

## Chapter 17.16

## SUPPLEMENTARY PROVISIONS

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## provisions

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**17.16.010 Floodplains.**

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

**17.16.020 Maintenance of minimum requirements.**

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

**17.16.030 Zone boundaries.**

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

**17.16.040 Manufactured homes on individual lots.**

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

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

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

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

D. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which

reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code. Evidence demonstrating that the manufactured home meets ASuper Good Cents@ energy efficiency standards is deemed to satisfy the external thermal envelope certification requirement. Additional certification shall not be required.

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

#### **17.16.050 Home occupations.**

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

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

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

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

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

E. No outdoor storage related to the occupation.

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

#### **17.16.060 Archaeological provisions.**

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

A. All disturbances of the site shall immediately cease.

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

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

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

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

#### **17.16.070 Historical site provisions.**

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

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

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

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

b. Whether it has deteriorated or changed so as welfare;

c. Whether historical significance will be substantially affected by the proposed change;

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

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

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

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

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

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

### **Chapter 17.16.080 Natural Hazard Overlay Zone (NH).**

Purpose of Classification. The purpose of the NH overlay zone is to protect people, lands and development in areas that have been identified as being subject to various natural hazards and to

to become hazardous to public health, safety or

apply review standards to all proposed development activity within the areas subject to geologic hazards. For the purposes of these provisions, areas subject to geologic hazards are known as "geologic hazard areas." Geologic hazard areas are shown on the Natural Hazard Inventory maps adopted in the Goal 7 Element of the City of Port Orford Comprehensive Plan, and incorporated in the Curry County Geographic Information System (GIS). The maps include the Oregon Department of Geology and Mining Industries Bulletin 90 Land Use Geology Langlois/Cape Blanco and Port Orford Quadrangle maps, and the DOGAMI maps known variously as the "Provisional Maps of Rapidly Moving Landslides" and the "Further Review Areas" maps. Geologic hazard areas may also be identified by site specific characteristics such as, but not limited to, earth flow and slump topography with moderately sloping terrain and irregularities of slope, drainage or soil distribution; steep slope mass movement areas subject to localized debris slides, debris flows, rock falls or rock slides, and other areas that may be identified by a geologist conducting the technical assessments required by the City of Port Orford Municipal Code.

Geologic Hazard Areas specifically include those areas, which, because of their relation to or location with respect to Geologic Hazard Areas, are in jeopardy of rapidly moving landslides. Areas identified with more than 15% slope shall be subject to the Natural Hazards Overlay requirements.

#### **A. Development in Areas of Geologic Hazards.**

Those areas identified as geologic hazard areas shall be subject to the following requirements at such time as a development activity application is submitted to the City.

1. The applicant shall present a geologic hazard assessment prepared by a geologist at the applicant's expense that identifies site specific geologic hazards, associated levels of risk and the suitability of the site for the development activity in view of such hazards. The geologic hazard assessment shall include an analysis of the risk of geologic hazards on the subject property, on contiguous and adjacent property and on upslope and down slope properties that may be at risk from, or pose a risk to, the development activity. The geologic hazard assessment shall also assess erosion and any increase in storm water runoff and any diversion or alteration of natural storm water runoff patterns resulting from the development activity. The geologic hazard assessment shall include one of the following:

- a. A certification that the development activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property or to adjacent properties resulting from the proposed development activity.
- b. A statement that there is an elevated risk posed to the subject property or to adjacent properties by geologic hazards that requires mitigation measures in order for the development activity to be undertaken safely and within the purposes of Chapter 17.16.080 of the Port Orford Municipal Code.

2. If the assessment provides a certification pursuant to Section (1)(a), the development activity may proceed without further requirements of this Section.

3. If the assessment provides a statement pursuant to Section (1)(b), the applicant must comply with the further requirements of this Section prior to any disturbance of the soils or construction.

4. Applications, subject to Section (3) (above), shall provide the following information prior to

the Planning Director's determination that the application is complete.

a) geologic hazard mitigation report by a geologist prepared at the applicant's expense containing the following information:

i) Drawings at scales that allow for clear depiction of the following:

1. An index map showing the location of the development activity within City of Port Orford;

2.. A topographic site plan that shall include:

a. all adjacent, contiguous and related property identified in the geologic hazard assessment as being at risk from or posing a risk to the development activity;

b. the degree of slope on the subject and adjacent properties;

c. all features on the subject and adjacent properties that may cause or contribute to mass movement. Such features shall specifically include any landslide, bluff failure or shoreline erosion that could migrate upslope into the subject or adjacent properties;

d, the location of all identified geomorphic features and micro-topographic features related to the identified geologic hazards, and

e. all features or conditions, which gave, rise to the statement pursuant to Section 3.252(1)(b) not otherwise required to be included.

1. A map that depicts features and conditions associated with any building site or construction site associated with the development activity.

ii) A technical analysis and narrative describing the following:

1. The geologic features or conditions of the property as well as those features or conditions which gave rise to the statement pursuant to Section (1)(b);

2 All features related to earth movement or geologic instability on, above and below the site;

a. The results of all geologic and/or engineering tests performed on soils, material, and rock type subsurface data from drill holes, or other data obtained from the site investigation with data points clearly identified on a map;

b. Whether the proposed development activity can be safely sited on the subject property or at the site in view of the geological hazards and risks that have been identified in the geologic hazard assessment;

c. All features related to earth movement or geologic instability on, adjacent to, upslope or down slope from the subject property;

d. A clear statement of all requirements or conditions that the geologist has determined are necessary to mitigate the geologic hazards;

e. A qualitative assessment of the likelihood that the proposed development activity will cause damage or contribute to damage to adjacent properties resulting from geologic hazards disclosed in the geologic hazard assessment or during the course of the preparation of the geologic hazard mitigation report.

f. A schedule of inspections to be completed by the engineering geologist to assure compliance with recommendations

b) In the event the geologic hazard mitigation report fails to include the required information, fails to analyze or take into account documented hazards associated with the subject property or the proposed development activity, fails to consider new information made available to the Director or has other identified significant deficiencies, the Director shall deem the application incomplete, and proceed as follows:

i) Notify the applicant in writing to identify the deficiencies. Thereafter the applicant shall:

1. Provide a revised geologic hazard mitigation report or, in the applicant's discretion, request the Director to submit the geologic hazard mitigation report for peer professional review at the applicant's expense.

2. In the event of peer review, the Director shall provide the applicant with a list of three qualified professionals from which the applicant shall choose one to conduct the peer review.

5. When all of the requirements of the geologic hazard mitigation report have been provided, the geologic hazard report shall be deemed complete for purposes of consideration of the application for development activity.

6. If the geologic hazard mitigation report discloses that the entire subject property is subject to geologic hazards that cannot be mitigated or that the subject property does not contain sufficient area that can be mitigated to allow the development activity as proposed, or that the development activity presents a significant risk of damage to or destabilizing adjacent property that cannot be mitigated in the course of the development activity itself, the development activity shall not be allowed, and the application shall be denied.

7. Prior to approval of the development activity, the applicant shall provide a mitigation plan prepared by a geologist specific to the development activity and based on the approved geologic hazard mitigation report.

a. The mitigation plan must adequately address all issues identified in the geologic hazard mitigation report and protect the subject property and surrounding lands.

b. In the event that the development activity is a division of land, the mitigation plan shall specify mitigation measures or improvements that must be implemented on each parcel to assure the protection of the subject property and of other properties from the hazards identified in the geologic hazard mitigation report.

c. The mitigation plan shall specify which if any measures and improvements must be installed or constructed under the direction of a supervising engineer.

d. The applicant shall, prior to the issuance of any development permits, record on the title to the subject property a notification that includes a description of the measures or improvements and that

also specifies the obligation of subsequent land owners to refrain from interfering with such measures or improvements and to maintain them.

e. A schedule of inspections shall be completed by the engineering geologist to assure compliance with recommendations, and reports shall be provided to the City prior to final plat approvals or issuance of permits for other development activity.

8. A Conditional Use Permit shall be required for development activity in all geologic hazard areas except where a certification has been provided under Chapter 17.16.080(A)(1)(a). The Planning Commission shall consider reports submitted by qualified professionals, including the proposed mitigation plan and any response from affected parties in making their decision. The Director or the Planning Commission may request the input of the city engineer to be provided at the applicant's expense.

9. Appeals of a Conditional Use Permit which challenge an assessment, report or plan prepared or approved under Chapter 17.16.080(A)(1), (4), (5) or (7), shall be accompanied by an analysis of the challenged document. Such analysis must identify and analyze the purported deficiencies with sufficient clarity to allow the Director to assess the concerns. In the event that the Director does not have adequate technical ability to make such an assessment, the Director may submit the matter for recommendation by an engineer or geologist in which case the appellant and the applicant shall equally share the cost of such peer review. Peer review shall be based on the entire record of the proposed development activity.

10. If a possible new geological hazard that has not been mapped is brought to the attention of city officials, the City may then require that a geologist be hired by the City to investigate the subject site and report on the nature of the hazard and its possible impact to the proposed use and surrounding properties. The cost of this geological hazard investigation is to be paid by the applicant.

11. The development activity, if approved, must be constructed as approved and must implement the measures and improvements in the approved mitigation plan. The plans submitted for development permits shall bear a statement from the geologist that the mitigation measures contained in the approved mitigation plan have been included in the plans submitted for the permit. If required by the mitigation plan, installation or construction of such measures and improvements shall be undertaken under the supervision of an engineer.

12. In the case of a building permit, upon the completion of construction and prior to issuance of a certificate of occupancy, the supervising geologist or engineer shall certify that the measures and improvements in the approved mitigation plan have been properly installed. In the case of mitigation plans that do not require a supervising geologist or engineer, such certification shall be made in the form of a sworn affidavit by the applicant. No as-built changes to the requirements of a mitigation plan will be accepted in the absence of certification of the changes by the engineer or geologist who prepared the mitigation plan. (Ord. 2009-01 § 080, 2008)