

CLATSOP COUNTY

**ORDINANCE 17-02 (*replaces Ordinance 16-03*):
LEGISLATIVE TEXT AMENDMENTS REGARDING THE
SOUTHWEST CITIZENS ADVISORY COMMITTEE, ARCH
CAPE RURAL COMMUNITY, AND ADDITIONAL
REQUIREMENTS FOR CITIZEN INVOLVEMENT
COUNTYWIDE**

**PROPOSED LAND AND WATER DEVELOPMENT AND USE
ORDINANCE TEXT AMENDMENTS**



Section 1.030. Definitions.

NEIGHBORHOOD/COMMUNITY ORGANIZATION: A non-profit, tax-exempt organization, including private homeowners' associations where membership goes with ownership (501 (c)(7)), and associations open to everyone in the community (501 (c)(4)). Such organizations need to provide the Community Development Department an Oregon Secretary of State certificate, tax exemption certificate, a copy of the bylaws showing the boundaries of the organization, and the person designated to receive mailed notices.

Section 2.046 Applicant-Neighborhood Meeting.

The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their proposed development may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications; it is intended to encourage applicants to be good neighbors. Applicants are encouraged to reconcile as many public concerns as possible before submitting their land use application(s). County staff may attend the neighborhood meeting in an advisory capacity to answer questions.

(1) The applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

- (A) Multi-family development that abuts a single-family zoning district;**
- (B) Commercial or industrial development that abuts any residential zoning district;**
- (C) Manufactured home park adjacent to any residential zoning district;**
- (D) Major subdivisions;**
- (E) Cluster and planned development;**
- (F) Quasi-judicial map amendments;**
- (G) For other applications or revisions to applications that the Director determines may have a significant neighborhood impact, such as conditional uses, expansion of nonconforming uses, variances. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.**

(2) Neighborhood Meetings must meet the following requirements:

- (A) The applicant shall consult with County staff to determine an appropriate meeting date, time, and place given the location of the proposed development and availability of staff to attend.**

(B) The applicant shall send mailed notice of the public meeting to the Community Development Department Director and all property owners within a minimum distance of 300 feet of the boundaries of the subject property with the specific area to be determined by the Director based on the project scale, land use and transportation patterns or anticipated public interest in the project. If any part of the subject property is within the boundaries of a neighborhood or community organization as defined by Section 1.030, notice shall be sent to the designated representative(s) of such neighborhood or community organization. The property owner list shall be provided by the county and shall be compiled from county tax assessor's property owners of record from the most recent property tax assessment roll.

The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:

- 1) Date, time and location of the public meeting;**
- 2) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernable;**
- 3) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical references, and a map that depicts the subject property.**

(C) The applicant's presentation at the neighborhood meeting shall include:

- 1) A map depicting the location of the subject property(ies) proposed for development.**
- 2) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.**
- 3) A description of the nature of the proposed use(s) including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.**
- 4) The expected or anticipated impacts from the proposed development (e.g., traffic, storm drainage, tree removal, etc.).**
- 5) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.**
- 6) An opportunity for the public to provide comments.**

(D) The applicant shall take meeting notes and submit them to the County, including:

- 1) Meeting date and time;**
- 2) Name and address of all in attendance;**
- 3) Summary of issues raised and comments made at the meeting, and the applicant's responses.**

(3) A land use application will not be deemed complete until the applicant demonstrates substantial compliance with this section by including the results of the neighborhood meeting and supporting documentation with the application. This includes:

- (A) A copy of the notice to surrounding property owners;**
- (B) A signed affidavit of mailing the required notice of neighborhood meeting;**
- (C) A copy of any verbal or written comments received, including any issues raised via telephone, fax, email at the meeting, and the applicant's responses;**

(D) A copy of the meeting notes as described in Subsection (2)(D) above.

(E) If responses to the meeting notice were not received by the applicant and no one attended the neighborhood meeting, the applicant shall submit evidence as indicated above with the meeting notes reflecting the absence of comment and/or attendance.

Section 2.110 Mailed Notice of a Public Hearing.

(2) Notice of the hearings governed by this section shall be provided:

(A) To the applicant; and

(B) To owners of record of property on the most recent property tax assessment roll where such property is located:

1) within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary; or

2) within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

3) within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone; and

(C) To any nNeighborhood/~~or e~~Community o~~Organization~~ recognized by the governing body and whose boundaries include the site; and

(D) To the Oregon Department of Transportation (ODOT) for Type II A and Type III applications related to property within 750 feet of a state highway or that in the opinion of the Community Development Director may be found to have a significant impact on State facilities.

Section 2.111 Posted Notice of a Public Hearing.

Development sites that are the subject of quasi-judicial public hearings shall be posted unless otherwise noted in this Code.

(1) County and Applicant's Responsibilities:

(A) The County shall supply the notices that the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed.

(B) The County shall provide an affidavit to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the County's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the 150-day period in a timely manner.

(C) The Applicant shall post the notice either ten or twenty consecutive days before the first scheduled public hearing on the matter in accordance with Section 2.110

(D) The Applicant shall return the signed affidavit of posting, with a photo of the sign attached, at least seven full days before any hearing.

(E) If the subject property is not properly posted as described in Section 2 below, the Director may postpone the hearing until such provisions are met.

(2) Number and Location. The applicant must place the notices:

- (A) On each frontage of the subject property in a location visible from a traveled public road or street abutting the property. If no public street abuts the property, the notice shall be placed so as to be generally visible to the public.**
- (B) Notices shall not be posted within the public right-of-way or on trees.**
- (C) The applicant shall remove all signs and return them to the County within ten days following the public hearing that is the subject of the notice.**
- (D) If the subject property is located where the posting would not be visible to anyone other than adjacent property owners who received written notice, alternative locations visible to the public may be determined by the Community Development Director. These may include posting in a conspicuous place at the point the property obtains access to a County or public road.**

Section 2.115 Mailed Notice for a Type II procedure

- (1) Notice of intent to issue a Development Permit shall be provided:**
 - (A) To the applicant; and**
 - (B) To owners of record of property on the most recent property tax assessment roll where such property is located:**
 - 1) within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary; or
 - 2) within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - 3) within 750 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone; and
 - (C) To any nNeighborhood/or eCommunity oOrganization ~~recognized by the governing body and~~ whose boundaries include the site.**
 - (D) To the Oregon Department of Transportation (ODOT) for applications related to property within 750 feet of a state highway or that in the opinion of the Community Development Director may be found to have a significant impact on State facilities.**

SECTION 3.060. ARCH CAPE RURAL COMMUNITY RESIDENTIAL ZONE (AC- RCR).

Section 3.062. Purpose and Intent.

The Arch Cape RCR zone is intended to accommodate the immediate and foreseeable demand for low density housing in Clatsop County's rural communities. This zone has been developed with the purpose to: (1) Allow residential development that is compatible with rural communities that wish to maintain a primarily single family rural residential character, (2) do not adversely impact adjacent resource lands, (3) allow for minimum lot sizes and densities, that will provide for an ultimate build out that is more commensurate with actual physical, and (4) environmental constraints, and the availability of community water and sewer facilities, and may provide for non-residential uses that are small in scale, intended for the needs of the local community or for people traveling through the rural community, and are compatible with surrounding uses.

Section 3.064. Development and Use Permitted.

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

- (1) One family dwelling.
- (2) Accessory Dwelling Unit (ADU) per section 1.030.
- (3) Guest House per section 1.030.
- (4) Accessory buildings per section 1.030 are permitted only as follows:
 - (A) In conjunction with, or following the permitting or lawful establishment of the principal use on the same tract. Accessory buildings are limited to uninhabitable spaces such as detached garages, storage buildings, garden sheds, greenhouses, shops, etc.
 - (B) Accessory buildings in this zone shall be subordinate in size to the primary dwelling.
- (5) Signs only as follows, subject to the provisions of S2.300:
 - (A) Temporary signs.
 - (B) Nameplates.
- (6) Handicapped housing facility as defined in Section 1.030.
- (7) Home occupation, Limited.
- (8) Low intensity recreation.
- (9) Utilities, maximum utilization of existing easements and rights-of-way shall be made.
- (10) Health hardship pursuant to Section S3.025, no public notice required.
- (11) Temporary uses including use of a Recreational Vehicle during construction phase, subject to the provisions of Section 5.500.
- (12) Short term rental subject to the provisions of Clatsop County Standards Document, Section S4.109.
- (13) Land transportation facilities as specified in Section 3.035 with the exception of new public or private road development, See Section 3.066(12).

Section 3.066. Conditional Development and Use.

The following uses and their accessory uses are permitted under a Type II permit procedure subject to applicable development standards. Combined square footage of commercial uses, including their accessory uses occur in building or buildings that do not exceed the following area standards:

- (1) Two family dwelling (duplex).
- (2) Accessory uses may be permitted prior to the issuance of a development permit for the primary use, subject to an approval by the Community Development Director provided that:
 - (A) The applicant submits a letter to the Director explaining the unique or unusual circumstances and nature of the intended use; and
 - (B) Provided the property owner obtains the primary use development permit within one-year (1) from the date the accessory use development permit is issued; and
 - (C) A statement that the accessory use, during the one-year period prior to establishing the primary use is not intended for the storage of, or the establishment of a Recreational Vehicle use; and
 - (D) May be subject to other conditions of approval deemed necessary to protect the primary purpose and intent of the zone, and to provide for public health, safety and welfare.
- (3) Public or private elementary, middle, or high school.
- (4) Home occupation.
- (5) Churches or similar places of worship.
- (6) Golf Course, driving range, country club, tennis club, and similar recreation uses provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (7) Park, playground, ball fields, or community center.
- (8) Day nursery or day care center, provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (9) Buildings and uses of a public works, public service, or public utility nature, but not including equipment storage, repair yards, warehouses, or related activities.
- (10) Bed and Breakfast establishment subject to the standards in Clatsop County Standards Document, Section S3.464 - S3.468.
- (11) Temporary real estate office in a legally recorded subdivision.
- (12) Any new public or private road development or road extension.

Section 3.068. Development and Use Standards.

The following standards are applicable to permitted uses in this zone.

- (1) Lot sizes:
 - (A) Parcels not served by an approved public community sewer system, shall have a minimum parcel size of one (1) acre, and a minimum width of 120 feet.
 - (B) Parcels served by an approved community, municipal or public sewer system shall have a minimum parcel size of 7,500 square feet, and a minimum width of 60 feet with lot sizes varying according to the following requirements:

Slope	Minimum Lot Size/Density
0-12%	7,500 sq.ft./ 1 dwelling unit, 15,000 sq.ft./2 dwelling units

13-25%	7,500 sq.ft/1 dwelling unit 15,000 per acre, 2 dwelling units/acre
> 25%	1 dwelling unit/acre

- (C) Lot size for conditional developments shall be based upon:
- 4) the site size need of the proposed use,
 - 5) the nature of the proposed use in relation to the impacts on nearby properties, and
 - 6) consideration of sewer district impacts and requirements, local setback and other criteria and standards of this ordinance.
- (D) Maximum lot coverage for residential or non-residential use: 40%.
- (E) Two family dwelling (duplex) minimum lot size 15,000 sq.ft.
- (F) Cluster developments are subject to the provisions of S3.150-S3.161.
- (G) Other development and use standards as required to meet State sanitation requirements and local setback and ordinance requirements.
- (H) New development, lot width/depth dimension shall not exceed a 1:3 ratio.
- (2) Required front yard setback, measured from the abutting edge of the right-of-way, when front line abuts:
- (A) Major arterial: fifty feet (50).
 - (B) Minor arterial: thirty feet (30).
 - (C) Major collector: thirty feet (30).
 - (D) Minor collector: twenty-five feet (25).
 - (E) Local street: twenty feet (20).
- (3) Required rear yard: twenty feet (20).
- (A) Exception on corner lot: 5 feet.
 - (B) Exception when adjacent to resource zones, all structures: fifty feet (50).
- (4) Required side yard:
- (A) Minimum side yard: 10 feet, except on a corner lot, the minimum street side yard measured from the abutting edge of the right-of-way, shall be twenty feet (20); **OR**
 - (B) For lots of record created prior to September 30, 1980 that are less than the minimum lot size required, side yards shall be five feet (5);
 - (C) **Notwithstanding (4)(A) and (4)(B), when the property is**Exception when adjacent to resource zones, all structures: fifty feet (50). *[Staff Comment: Clarifying the hierarchy between these requirements.]*
- (5) For lots abutting the oceanshore, the ocean yard shall be determined by the oceanfront setback line established by Section S3.015 Oceanfront Setback.
- (6) **Accessory structures:**
- (A) An accessory structure **that is less than ten (10) feet tall** ~~separated from the established main building~~ may be located in the required rear and side yard setback ~~except in the required street side of a corner lot~~ provided that it is no closer than five feet (5) to a property line, **except in the required street side of a corner lot per (4) above.** *[Staff Comment: changed sentence structure to be more clear]*
 - (B) **Any accessory structure that is ten (10) feet or greater in height must meet the setback requirements of 3.068(2)-(4).** *[Staff Comment: This addresses protection of ocean views]*

- (7) Maximum building height: twenty-six feet (26), except for ocean front lots, which shall have a maximum height of eighteen feet.
- The height of a structure is measured from the average grade of the undisturbed ground at the four principal corners of the proposed structure. To determine height:
- (A) Construction/building plans submitted for use permitted in this zone shall show the elevations of the undisturbed ground prior to construction as measured at the four principal corners of the proposed structure on a plot plan. A permanently accessible control point shall be established outside of the building's footprint.
 - (B) Photographs of the undisturbed site shall be required. Photographs need not be professional or aerial photographs.
 - (C) To verify the height, a survey by a registered surveyor may be required by the Community Development Director.
- (8) All new developments and cumulative or incremental expansion of an existing **development** footprint greater than twenty-five percent shall indicate on the **building development permit application** how storm water is to be ~~drained~~ **managed** from the property or retained on site. The ~~Building Official or~~ County Engineer may require the installation of culverts, dry wells, retention facilities, or other mitigation measures, where development may create adverse storm drainage impacts on surrounding properties, adjacent streams or wetlands, and particularly on low lands or on slopes greater than ~~twenty-five~~ **fifteen** percent.
- (9) In areas where the parcel or lot has the potential to be further partitioned or subdivided, the Community Development Director shall, where practicable, require that roads be designated and located so as to facilitate the future division of land in a manner that accommodates smaller lot sizes and the extension of street and utilities and may require a potential development plat showing the location of potential lots and the rights-of-way improvements, to include those identified in the County Transportation System Plan (TSP).
- (10) Conditional Development and Use are subject to the following limitations and requirements:
- ~~(A) The proposed development shall be consistent with the Clatsop County Comprehensive Plan.~~ [Staff Comment: Unnecessary language – this is always the case.]
 - ~~(B) The proposed development shall include safe ingress and egress.~~ [Staff Comment: This is already covered in the Standards Document – Chapter 2 Site-Oriented Improvements, Section 2.200-2.210 and Chapter 5 Vehicle Control and Circulation]
 - ~~(C) Prior to final building permit approval any/all road damages created or exacerbated by the development activity shall be repaired, and the road returned to its previous condition or better.~~
- (11) Exterior lighting shall be of a full cut-off design ~~as defined in Clatsop County's Zoning Ordinance Section 1.030~~. Glare shall be directed away from neighboring property or shielded in a manner not to cause offense (i.e. ~~Full Cut-off~~ **Fixtures**). ~~A complaint from neighbors shall be cause for review of exterior lighting.~~ [Staff Comment: Unnecessary language – standards for cutoff lighting would be used and complaints about any code violations will be reviewed.]
- (12) **Vegetation:**

- (A) Where a buffer of trees exists along properties abutting Highway 101, a buffer of 25 feet in width shall be maintained or planted when the property is developed.
- (13) (B) A twenty-five (25) foot buffer of native, non-invasive vegetation combined with proper removal of noxious weeds shall be maintained along Arch Cape, Asbury Creek, ~~&~~ **and** Shark Creek.
- (C) Vegetative hedges and fences that impede or have the potential to impede views shall be maintained at or below ~~six (6)~~ feet. Hedges ~~&~~ **and** fences extending beyond the ocean front setback shall be maintained at or below **four (4)** feet.
- (D) **Preservation of Landscape. The landscape shall be preserved in its natural state to the maximum extent possible by minimizing tree, vegetation and soils removal. Cut and fill construction methods are discouraged. Roads and driveways should follow slope contours in a manner that prevents erosion and rapid discharge into natural drainages. Disturbed areas shall be re-vegetated with native species.** *[Staff Comment: Moved from Section 4.103-Criteria for Design Review Evaluation (3)]*
- (E) The setback for all structures shall be fifty feet (50) from the line of non-aquatic vegetation.
- (13) All planned development and subdivisions shall be required to cluster land uses and designate areas as permanent common open space. The development shall be reviewed according to Section 4.140 for Planned Developments or Clatsop County Standards Document, Section S3.150 for Cluster Developments. The minimum percentage of common open space shall be 30% excluding roads and lands under water.
- (15) ~~The setback for all structures shall be fifty feet (50) from the line of non-aquatic vegetation.~~ *[Staff Comment: Moved to (12)(E)]*
- (16) ~~Vegetative hedges and fences that impede or have the potential to impede views shall be maintained at or below 6 feet. Hedges & fences extending beyond the ocean front setback shall be maintained at or below 4 feet.~~ *[Staff Comment: Moved to (12)(C)]*
- (16) All standards as set forth in the Clatsop County Standards Document, as amended.

Section 3.070 State and Federal Permits.

If any state or federal permit is required for a development or use, an applicant, prior to issuance of a development permit or action, shall submit to the Planning Department a copy of the state or federal permit. 2016020010

SECTION 3.252. RURAL COMMUNITY COMMERCIAL ZONE (RCC).

Section 3.254. Purpose and Intent.

This zone is located in the Rural Community of Arch Cape, Svensen, Westport, Miles Crossing and Jeffers Gardens. The RCC zone is intended to: (1) provide support for existing small concentrations of retail and commercial services; (2) contribute to community identity; (3) provide job opportunities within the community; (4) allow only those uses that are compatible with the surrounding uses considering varying environmental and other site constraints, and the availability of community water, sewer, or if such services are not available, such uses do not exceed the carrying capacity of the property to provide potable water and absorb waste; and (5) provide services for the community, surrounding rural, farm and forest areas, and traveling public. New commercial uses are those defined under state law as “small-scale, low impact” with building or buildings not to exceed 4,000 square feet of floor area, unless determined that large buildings are intended to serve the rural community, surrounding rural area or the travel needs of the people passing through the area. Expansion of an existing commercial use resulting in building or buildings exceeding 4,000 square feet of floor area are appropriate when the use is intended to serve the rural community, surrounding rural area or the travel needs of people passing through the area.

Section 3.256. Development and Use Permitted.

The following uses and their accessory uses are permitted under a Type I permit procedure subject to applicable development standards.

- (1) Splitting and sale of firewood.
- (2) Roadside stand, which shall be less than 120 sq. ft. in size, subject to provisions S5.032-S5.033.
- (3) Low intensity recreation.
- (4) Utilities, maximum utilization of existing easements and rights-of-way shall be made.
- (5) Handicapped housing facility.
- (6) Land transportation facilities as specified in Section 3.035.

Section 3.258. Commercial Conditional Development and Use.

The following commercial uses and their accessory uses are permitted under a Type II permit procedure subject to applicable development standards provided that commercial uses occur in a building or buildings that do not exceed the following area standards:

- (1) A retail grocery, bakery, delicatessen, confectionary or similar store including the preparation of foodstuffs for sale primarily on the premises, provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.

- (2) A retail drug, variety, gift, antique, hardware, sporting goods, dry goods, music, florist, book, stationery, art gallery, or similar store provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (3) A barber, beauty, tailor, shoe repair, laundromat, cleaners, photographic shop or similar personal service business provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (4) Sporting equipment and other recreational equipment rental service provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (5) An eating or drinking establishment provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (6) An automobile service station, including auto fuel, towing and minor repair, excluding auto sales and auto storage provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (7) Professional offices provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (8) Park, or playground, ball fields, or community center.
- (9) Churches or similar places of worship.
- (10) Veterinary clinic provided the square footage of the building or buildings devoted to the care of household pets does not exceed 4,000 square feet of floor area.
- (11) Medical and dental offices provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (12) Buildings and uses of a public works, public service, or public utility nature, that may include equipment storage, repair yards, warehouses, or related activities.
- (13) Instructional or vocational schools, such as dance studio, karate, theatre, music, computer science provided building or buildings for each commercial use does not exceed 4,000 square foot of floor area.
- (14) Communication Facilities subject to the provisions of Clatsop County Standards Document S4.700.
- (15) Farm or garden supply, equipment sales and repair.
- (16) Mini-storage.
- (17) Legally existing and allowed uses (as of the effective date of this ordinance) may continue as permitted uses.
- (18) By a Type III procedure, any uses determined by the Planning Commission to be similar in use and compatibility to those uses described under sections 1-17 above subject to the provisions of section 5.060, provided building or buildings for each commercial use does not exceed 4,000 square feet of floor area.

Section 3.260. Conditional Development and Use.

The following uses and their accessory uses are permitted under a Type II-a permit procedure subject to applicable development standards and site plan review.

- (1) Expansion of commercial building or buildings, existing on (date of this ordinance) where the total floor area for the commercial use exceeds 4,000 square feet provided the commercial use, intended to occupy more than 4,000 square feet of floor area, is intended to serve the rural community, the surrounding rural area, or the traveling needs of people passing through the area.
- (2) Mixed Use or Residential developments in association with a Commercial or Retail component that is permitted or conditional. Residential development shall be located above or behind the permitted or conditional use.
- (3) A hotel, motel, lodge, resort, inn, or other enclosed tourist/traveler accommodations, provided:
 - (A) It is served by a community sewer system,
 - (B) Does not have over 35 units, and
 - (C) Each commercial use associated with the lodging shall not exceed 4,000 square feet (i.e. Gift Shop, Office, Restaurant, etc).
- (4) Recreational Vehicle (RV) Park subject to the following provisions:
 - (A) Density, Maximum fifteen (15) RV spaces per acre.
 - (B) Minimum 30-foot setback to any adjoining residential zone.
 - (C) Minimum 50-foot setback to any adjoining resource zone.
 - (D) Subject to meeting the State Building Code requirements; and
 - (E) Subject to provisions of Clatsop County Standards Document, S.3.550 – S3.552 (2)(A)(F)(I)(J)(K) and (3)-(10) inclusive.

Section 3.262. Development and Use Standards.

The following standards are applicable to all permitted Type II uses in this zone.

- (1) Plan review and approval: No building permit or other permit for construction or alteration of any building structure or use in this zone shall be issued until plans have been reviewed and approved by the Community Development Director in order to evaluate the conformity with the performance standards of this zone and the Comprehensive Plan and the compatibility of vehicular access, signs, lighting, building placement and designs, landscaping, adjoining uses and location of water and sewage facilities.
- (2) Standards:
 - (A) Air quality: The air quality standards set by the Department of Environmental Quality shall be the guiding standards in this zone, except that open burning is prohibited in any case.
 - (B) Noise: As permitted under all laws and regulations.
 - (C) Storage: Materials and or equipment shall be enclosed within a structure or concealed behind sight-obscuring screening.
 - (D) Fencing: Allowed inside a boundary planting screen and where it is necessary to protect property or to protect the public from a dangerous condition. The proposed fence locations and design will be subject to Community Development Director review and approval.
 - (E) Buffer: Where the RCC zone adjoins a zone other than RCC, there shall be a buffer area of depth adequate to provide for a dense evergreen landscape buffer which attains a minimum height of 8-10 feet, or such other screening measures as may be prescribed by the Community Development Director in the event differences in elevation or other circumstances should defeat the purpose of this requirement. In no

- case shall the buffer area have less width than the required 50-foot setback of this zone.
- (F) Vibration: No vibration other than that caused by highway vehicles, trains and aircraft shall be permitted which is discernible without instruments at the property line of the use concerned.
 - (G) Heat and glare: Except for exterior lighting, operations producing heat or glare shall be constructed entirely within an enclosed building.
 - (H) Lighting: Exterior lighting shall be directed away from adjacent property, with cutoff lighting required, when adjacent to a residential zone.
- (3) Density Provisions:
- (A) The minimum lot width shall be 75 feet.
 - (B) Other permitted development standards as required to meet State sanitation requirements and local setback and ordinance requirements.
 - (C) Lot width/depth dimension shall not exceed a 1:3 ratio.
- (4) Setback requirements:
- (A) Front yard setbacks: 25 feet.
 - (B) Side and rear yard when abutting a residence or residential zone: 10 feet.
 - (C) For lots of record created prior to September 30, 1980 that are less than minimum lot size required side yards shall be 5 feet.
 - (D) The setbacks for all structures shall be thirty-five feet (35) from the line of non-aquatic vegetation.
 - (E) All structures shall be a minimum of fifty feet (50) from adjacent resource zones.
- (5) Building height:
- (A) The maximum building height for commercial uses shall be 35 feet.
 - (B) The maximum building height for light industrial uses shall be 45 feet, except when within 100 feet of a residential zone, the height shall be 35 feet.
- (6) Building size:
- (A) The maximum building size for new commercial uses shall not exceed the floor area standards listed in Section 3.258 unless:
 - 1) The findings approving the use are included in an amendment to the comprehensive plan, processed under post acknowledgement procedures (ORS 197.610 through 197.625);
 - 2) The use is limited to a size of building or buildings that is intended to serve the rural community, surrounding rural area of the travel needs of people passing through the area; and
 - 3) The total floor area of building or buildings does not exceed 12,000 square feet unless an exception to goal 14 has been acknowledged pursuant to ORS 197.625.
- ~~(7) Off street parking requirements: Off street parking shall be subject to Clatsop County Standards Document, Section S2.200 of the Development and Use Standards Document.~~
[Staff Comment: Unnecessary – it's already a requirement.]
- (8) An accessory structure ~~separated from the main building~~ may be located in the required rear or side yard, except in the required street side of a corner lot, provided that it is not less than ten (10) feet to a property line.
- (9) All new developments and cumulative or incremental expansion of an existing **development** footprint greater than twenty-five percent shall indicate on the **building development** permit **application** how storm water is to be ~~drained~~ **managed** from the

property or retained on site. The ~~Building Official or~~ County Engineer may require the installation of culverts, dry wells, retention facilities, or other mitigation measures, where development may create adverse storm drainage impacts on surrounding properties, adjacent streams or wetlands, and particularly on low lands or on slopes greater than ~~twenty-five~~ **fifteen** percent.

- (10) In areas where the parcel or lot has the potential to be further partitioned or subdivided, the Community Development Director shall, where practicable, require that roads be designated and located so as to facilitate the future division of land in a manner that accommodates smaller lot sizes and the extension of street and utilities and may require a potential development plat showing the location of potential lots and the rights-of-way improvements, to include those identified in the County Transportation System Plan (TSP).
- (11) Developments adjacent to or across the street from residential zones shall be contained within an enclosed building or screened from the residential district with a sight obscuring fence or vegetation.
- (12) All standards as set forth in the Clatsop County Standards Document, as amended.

(13) Additional Standards in the Arch Cape RCC zone:

- (A) Preservation of Landscape. The landscape shall be preserved in its natural state to the maximum extent possible by minimizing tree, vegetation and soils removal. Cut and fill construction methods are discouraged. Roads and driveways should follow slope contours in a manner that prevents erosion and rapid discharge into natural drainages. Disturbed areas shall be re-vegetated with native species.** [Staff Comment: Moved from Section 4.103-Criteria for Design Review Evaluation (3)]
- (B) Utility Service. All new service lines shall be placed underground.** [Staff Comment: Moved from Section 4.103-Criteria for Design Review Evaluation (4)]
- (C) Exterior lighting shall be of a “full cut-off” design. Glare shall be directed away from neighboring property or shielded in a manner not to cause offense (i.e. Full Cut-off Fixtures).** [Staff Comment: Moved from Section 4.103-Criteria for Design Review Evaluation (5)]

Section 3.264 State and Federal Permits

If any state or federal permit is required for a development or use, an applicant, prior to issuance of a development permit or action, shall submit to the Planning Department a copy of the state or federal permit.

Section 4.100. ARCH CAPE RURAL COMMUNITY OVERLAY DISTRICT

(/RCO). *[Staff Comment: Review of proposed development will still take place, but it will be done using the development and use standards found in the relevant zoning districts, as it is elsewhere in the County.]*

Section 4.101. Purpose.

This section provides for the comprehensive review of proposed developments within the Arch Cape Rural Community Overlay District. The intent of the overlay is to ensure development occurs in a manner that preserves scenic views and promotes attractive development within the boundaries of the rural community. In addition the Arch Cape Rural Community Overlay District outlines procedures and criteria for developments that require variances or are of a non-conforming nature.

Section 4.102. Types of Review.

All development which is situated within the /RCO District Boundary that falls under the thresholds in this section shall be subject to the Criteria for Design Review Evaluation, Section 4.103 and Article 2, Procedures for Land Use Applications.

- (2) The following types of projects shall require review according to the Type II procedure, Section 2.020. For purposes of these types of Major projects, review by the Design Review Advisory Committee as described in Section 4.108, is required.
 - (A) Any new residential development proposing to construct a dwelling as described in Section 1.030 (Dwelling Types).
 - (B) Any new commercial development proposing to construct structures devoted to a commercial use.
 - (C) Any new commercial development creating additional cumulative square footage.
 - (D) Any new residential development creating additional cumulative square footage.
 - (E) Accessory buildings in residential zones.
 - (F) Accessory buildings associated with commercial developments and containing no residential units.
 - (G) Development and Construction of public or private roads.
 - (H) Any Change in Use, Variance Request, Conditional Use Permit, or Other Use Requiring Review through Type II, III, or IV procedures with exception of those described in 4.109(2).
- (3) The following types of projects shall require design review according to the Type II Procedure, Section 2.020. For purposes of these types of Minor projects, review by the Design Review Advisory Committee as described in Section 4.108, is not required.
 - (A) Any project that requires a building permit and does not result in the expansion of the exterior dimensions and/or footprint.
 - (B) If the Community Development Director determines that a development may significantly impact adjoining properties with respect to location, bulk, compatibility, views, preservation of existing landscape, or other applicable criteria identified in Section 4.103, the application will be forwarded to the Design Review Advisory Committee for review.

Section 4.103. Criteria for Design Review Evaluation.

In addition to the requirements of the Comprehensive Plan, other applicable sections of this Ordinance and other County Ordinances, the following minimum criteria will be considered in evaluating design review applications:

- (1) ~~Relation of Structures to Site. The location, height, bulk, shape, and arrangement of structures shall be in scale and compatible with the surroundings.~~ [Staff Comment: This criterion is too subjective. It will be addressed generally through the existing standards in the AC-RCR zone Section 3.068, which includes height restrictions, setbacks, lot coverage]
- (2) ~~Protection of views shall be preserved through the confines of this ordinance section 3.068.~~ [Staff Comment: This is already regulated by existing standards in Section 3.068 of the AC-RCR zone, as referenced by this criterion. A standard was added to AC-RCR Section 3.068-Development and Use Standards that limits the height of accessory structures allowed in the required setbacks to protect view corridors.]
- (3) ~~Preservation of Landscape. The landscape shall be preserved in its natural state to the maximum extent possible by minimizing tree, vegetation and soils removal. Cut and fill construction methods are discouraged. Roads and driveways should follow slope contours in a manner that prevents erosion and rapid discharge into natural drainages. Disturbed areas shall be re-vegetated with native species.~~ [Staff Comment: This was moved to AC-RCR Section 3.068-Development and Use Standards and a new Arch Cape subsection in RCC Section 3.262-Development and Use Standards.]
- (4) ~~Utility Service. All new service lines shall be placed underground.~~ [Staff Comment: This was moved to AC-RCR Section 3.068-Development and Use Standards and a new Arch Cape subsection of RCC Section 3.262-Development and Use Standards.]
- (5) ~~Exterior lighting shall be of a “full cut off” design. Glare shall be directed away from neighboring property or shielded in a manner not to cause offense (i.e. Full Cut off Fixtures).~~ [Staff Comment: Redundant – already covered in AC-RCR Section 3.068-Development and Use Standards; Also moved to new Arch Cape subsection in RCC Section 3.262-Development and Use Standards]
- (6) ~~Buffering and Screening. In commercial zones, storage, loading, parking, service and similar accessory facilities shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.~~ [Staff Comment: This is already covered in RCC Section 3.262-Development and Use Standards – (E) Buffer]
- (7) ~~Vehicle Circulation and Parking. The location of access points to the site, the interior circulation pattern and the arrangement of parking in commercially zoned areas shall be designed to maximize safety and convenience and to be compatible with proposed and adjacent buildings. The number of vehicular access points shall be minimized.~~ [Staff Comment: This is already covered in the Standards Document – Chapter 2 Site-Oriented Improvements, Section 2.200-2.210 and Chapter 5 Vehicle Control and Circulation]
- (8) ~~Signs. The size, location, design, material and lighting of all exterior signs shall not detract from the design of proposed or existing buildings, structures or landscaping and shall not obstruct scenic views from adjacent properties.~~ [Staff Comment: This criterion is too subjective. Standards Document Section 2.3000 Sign Requirements (6) allows individual signs in commercial zones up to 32 square feet.]
- (9) ~~Surface Water Drainage. Special attention shall be given to proper surface water drainage from the site so that it will not adversely affect adjacent properties or the natural or public~~

~~storm drainage system.~~ [Staff Comment: This is already addressed in AC-RCR Section 3.068-Development and Use Standards (8); and RCC Section 3.262-Development and Use Standards (9)]

- (10) In addition to compliance with the criteria as determined by the hearing body and with the requirements of sections 1.040 and 1.050, the applicant must accept those conditions listed in Section 5.025 that the hearing body finds are appropriate to obtain compliance with the criteria. All permit criteria and conditions must be satisfied prior to final building approval and occupancy. [Staff Comment: Unnecessary-this is always true.]

Section 4.104. Application Procedure. [Staff Comment: Would no longer be applicable.]

The following procedure shall be followed when applying for design review approval:

- (1) Pre-application Conference. The applicant shall discuss the proposed development with the staff of the Clatsop County Department of Community Development in a pre-application conference pursuant to Section 2.045.
- (2) Following the pre-application conference, the applicant shall file with the Planning Director a design review plan, which shall include the following:
 - (A) The Site Plan shall indicate:
 - i. All adjacent structures within 100'.
 - ii. All existing trees 6" caliper or greater, indicating any tree to be removed.
 - iii. Existing grades in contours of 1' vertical intervals.
 - iv. Proposed final grading in contours of 1' vertical intervals.
 - v. The finished site arrangement and landscape features (pedestrian walks, fences, walls, landscaping, etc.)
 - vi. The location of entrances and exits and the direction of traffic flow into and out of off street parking and loading areas.
 - vii. Utility lines and services and how they are being provided.
 - viii. A drainage plan for storm water runoff and retention (bio swales, drywells, retention ponds, etc.)
 - (B) Elevations of the structure(s) illustrating the relation to undisturbed average grade. Per Section 3.068 §7C, a licenses surveyor shall install a benchmark on or near the property to provide vertical control for the project. Proposed developments within two (2) feet of the building height limit will be required to have a licenses surveyor certify the building height, prior to requesting final building inspection. (*It is recommended that the contractor verify height at the framing stage prior to sheathing*)

If applicable, Site Section(s) showing how the proposed structure protects ocean and scenic views per 4.103 (2).

Section 4.105. Plan Evaluation Procedure. [Staff Comment: Would no longer be applicable.]

The following procedure shall be followed in processing a design review plan:

- (1) Upon receipt of a design review application and plan, the Community Development Director will examine it to determine whether it is complete (and consistent with the requirements of this
- (2) Section). If found to be complete, the Community Development Director shall determine whether the application will require Minor or Major Review under Section 4.102(1-2)(Types of Review). If the request is considered a Major Review under Section 4.102(1)(Types of Review), the Director shall forward the application and plans to the Design Review Advisory Committee for its review and recommendation.

- ~~(3) — The Design Review Advisory Committee will review the application and plan at its first regularly scheduled meeting and shall make a written recommendation to the Planning Director within 21 days after receipt of the application.~~
- ~~(4) — The Community Development Director may approve the design plan, disapprove it or approve it with such modifications and conditions as may be required to make it consistent with the Comprehensive Plan, with the criteria listed in this Section and with other Sections of this Ordinance.~~
- ~~(5) — A decision on a design review plan shall include written conditions, if any, and findings and conclusions. The findings shall address the relationships between the plan and the policies and criteria listed in the Comprehensive Plan, this Section and other Sections of this Ordinance.~~
- ~~(6) — The Community Development Director's decision shall be mailed within seven (7) working days to the applicant and to owners of land entitled to notification. The same mail, when appropriate, shall include notice of the manner in which an appeal of the decision may be made.~~
- ~~(7) — Appeals. See Section 2.230 for appeal procedure.~~

Section 4.106. Modifications of Approved Design Review Plan. [Staff Comment: Would no longer be applicable.]

~~Proposed changes shall be submitted in writing to the Community Development Director for approval. Minor changes requested by the applicant may be approved if such changes are consistent with the purposes and general character of the original approved application. All other modifications shall be processed in the same manner as the original application.~~

Section 4.107. Time Limit on Approval. [Staff Comment: Would no longer be applicable.]

~~Site design approvals shall be void after one (1) year unless a building permit has been issued and substantial construction has taken place per the International Building Code. However, the County may, at the discretion of the Community Development Director, extend authorization for an additional year upon request, provided such request is submitted in writing not less than 10 days nor more than 30 days prior to expiration of the permit.~~

Section 4.108. Design Review Advisory Committee. [Staff Comment: Would no longer be applicable.]

~~The Southwest Coastal Citizens Advisory Committee (CAC) shall serve as a Design Review Advisory Committee for Arch Cape and will review development proposals and make recommendations to the Community Development Director and Planning Commission concerning the design and scenic view aspects of proposed developments.~~

- ~~(1) — Meetings/ Records. The committee shall hold regular meetings on the first and third Wednesday of each month at the Arch Cape Fire Hall or designated sites. However, meetings may be canceled when there are no design review plans submitted for review by the Committee. The deliberations and proceedings of the committee shall be public. The Community Development Department shall keep minutes of the committee meetings and such minutes shall be public record.~~
- ~~(2) — The Design Review Advisory Committee shall submit their recommendations to the Community Development Director within seven (7) working days of their decision.~~

SECTION 4.109 ARCH CAPE SHORT TERM (VACATION) RENTALS.

This section regulates the short-term rental of dwelling units within the Arch Cape Rural Community Overlay District. *[Staff Comment: This is the only section within the overlay district that would still be in effect. The Board will be reviewing and discussing the potential for a countywide short-term rental program later this year. Pending the result of that discussion, the short-term rental program will be moved to the County Code of Regulations, either in its entirety or as part of a countywide program.]*

Section 4.110 Purpose.

The purpose of this section is to regulate short-term rentals to enhance livability and safety in the Arch Cape residential neighborhoods. Rentals of a short-term dwelling unit shall be limited to either a minimum period of seven (7) nights or, if for fewer than seven (7) nights, then to no more than one rental within a seven (7) night period. Use of a short-term rental by a record owner of a property shall not be considered to be a rental under this section.

4.111 Permit Required.

An owner shall obtain a revocable short-term rental permit whenever a dwelling unit (as defined in Section 1.030) is to be used for short-term rental purposes and shall comply with the requirements of the County's transient room tax ordinance (No. 90-7).

- (1) A short-term rental permit shall be obtained prior to using the unit as a short-term rental.
- (2) Short-term rental permits are issued & renewed annually by July 1st of the given year.
- (3) Short-term rental permits are non-transferable, new owners will be required to attain new permits or register in accordance with 4.111(2) above.
- (4) The short-term rental permit does not relieve the owner of the obligation to pay county room taxes.
- (5) If the terms of the short-term rental permit are not met, the short-term rental permit may be revoked and the owner subject to penalties per Section 4.115.

Section 4.112 Short-Term Rental Permit Application Requirements.

An application for a short-term rental permit shall be completed on the form provided by the County and shall provide the following information:

- (1) A list of all the property owners of the short-term rental including names, addresses and telephone numbers. Property ownership, for the purposes of this section, shall consist of those individuals who are listed on the Clatsop County Assessor's tax records.
- (2) The applicant shall provide proof of payment for county room taxes annually pursuant to County Code Chapter 39.
- (3) Completion of the inspection section of the application form by an Oregon Certified Home Inspector as defined by ORS 701.005(4), based on a visual inspection to certify the following:
 - (A) Compliance with the following standards:
 - 1) There shall be one functioning smoke detector in each sleeping room, with a minimum of two functioning smoke detectors in each dwelling unit. There shall also be one Functioning fire extinguisher at each exit;
 - 2) Exterior doors shall be operational. All passageways to exterior doors shall be clear and unobstructed.

- 3) Electrical systems shall be serviceable with no visible defects or unsafe conditions.
- 4) All fireplaces, fireplace inserts or other fuel burning heaters and furnaces shall be vented and properly installed.
- 5) Each sleeping room shall have an exterior exit that opens directly to the outside, or an emergency escape or rescue window.
- (B) The number of sleeping rooms within the short-term rental, as defined in Section 4.113(4).
- (C) The number of parking spaces on the subject property that meet the standards of Section 4.113(5).
- (D) Inspection certifications shall be valid for a period of five (5) years and shall expire June 30th of the 5th year. Additionally Inspection certificates shall be required whenever modifications requiring a building permit are made to the dwelling unit(s).
- (4) A site plan, drawn to scale, showing the location of buildings and required parking.
- (5) The name, address and telephone number of a contact person, who shall be responsible, and authorized, to act on the owner's behalf to promptly remedy any violation of these standards.
- (6) The contact person may be the owner or the designated agent who shall serve as a contact person.
- (7) Statement that the applicant has met and will continue to comply with the standards in this section.
- (8) Other information as requested by the County.

Section 4.113 Short Term Rental Standards.

All short-term rentals shall meet the following standards:

- (1) A Short-Term Rental dwelling unit shall be limited to either a minimum period of seven (7) nights or, if for fewer than seven (7) nights, then to no more than one rental within a seven (7) night period.
- (2) One rental (as defined in Section 1.030) per lot or parcel, excluding a caretaker residing in the Residence or ADU. A Guesthouse is **not** considered a dwelling unit and shall not be rented separately.
- (3) All applicable County room taxes shall be paid pursuant to County Code Chapter 39.
- (4) The maximum occupancy for each short term rental unit shall be calculated on the basis of two (2) persons per sleeping room plus an additional four (4) persons, up to a maximum of fourteen (14) persons. For this purpose, a sleeping room is defined as fully-enclosed habitable space with a heat source, and an emergency escape or rescue opening.
- (5) Off-street parking shall be used if physically available and comply with S2.200-S2.210 applicable to single family or two family dwellings. On-street parking shall be used only when off-street parking spaces are not physically available. Parking is "physically available" when a garage or driveway can be emptied or materials removed so as to allow for the parking. The owner shall notify every renter in writing of these requirements and shall advise the renter where the off-street parking spaces to serve the unit are located. If on-street parking must be used, the renter shall use the parking along the frontage of the rental unit.
- (6) A house number visible from the street shall be maintained.

- (7) Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or littering and placed where they are not clearly visible from the street except between 5 am on the day prior to pickup and 5 pm on the day of pickup.

Section 4.114 Conformity Required; Display of Permits.

- (1) The issuance of the short-term rental permit shall be subject to the continued compliance with the requirements of this section.
- (2) The current short-term rental permit shall be permanently and prominently displayed inside and near the front entrance of the short term rental and provided to adjacent property owners within 100 feet of the property, and shall list the following:
 - (A) The name, address and phone number of the owner and designated agent;
 - (B) The maximum occupancy and vehicle limits for the short-term rental unit;
 - (C) Identification of the number and location of parking spaces available;
 - (D) A statement regarding how the parking standards under Section 4.113(4) are to be met;
 - (E) A statement that it is illegal to leave litter on the beach (OAR 736-021-0090(4));
 - (F) A statement that all fires on the beach must be extinguished before leaving the site of the fire (OAR 736-021-0120(4));
 - (G) A statement that the short term rental permit may be revoked for violations;
 - (H) A statement regarding how the garbage removal standards under Section 4.113(6) are to be met; and
 - (I) Such other information as may be required by the County.
- (3) The owners are responsible to ensure that current and accurate information is provided to the County.

Section 4.115 Compliance, Hearings and Penalties.

Owners of Short-Term Rental Units shall obey all applicable ordinances and regulations of the County and shall be subject to the enforcement and penalty proceedings contained in the applicable County Ordinances. Any property owner who operates a Short-Term Rental in violation of this section may be subject to the abatement and penalty provisions of ORS 203.065, 203.810, and ordinances adopted under the Clatsop County Charter. The enforcement provisions of Clatsop County Code Compliance Ordinance, Section 38 of the Clatsop County Code shall also apply, except where modified by this section. The following process shall be followed in the event of a complaint alleging a violation of this section or a permit issued under this section:

- (1) The complaining party shall first attempt to contact the contact person designated on the permit and the notice posted on the Short-Term Rental, describe the problem and indicate the desired remedy.
- (2) The contact person shall promptly respond to the complaint and remedy any situation that is out of compliance with this section or permit.
- (3) If the response is not satisfactory to the complaining party, the complaining party may lodge a complaint with the County by submitting a written complaint including the time, date and nature of the alleged violation. The property owner shall allow the County to inspect any records related to the short-term rental dwelling unit upon request of the County.

- (4) The County may initiate enforcement under Section 38 of the Clatsop County Code.
- (5) In addition to any other remedy allow under Section 38 of the Clatsop County Code, the hearings body may do any of the following:
 - (A) Take no action on the request for the revocation of the short-term rental permit;
 - (B) Attach conditions to the existing short-term rental permit;
 - (C) Require a new home inspection under Section 4.112(3);
 - (D) Suspend the short-term rental permit;
 - (E) Revoke the short-term rental permit; and/or
 - (F) Prohibit an owner from obtaining a short-term rental permit for a period of up to five (5) years.
- (6) Should a permit be revoked, the owner may not obtain any short-term rental permit sooner than one year after the date of revocation.
- (7) Any property owner found in violation of the provisions of this ordinance shall be required to reimburse the County for its costs of enforcement including reimbursement of staff time, investigation costs, mailings, service fees, mileage and other costs related to the investigation and prosecution of the violation in question.

SECTION 4.116 ARCH CAPE VARIANCE

[Staff Comment: Redundant -- already covered verbatim in LWDUO Section 5.130 Variance]

Section 4.117 Variance Procedure.

- ~~(1) A variance to the development and quantifiable standards of this zone may be appropriate where: by reason of exceptional configuration, or by reason of other extraordinary and exceptional situations or conditions existing on a piece of property, the strict application of any regulations enacted under this Ordinance would result in peculiar, exceptional and undue hardship upon the owner of such property for which a variance is requested. Undue hardship upon adjacent property owners may also be considered. The Hearings Officer may vary or adopt the strict application of any of the requirements of this Zone.~~
- ~~(2) Variances will be considered under a Type IIa procedure pursuant to Section 2.025. An applicant may request a variance whether before or after the denial of a development permit.~~
- ~~(3) Standards for a Variance. The requirements for a Variance are listed below. It is the intent of this Ordinance that a variance only be granted to overcome some exceptional physical condition related to a parcel of land posing practical difficulty to development and preventing the owner from using the property as intended by the Zoning Ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the land.~~
 - ~~(A) There must be proof of exceptional and extraordinary circumstances which apply to the property and which do not apply to other properties in the same zone or vicinity, and result from lot size or shape legally existing in accordance with land use laws prior to September 30, 1980, topography, geology, or other circumstances over which the applicant has no control. These circumstances or conditions must be such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land and/or structure.~~
 - ~~(B) The granting of a variance shall neither be injurious to the neighborhood or community nor otherwise detrimental to the public welfare or to public safety.~~
 - ~~(C) The granting of the variance will not permit the establishment of any development or use which is not permitted by the Ordinance, nor confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the area.~~
 - ~~(D) There must be proof of significant hardship if the variance is not granted. It is not sufficient proof of hardship to show that a greater profit would result if a variance were granted. Nor shall loss of value be a valid reason to grant a variance. Furthermore, the hardship cannot be self-created or self-imposed, nor can it be created by one who purchases property with or without the knowledge of restrictions present. The hardship must result from the strict application of this Ordinance, and be suffered directly by the property in question. Evidence of a variance granted under similar circumstances shall not be considered as a solely sufficient cause to grant hardship relief.~~
 - ~~(E) The granting of a variance is necessary for the reasonable use of land or building, and the variance granted by the hearing body is the minimum variance that will accomplish this purpose.~~
 - ~~(F) The hardship does not arise from a violation of the provisions of this Ordinance.~~

~~(G) The development will occur on a parcel of land that in conjunction with adjacent land in the same ownership is not otherwise reasonably capable of development and use under the provisions of this Ordinance.~~

Section 4.118 Notification-

~~In addition to the required mailed notice sent to property owners pursuant to Section 2.025 and Section 2.110, notice of variances to yard setbacks and height variances shall be sent to the fire district in which the property is served for review and comment. If a response is not received by the Department of Transportation and Development within 20 days of the notice it will be assumed that the District has no negative concerns regarding the request.~~

Section 4.119 Expiration/Extension-

~~Authorization of a variance shall be void after one year unless substantial construction or action pursuant thereto has taken place. However, the County may, at the discretion of the Planning Director, extend authorization for an additional six (6) months upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the variance.~~

SECTION 4.120 ARCH CAPE NON-CONFORMING USES AND STRUCTURES

[Staff Comment: Redundant – Except for 4.124 Alteration (2) this section is already covered verbatim in LWDUO Section 5.600 Non-Conforming Uses and Structures]

Section 4.121 Purpose.

The purpose of the Non-Conforming Uses and Structures provisions are to establish standards and procedures regulating the continuation, improvement and replacement of structures and uses, which do not comply with this Ordinance.

Section 4.122 Definitions.

The following definitions are applicable to the provisions of Section 4.120, Non-Conforming Uses and Structures.

ALTERATION. A change to a structure, not involving enlargement of the external dimensions of the structure (i.e. addition or relocation of windows, replacement of siding, etc).

EXPANSION. Any increase in any external dimension of a Non-Conforming Structure.

LEGAL NON-CONFORMING STRUCTURE. A building or structure that does not conform to one or more standards of the zoning district in which it is located, but which legally existed at the time the applicable section(s) of the zoning district became effective.

LEGAL NON-CONFORMING USE. A use, which does not conform to the use regulations of the zoning district in which it is located, but which lawfully occupied a building or parcel of land at the time the applicable use regulation became effective.

NON-CONFORMING STRUCTURE. A building or structure that does not conform to one or more standards of the zoning district in which it is located, and which did not legally exist at the time the zoning district became effective.

NON-CONFORMING USE. A use, which does not conform to the use regulations of the zoning district in which it is located, and which did not lawfully occupy a building or parcel of land at the time the applicable use regulation became effective.

Section 4.123 Continuance.

- (1) — A Legal Non-Conforming Use may be continued at the level of use (e.g., hours of operation) existing on the date that the use became non-conforming².
- (2) — A Legal Non-Conforming Structure may continue within the building dimensions (height, width and length) in existence on the date that the structure became non-conforming³.
- (3) — The applicant shall bear the burden of proof for establishing that the structure or use was lawfully established.
- (4) — The applicant shall bear the burden of proof for establishing the level of use that existed at the time the use became non-conforming.
- (5) — The county may allow a property owner, under a Type II procedure, to prove the existence, continuity, nature and extent of the use for the 10-year period immediately preceding the date of application. If the county finds evidence proving the existence,

continuity, nature and extent of the use for the ten-year period preceding application, then such findings shall create a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable Ordinance provision was adopted and has continued uninterrupted until the date of application.

Section 4.124 Alteration.

- (1) Through Type I procedures alterations shall be permitted to a non-conforming structure, or to a structure devoted to a non-conforming use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
- (2) If in a three-year period, alterations to a Non-conforming structure, or to a structure devoted to a Non-conforming use exceeds 75% of the market value of the structure, as indicated by the records of the County Assessor, the structure shall be brought into conformance with the requirements of the Ordinance. *[Staff Comment: This subsection was relocated to LWDUO Section 5.608 Non-conforming Uses and Structures-Alteration]*

Section 4.125 Expansion.

- (1) Through a Type II procedure an expansion of a Legal Non-Conforming Structure shall be in conformance with the requirements of the Zone (i.e. height limitations and setbacks) and satisfy criteria under Section 4.125 § 3C, or a variance for the expansion shall be required pursuant to Section 4.116 Arch Cape Variance.
- (2) Through a Type IIA procedure an expansion of a Non-Conforming Structure shall be in conformance with the requirements of the Zone (i.e. height limitations and setbacks) and satisfy criteria under section 4.125 § 3A C below, or a variance for the expansion shall be required pursuant to Section 4.116 Arch Cape Variance.
- (3) An expansion of a structure devoted to a Legal Non-Conforming Use, or a change in the characteristics of a Legal Non-Conforming Use, (i.e. hours of operation or levels of service provided), may be approved, pursuant to a Type II procedure, where the following standards are met:
 - (A) The floor area of a building(s) shall not be increased by more than 20%.
 - (B) The land area covered by structures shall not be increased by more than 10%.
 - (C) The proposed expansion, or proposed change in characteristics shall have no greater adverse impact on neighboring areas than the existing use, considering:
 - 1) The following factors:
 - a) Noise, vibration, dust, odor, fume, glare, or smoke detectable at the property line.
 - b) Numbers and kinds of vehicular trips to the site.
 - c) Amount and nature of outside storage, loading and parking.
 - d) Visual impact.
 - e) Hours of operation.
 - f) Effect on existing vegetation.
 - g) Effect on water drainage and water quality.

- ~~h) Service or other benefit to the area.~~
- ~~i) Other factors relating to conflicts or incompatibility with the character or needs of the area.~~
- ~~2) The character and history of the use and of development in the surrounding area.~~
- ~~3) An approval may be conditioned to mitigate any potential adverse impacts that have been identified.~~

Section 4.126 Changes to a Non-Conforming Use.

- (1) ~~A Non conforming use may only be changed to that of a conforming use. Where such a change is made, the use shall not thereafter be changed back to a Non-conforming use.~~

Section 4.127 Replacement and Damage.

- (1) ~~Through a Type I procedure if a Legal Non-Conforming Structure or a structure occupied by a Legal Non-Conforming Use is damaged or destroyed by any cause other than an action of the property owner or authorized agent, it shall be reconstructed in conformance with the current requirements of this Ordinance or a variance sought in accordance with section 4.116. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster. If restoration or replacement is necessary under this subsection, restoration or replacement shall be done in compliance with ORS 195.260 (1)(c). If a building listed on the National Register of Historic Places is damaged or destroyed it may be reconstructed in conformance with the dimensional standards of the building prior to its destruction.~~
- (2) ~~Through a Type II permit procedure subject to Section 5.000-5.030 if a Non-Conforming Structure or a structure devoted to a Non-Conforming Use is damaged by any cause other than an action of the property owner or his agent, the hearing body may approve the reconstruction of the structure and accompanying use. Reconstruction of the structure or use shall be in conformance with the current requirements of this Ordinance or a variance sought in accordance with Section 4.116. Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster. If restoration or replacement is necessary under this subsection, restoration or replacement shall be done in compliance with ORS 195.260 (1)(c).~~

Section 4.128. Completion.

~~A development that is lawfully under construction on the effective date of an ordinance that makes that use or structure Non-conforming may be completed. The use or structure may be used for the purpose for which it was designed, arranged or intended.~~

Section 4.129. Discontinuance of Use.

~~If a Non-conforming use is discontinued for a period of one year, subsequent use of the property shall conform to this Ordinance.~~

Section 4.130. Compliance with Other Requirements.

~~Notwithstanding the provisions of this section, alteration of a Nonconforming use or a Nonconforming structure shall be allowed if necessary to comply with state or local health or safety requirements.~~

SECTION 5.600 NON-CONFORMING USES AND STRUCTURES

Section 5.608. Alteration.

- (1) Through Type I procedures alterations shall be permitted to a non-conforming structure, or to a structure devoted to a non-conforming use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.
- (2) **If in a three-year period, alterations to a Non-conforming structure, or to a structure devoted to a Non-conforming use exceeds 75% of the market value of the structure, as indicated by the records of the County Assessor, the structure shall be brought into conformance with the requirements of the Ordinance.** [Staff Comment: This was relocated from LWDUO Section 4.124 Arch Cape Non-Conforming Uses and Structures-Alteration]