintained. Invasive plant materials, as identified by the USDA Natural Resources Conservation Service – Oregon State listed Noxious Weeds, shall be removed and shall not be planted.

3. General Approval Process: At a minimum, a Preliminary Plan and lastly a Final Plan shall be submitted for approval for all Planned Developments. Once the Preliminary Plan is approved and the final engineered plans are reviewed and approved by the City, work on the development's infrastructure may proceed. The Final Plan is primarily an as-built of the streets and infrastructure, and no building permits shall be approved until the effective date of the final approval of the plan. If the Planned Development is to be developed in a number of individual sections or phases, each which is developed separate from the others (a phased Planned Development), a Master Plan shall first be submitted for approval. Once the Master Plan for the entire development is approved, each phase (section) of the development shall follow the standard Preliminary Plan and Final Plan process.
- a. If the Planned Development is a phased Planned Development, the initial step is the submission of the Master Plan for the entire development, which shall be submitted for approval as per subsection 3.410.4.
    - 1) The Master Plan is the over-arching plan of the entire development and of all phases. The primary purpose of a Master Plan is to propose and establish the development's overall concept, overall planning, and the integration of all phases. Master Plan approval does not permit development or construction to occur.
    - 2) If a Master Plan for a phased development is approved, the applicant or its successor shall obtain separate preliminary and final approvals for each phase. For each individual phase a Preliminary Plan shall be submitted for approval as per subsection 3.410.5 prior to any work starting on the infrastructure of that phase.
    - 3) If a Preliminary Plan for an individual phase impacts the Master Plan, an updated Master Plan shall be submitted with that Preliminary Plan.
    - 4) A Master Plan is not required for a Planned Development that is not using a phased development approach.
  - b. For a Planned Development that is not a phased Planned Development, the initial step of a Planned Development is the submission of a Preliminary Plan for the complete development, which shall be submitted for approval as per subsection 3.410.5. Work on the development's infrastructure may only proceed once the Preliminary Plan is approved.
  - c. A Final Plan shall be submitted for approval as per subsection 3.410.8 upon completion of all conditions and requirements of the individual phase Preliminary Plan or the entire development's Preliminary Plan. No building permits shall be approved until the effective date of the final approval of the Final Plan.

4. Master Plan: A Master Plan for Planned Developments shall be developed as follows:
- a. Master Plan Review Procedure: The procedure for application and review of a Master Plan shall be as set forth in 10.025.3.
  - b. Content of Master Plan: Application for Master Plan approval of a Planned Development shall include all items described in subsection 3.410.6. In addition the following shall be included;
    - 1) A narrative describing the plans for phasing (if applicable).
    - 2) A summary describing the general locations for any reducing, adjusting or otherwise modifying yards, setbacks, lot area, lot coverage and similar dimensional requirements of the Depoe Bay Zoning Ordinance (DBZO).
    - 3) A summary describing the general locations for any desired variances, exceptions, deviations, waivers, conditional uses, zone changes, etc., and a supporting narrative that acknowledges the DBZO application procedure and criteria order to obtain each approval.
  - c. Master Plan approval by the Planning Commission shall be based on findings that criteria described in subsection 3.410.7 are satisfied.
  - d. Master Plan approval is valid from the date all legal appeals are exhausted. Changes to an approved Master Plan require an application for a Master Plan Amendment to be reviewed and approved by the Planning Commission as set forth in 10.025.3.
5. Preliminary Plan: A Preliminary Plan for Planned Developments shall be developed as follows:
- a. A Preliminary Plan shall be submitted for a non-phased Planned Development.
  - b. For a phased development a Preliminary Plan shall be submitted for each phase of development.
    - 1) A preliminary plan may be submitted for a phase concurrent with a Master Plan application. The Planning Commission will review the Preliminary Plan the meeting after the Master Plan is approved,
    - 2) Each phase shall meet the criteria of subsection 3.410.5.d, 3.410.6, and 3.410.7 independently of the other phases.
  - c. Preliminary Plan Review Procedure: The procedure for application and review of a Preliminary Plan, which shall be as set forth in 10.025.3.
  - d. Content of Preliminary Plan: Application for Preliminary Plan approval of a Planned Development shall include all items described in subsection 3.410.6. In addition the following shall be included;



- 1) Proposed covenants, restrictions, bylaws, etc. of any homeowners associations and any taxing districts.
  - 2) A narrative describing the locations for any divergence from the Depoe Bay Zoning Ordinance (DBZO) in the form of reducing, adjusting or otherwise modifying yards, setbacks, lot area, lot coverage and similar dimensional requirements.
  - 3) Submittal of any requests for variances, exceptions, deviations, waivers, conditional uses, etc.
  - 4) A narrative describing the specific area of any short-term rentals and describing how the rentals will be managed, policed, the City Transient Room Tax (TRT) and the City Transient Occupancy Tax (TOT) are collected, and City TRT and TOT are forwarded to the City.
- e. Preliminary Plan approval by the Planning Commission shall be based on findings that criteria described in subsection 3.410.7 are satisfied.
  - f. Based on the Preliminary Plan approval, the applicant is required to submit final engineering plans to be reviewed and approved by the City prior to any construction. The Applicant shall be responsible for all costs the City may incur by hiring a professional engineer to review and comment on the final engineering plans.
  - g. Time Limit of Preliminary Plan Approval: Approval of a Preliminary Plan in accordance with this section is valid after the exhaustion of all appeals (see Article 10. Administrative Provisions, Section 10.070). Infrastructure (streets and utilities) shall be designed and constructed in accordance with current design standards unless specific exceptions are granted by the Planning commission.
6. Common Content of Master Plan and Preliminary Plan: In addition to the forms prescribed by the City, an application for Master Plan approval or a Preliminary Plan approval of a Planned Development shall include the following:
- a. A site plan map or maps depicting:
    - all proposed residential and nonresidential land uses,
    - any proposed tourist accommodation area in a residential zoned area, describing the type, location and number of each type of tourist accommodation (house, apartment, hotel, condo, time-share, etc.), also showing and describing the buffering from adjacent uses,
    - parking areas and lots, showing number of spaces,
    - proposed lot or parcel boundaries,
    - proposed roads,
    - proposed pedestrian system and facilities,
    - significant natural features such as wetland, streams courses, environmental hazards, and fish and wildlife habitat areas,
    - proposed open space, recreation areas or other common elements, and approximate topography with contour intervals of not more than 10 feet.

- b. Drawings of the architectural styles of the different areas of the development.
  - c. A written narrative describing the character of the proposed development, the manner in which it has been designed to conform to subsections 3.410.1 and 3.410.2, including detailed discussion of how the proposal conforms to the requirements of subsection 3.410.7, how the development meets the parking requirements of the DBZO Section 4.030, proposed methods of providing sewer, water, storm drainage, and other utility services, the method proposed for ownership, funding, and maintenance of common areas, buildings, structures, roads, open space, landscaping, parking areas, fences, buffers and/or sight, sound barriers to adjacent properties, or other facilities, public access to and use of the aforementioned, and the proposed time schedule of development.
  - d. Other maps or narrative materials needed to determine compliance with any applicable provisions of the DBZO, as determined by initial review of the application for completeness.
7. Common Master Plan and Preliminary Plan Approval Criteria: Approval by the Planning Commission of a Master Plan or a Preliminary Plan of a Planned Development shall be based on findings that the following criteria are satisfied:
- a. All applicable requirements of Section 3.410 are met;
  - b. The proposed development is consistent with the comprehensive plan goals and policies, and zoning ordinance provisions for the area;
  - c. Per Section 14.011, the provisions of Article 14 Land Division, Sections 14.010 through 14.080 shall be applicable to Approval Criteria unless expressly contrary to a specific provision of this Section 3.410.
  - d. The proposed development will provide the following amenities or protections at a higher level than would otherwise be provided under conventional land development procedure: Protection of significant natural and cultural features and resources, such as historical, scientific and cultural resources, fish and wildlife habitats, stream corridors, riparian areas, and wetlands; maintenance, enhancement or establishment of natural vegetation, especially indigenous plant communities; protection of scenic and aesthetic qualities; and creation of a high quality built environment which harmonizes with the natural and physical features of the site and includes design features such as, as examples only, suitably located open space, recreation facilities, and other common facilities for inhabitants of the planned development; includes pedestrian oriented development which reduces reliance on automobile travel, and provides similar measures to promote energy conservation, or avoidance of risks and costs associated with environmental hazards;

- e. In acting to approve the Commission shall be mindful of the purposes of Section 3.410 by encouraging and promoting creativity and innovation in site planning, and by allowing for flexibility in the application of design standards. The Commission may also impose any conditions or limitations it finds necessary to achieve compliance with any provisions of section 3.410;
  - f. The proposed development is in substantial harmony with the area at least 250 feet outside the boundary of the proposed development. In the case of a phased planned development all phases shall also be in visible agreement with each other architecturally and otherwise.
8. Final Plan: Upon completion of all conditions and requirements of a Preliminary Plan, application may be made for final approval in accordance with the provisions of this section.
- a. Final Plan Review Procedure: The procedure for application and review of a request for Final Plan approval shall be as set forth in 10.025.3.
  - b. Certifications Required for Final Plan Approval: Requests for final plan approval shall be accompanied by the following certifications, as applicable:
    - 1) A copy of all covenants and restrictions.
    - 2) Copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association.
    - 3) As-built certifications for all required roads and utilities.
    - 4) If the planned development involves a division of land, the certifications required by Article 14.
    - 5) Other certifications required as a condition of the preliminary plan approval.
  - c. Final Plan Approval Criteria: The Commission shall approve a Final Plan provided that:
    - 1) The submitted Final Plan is in substantial conformance with the approved Preliminary Plan and Master Plan (if a phased Planned Development) and;
    - 2) All of the certifications required by subsection 3.410.8(b) have been submitted in proper form.
  - d. Permits: No building permits shall be approved until the effective date of the final approval of the Final Plan.
9. Retroactivity: The provisions in Section 3.410 shall not apply to Planned Developments, or phases thereof, which were granted Preliminary Plan approval prior to the effective date of this Section. In those cases the prior version of Section 3,410 shall apply, unless said approval expires without applicant having obtained the final approval.

10. Amending an approved Planned Development Master Plan, Preliminary Plan: When a developer or owner desires to deviate from an approved Master Plan or Preliminary Plan, any applicable documents that would result in modification from that change shall be submitted for approval. The review process is identical as a new Planned Development approval. As a result of the change, the Planning Commission may require changes to approved uses, structures and other forms of development to ensure the proposed development remains consistent with the comprehensive plan goals, policies, and zoning ordinance provisions for the area, and to ensure all areas of the Planned Development remain in harmony following Section 3.410.1. Purpose, and Section 3.410.2. General Requirements.