

**CITY OF SOUTH BEND**

**ZONING ORDINANCE**

**AND**

**ASSOCIATED ORDINANCES**

copy May 10, 2004

**CITY OF SOUTH BEND ZONING ORDINANCE  
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AN ORDINANCE establishing Zoning Regulations for the City of South Bend, Washington and providing for the administration, enforcement, and amendment thereof;

WHEREAS, the City Council of South Bend deems it necessary for the purpose of promoting the public health, safety and general welfare of the City; and

WHEREAS, the Planning Commission has established such zones and classifications of districts as will afford broad protective controls as may be deemed appropriate and necessary to serve the public health, safety and general welfare; and

WHEREAS, all requirements of Chapter 35.63 RCW which pertains to the preparation and adoption of official controls are being conformed to;

NOW, THEREFORE, the City Council of the City of South Bend do ordain as follows:

**SECTION 1  
TITLE AND PURPOSE**

- 1.01 **TITLE:** This Ordinance shall be known as the Zoning Ordinance of the City of South Bend, Washington.
- 1.02 **PURPOSE:** The purpose of this Ordinance is to promote the public health, safety and general welfare, and to facilitate the adoption and enforcement of the coordinated plans which are either developed or being designed to encourage the most appropriate use of land throughout the City; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsuitable areas; and to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural environment; and to provide for adequate public services.

## SECTION 2 DEFINITIONS

- 2.01 **GENERAL:** Whenever the following words and phrases appear in this Ordinance, they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular shall include the plural, and plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making decisions.
- 2.02 **ACCESSORY:** A use, a building or structure which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, parcel or tract.
- 2.03 **ALLEY:** A public thoroughfare or way which affords only a secondary means of access to abutting property.
- 2.04 **AMENDMENT:** A change in the wording, context or substance of this Ordinance, adoption of a zoning map hereunder, or a change in the zone boundaries upon zoning maps adopted hereunder.
- 2.05 **APARTMENT:** A room or a suite of two or more rooms which is intended or designed to be occupied as a dwelling unit for one family.
- 2.06 **APARTMENT HOUSE:** A building or portion thereof, designed for occupancy by three or more families living independently of each other.
- 2.07 **BOARD:** Board of Adjustment
- 2.08 **BLOCK:** All property abutting upon one side of a street between intersection and intercepting streets, or between a street and a railroad right-of-way, waterway, or dead-end street or city boundary.
- 2.09 **BUILDING:** Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- 2.10 **BUILDING AREA:** The total allowable ground coverage of a building or structure which provides shelter.
- 2.11 **BUILDING HEIGHT:** The vertical distance from the average ground level of the site to the highest point of the structure.
- 2.12 **BUILDING LINE:** That line beyond which a building shall not exceed into any required yard. (See setback)

- 2.13 **BUILDING SITE:** A parcel of land assigned to a use or to a building including all yard and open spaces required by this Ordinance, whether the area so devoted is comprised of one lot, a combination of lots, or a fraction of lots.
- 2.14 **BUSINESS/BUSINESS USE:** Necessarily implies employment of one or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.
- 2.15 **CAMP-PUBLIC:** Land or premises used or intended to be used, let or rented for camping purposes by two or more camping parties, trailers, tents, or movable or temporary dwellings.
- 2.16 **CLASSIFICATION:** A use category in the broad list of land uses, in which certain uses, either individually or as to type, are identified as possessing similar characteristics or performance standards and are permitted as compatible uses in the same zone or classification. A classification, as the term is employed in this Ordinance, includes provisions, conditions and requirements related to the permissible location of permitted uses.
- 2.17 **COMMISSION:** South Bend Planning Commission
- 2.18 (Reserved)
- 2.19 **CONDOMINIUM:** A form of ownership of real property in which some portions of the real property are owned in common while other portions are privately owned.
- 2.20 **COUNCIL:** City of South Bend Council
- 2.21 **DENSITY:** The intensity of activity occurring per unit of land area, ordinarily expressed as the number of families per acre.
- 2.22 **DISTRICT:** An area accurately defined as to boundaries and location on the Map and within which area only certain types of land use are permitted, and within which other types of land use are prohibited, as set forth in the Ordinance. Such area is subject to all the regulations applicable to the district (and combining district) that are contained in this Ordinance. The word "zone" may also be used in place of district.
- 2.23 **DWELLING:** A building designed exclusively for residential purpose including one-family and multiple family dwellings, but not including hotels, motels, mobile home trailers, and other forms of transient housing.

- 2.24 **DWELLING, TYPE OF:**
- 1) Dwelling, Group - More than two separate buildings each containing one or more dwelling units.
  - 2) Dwelling, One Family - A detached building designed exclusively for occupancy by one family and containing one dwelling unit.
  - 3) Dwelling, Two Family (Duplex) - A building designed exclusively for occupancy by two families living independently of each other and containing two dwelling units.
  - 4) Dwelling, Multiple - A building designed exclusively for occupancy by three or more families, living independently of each other and containing three or more dwelling units.
- 2.25 **DWELLING UNIT:** A building or portion thereof designed exclusively for residential purposes and providing complete housekeeping service for one family.
- 2.26 **FLOOD:** A temporary rise in stream, lake or tidal water level that results in the inundation of areas not ordinarily covered by water.
- 2.27 **FLOODWAY:** The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regulatory flood.
- 2.28 **FLOOD FREQUENCY:** The average frequency statistically determined for which it is expected that a specific flood level or discharge may be equaled or exceeded.
- 2.29 **FLOOD HAZARD AREA:** Those lands inundated by a flood which could be expected to occur on the average of once every 100 years.
- 2.30 **FLOOD PROTECTION ELEVATION:** The elevation to which uses regulated by Section 20 are required to be elevated or flood-proofed. (See provision 20.02.03).
- 2.31 **FLOOR AREA RATIO (F.A.R.):** Area of all floors of a building on a site divided by the area of the site.
- 2.32 **LIVESTOCK:** Horses, bovine animals, goats, swine, donkeys, or sheep.
- 2.33 **LOADING SPACE:** On-site space or berth for the temporary parking of a vehicle while loading or unloading merchandise, materials or passengers.

- 2.34 **LOT:** Land held as a unit regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title.
- 2.35 **LOT LINE, FRONT:** In the case of an interior lot, a line separating the lot from the street; in the case of a corner lot, the lot front line shall be the line separating the narrowest street frontage of the lot from the street. In the case of the corner lots having equal street frontage, the property line the prolongation of which creates the front property line for the greatest number of interior lots in the same block, shall be considered as the lot front line of such corner lot.
- 2.36 **LOT LINE, REAR:** A line which is opposite and most distant from the front lot line and, in the case of an irregular triangular or gore shaped lot, a line within a lot ten feet in length parallel to, and at the maximum distance from the front lot line.
- 2.37 **LOT LINE, SIDE:** Any lot lines other than the front or rear lot lines.
- 2.38 **LOT OF RECORD:** A lot or parcel described by metes and bounds or a lot which is part of a plat or subdivision and recorded as required by Washington State Law.
- 2.39 **LOT TYPES:**
- 1) Corner Lot - A lot situated at the intersection of two or more streets.
  - 2) Interior Lot - A lot other than a corner lot.
  - 3) Through Lot - A lot fronting two streets.
- 2.40 **MANUFACTURE:** Involves transformation – the fashioning of raw materials into a change of form for use.
- 2.40.01 **MANUFACTURED RESIDENTIAL HOUSING:** (Revised Ord. #1245 10/11/99) MANUFACTURED HOME or MOBILE HOME) A structure designed and constructed to be transportable in one or more sections, and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards of 1974 as adopted by Chapter 43.22 RCW if applicable. A structure which met the definition of a “manufactured” home at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.
- 2.41 **MAP:** The District Map(s) endorsed Exhibit A of this Ordinance.

- 2.42 **MOBILE HOME RESIDENCE:** A mobile home which has substantially lost its identity as a vehicle by virtue of being permanently fixed in a location upon land by foundation attached structures, fixed pipe connections with sewer, water or other utilities, and placement on the Pacific County Real Property Tax Rolls.
- 2.43 **MOBILE HOME TRAILER:** A vehicle without motor power designed to be drawn by a motor vehicle and to be used for human habitation, including a trailer coach, camper mobile home or any self-propelled vehicle having a body designed for or converted to the same use as a house trailer.
- 2.44 **NONCONFORMING BUILDING:** A building, or portion thereof, which was lawfully erected or altered and maintained but which, because of the application of this Ordinance to it, no longer conforms to the regulations of the zone in which it is located as defined by this Ordinance.
- 2.45 **NONCONFORMING USE:** A use which was lawfully established and maintained but which because of the application of this Ordinance to it, no longer conforms to the regulations of the zone in which it is located, as defined by the Ordinance.
- 2.46 **OBSTRUCTION:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock gravel, refuse, fill structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
- 2.47 **OPEN SPACE:** Any land area so designated for preservation, according to criteria established by Section 2 of Chapter 87, Washington Laws, 1970 - 2<sup>nd</sup> Ex. Session.
- 2.48 **OWNER:** The party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.
- 2.49 **PRIVATE:** Belonging to or concerning an individual person, company or interest: restricted to the individual person, or arising independently of others.
- 2.50 **PRIVATE BOAT STORAGE BUILDINGS:** Accessory building designed for storage of owner's private or commercial boat(s) including related gear.

- 2.51 **PERSON:** Includes any individual, firm, co-partnership, association, corporation, governmental agency or political subdivision.
- 2.52 **PRINCIPAL USE:** See Use, Principal
- 2.53 **PUBLIC UTILITY:** A private business or organization such as a public service corporation, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation of persons or freight.
- 2.54 **REACH:** A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a man-made or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.
- 2.55 **REGULATORY FLOOD:** A flood which is representative of large floods known to have occurred generally in the flood hazard area and reasonably characteristic of what can be expected to occur on a particular stream or coastal site. The regulatory flood has a frequency of approximately 100 years as is determined by an analysis of floods on a particular stream or coastal site and other streams or coastal sites in the same general region.
- 2.56 **RECLASSIFICATION OF PROPERTY:** A change in zone boundaries upon the zoning maps, which map is part of this Ordinance, when adopted in the manner prescribed by law.
- 2.57 **RECLASSIFICATION OF USE:** The assignment of amendment of this Ordinance, of a particular use to a different use classification than that in which the use was originally permitted.
- 2.58 **SETBACK:** The distance that buildings or uses must be removed from their lot lines, except that eave overhangs and ornamental overhangs may extend into required yard areas up to three (3) feet.
- 2.59 **SITE PLAN:** A plan prepared to scale showing proposed and/or existing buildings, landscaping, open spaces, structures and parking.
- 2.60 **STORE:** A use devoted exclusively to the retail sale of a commodity or commodities.
- 2.61 **STREET:** A public or recorded private thoroughfare which affords primary means of access to abutting property.

- 2.62 **STREET LINE:** The boundary line between a street and the abutting property otherwise referred to as the street right-of-way line.
- 2.63 **STRUCTURE:** Anything constructed, erected, or located on the ground or water, or attached to the ground or to an existing structure, including but not limited to residences, apartments, barns, stores, offices, factories, sheds, cabins, mobile and floating homes, and other buildings.
- 2.64 **TOWNHOUSE:** A one-family dwelling unit which is part of a group of two or more such units separated by a common party wall having no doors, windows, or other provisions for human passage or visibility. Each one-dwelling unit shall be attached by not more than two party walls.
- 2.65 **TOWNHOUSE GROUP:** A cluster or grouping of townhouse units containing not less than two nor more than six individual townhouse dwelling units contiguous to one another.
- 2.66 **TRAILER CAMP:** Any area or tract of land used or designed to accommodate two or more mobile home trailers.
- 2.67 **USE:** The purpose (activity) for which land, its premises or a building thereon is designed, arranged, or intended, occupied maintained, let or leased.
- 2.68 **USE, ACCESSORY:** See Accessory.
- 2.69 **USE, CONDITIONAL:** A use permitted in one or more classifications, as defined by this Ordinance, but which use because of certain characteristics peculiar to it or because of size, technological processes or type of equipment, or because of exact location with reference to surrounding streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone of zones, and to assure that such use shall not be inimical to the public interest.
- 2.70 **USE; CONDITIONAL PERMIT:** The documented evidence of authority granted by the South Bend Planning Commission to locate a conditional use at a particular location.
- 2.71 **USE, PRINCIPAL:** Primary or principal use is the main use, as distinguished from a subordinate or accessory use, or the use for which a structure is specifically designed or actually employed.

- 2.72 **VARIANCE:** A modification of the regulations where, because of the unusual nature, shape, exceptional topographic conditions, or extraordinary situation or conditions connected with a specific piece of property, the literal enforcement of the Ordinance would pose undue hardship unnecessary in carrying out the purpose of the Ordinance.
- 2.73 **YARD:** The required unoccupied space, open to the sky, on the same lot with a building or structure.
- 2.74 **YARD, FRONT:** The total area between the front line of the building and the front property line facing the street side, the depth of which is measured as the least horizontal distance between the street line and the exterior wall of the building.
- 2.75 **YARD, REAR:** A yard extending from one property line to another, except in the case of corner building sites when the rear yard shall extend from the interior side property line to the opposite side yard. Yard is measured as to depth as the least horizontal distance between the rear side line and the exterior wall.
- 2.76 **YARD SIDE:** A yard extending from the front yard to the rear yard, except in the case of corner building sites, where the side yard on the flanking street shall extend to the rear property line.
- 2.77 **ZONE:** See 2.22 DISTRICT.

### SECTION 3

#### CLASSIFICATIONS, MAPS, BOUNDARIES AND CONFORMANCE

- 3.01 CONFORMANCE WITH ORDINANCE PROVISIONS: No person, including a firm or corporation, shall use or erect, move or alter any structure or land unless in conformity with this Ordinance.
- 3.02 DESIGNATION OF DISTRICTS: The City is hereby divided into several districts which the Council deems best suited to carry out the purpose of this Ordinance. These districts, also referred to as zones, are listed as follows: (As amended by Ordinance #1199 12/12/94; Ordinance #1232 9/14/98)

<u>ZONE</u>	<u>SYMBOL</u>
OPEN SPACE DISTRICT	O-S
RESTRICTED RESIDENTIAL	R-1 R-1A
GENERAL RESIDENTIAL	R-2 R-2A
COMMERCIAL USE DISTRICT	C C-A
NEIGHBORHOOD COMMERCIAL DISTRICT	NC
INDUSTRIAL	I-1

The City is also divided into Combining Districts which may be applied to areas that are zoned as the above. Said Combining Districts may impose additional requirements. Combining Districts are listed as follows:

<u>COMBINING DISTRICT</u>	<u>SYMBOL</u>
FLOOD PLAIN COMBINING DISTRICT	FP
SHORELINE ENVIRONMENT	SE
SHORELINE MANAGEMENT	SM

3.03 DISTRICT MAP AS PART OF ORDINANCE: The above named districts and boundaries of said districts are shown upon the Map and amendments thereto adopted by the Council and attached hereto, the same being endorsed "Exhibit A of Ordinance No. 1199 . By reference, said Map and amendments thereto, are made a part of this Ordinance as if the information set forth thereon was fully described herein. The Commission may from time to time republish said Map to incorporate the amendments thereto.

3.04 BOUNDARIES OF DISTRICTS: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Map accompanying and made part of this Ordinance the following rules shall apply:

- 1) The district boundaries are either streets or alleys unless otherwise shown.
- 2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the Map are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such district.
- 3) In un-subdivided property, the district boundary lines on the Map shall be determined by use of the scale contained on such Map.

## **SECTION 6**

### **OPEN SPACE DISTRICT (O-S) (Ordinance #1232)**

6.01 INTENT: The Open Space District is primarily intended for application to all areas that are predominantly agricultural, horticultural, and aquacultural in character. Land uses which are incidental and/or compatible to the principal use shall be permitted outright in the Open Space Use District.

6.02 PERMITTED USES:

- .01) All agricultural and horticultural uses, including the processing of agricultural products.
- .02) All aquacultural uses, including all shellfish farming and harvesting, including the opening, shucking of shells and the bottling and canning of oysters and other shellfish for the fresh market.
- .03) The growing and harvesting of forest products.

- .04) Game management.
- .05) Owner's single family residence.

.05.01) Manufactured Residential Housing.(Ordinance #1199)

- .06) Commercial greenhouses, nurseries.
- .07) Buildings or structures necessary for the operation of public utilities.
- .08) Animal hospitals, kennels, riding stables.
- .09) Golf Courses, cemeteries.
- .10) Open Space.

6.03 ACCESSORY USES:

.01) Housing facilities to accommodate employees employed by the subject owner on the premises, PROVIDED, such facilities are permitted only on holdings containing ten (10) acres or more and provided further that such housing facilities shall be considered accessory to the main dwelling.

.02) Accessory buildings and uses customarily incidental to the permitted uses.

.03) Sale of the products of agriculture, horticulture and aquaculture on the premises upon which such products are cultivated.

.04) Signs, subject to provision 932.25.

6.04 CONDITIONAL USES:

.01) All uses not specifically permitted or prohibited.

.02) Schools, churches, community centers.

.03) Gun clubs, rifle and pistol ranges.

.04) Recreational camp areas for travel trailers.

.05) Auto racing courses, race tracks.

.06) Airports, heliports.

.07) Sanitary landfills, composting sites, transfer sites.

.08) Parks.

6.05 PROHIBITED USES:

- .01) All commercial uses not specified.
- .02) All industrial uses not specified.
- .03) All manufacturing uses not specified.
- .04) Apartment and other similar multiple residential dwellings, mobile home parks.

6.06 LOT AREA:

The minimum required area of a lot in an Open Space Use District, "O-S" , shall be two (2) acres.

6.07 YARD REQUIREMENT:

Placement of buildings and structures on any lot in an "O-S" Zone shall conform to the following:

- 1) Front Yard – Not less than 30 feet.
- 2) Any building or structure shall observe a distance of not less than (10) feet from any side or rear property line. A single family residence and/or other housing facilities may require a greater side and/or rear yard setbacks, as a condition of health, safety and/or nuisance factors, or land contours.

6.08 SEWERAGE AND WATER:

Sewage and waste disposal and provision of water shall meet the requirements established by the Pacific County Health District.

**SECTION 10**

**RESTRICTED RESIDENTIAL USE DISTRICT (R-1)(R-1A)**  
(Ordinance #1199, 12/12/94 & #1228, 2/9/98)

10.01 INTENT: The Restricted Residential Use District (R-1) is intended for application to all areas that are:

- .01) Primarily characterized by single-family dwellings and,

- .02) Further characterized by densities not in excess of five (5) families per gross acre.

10.02 PERMITTED USES: (Revised 12/12/94 #1199)

- .01) Single-family residences.
- .02) Manufactured Residential Housing (see Manufactured Residential Housing Option, Section 24.11).
- .03) Townhouse (Zero Lot Line) development, limited to two-unit clusters or group per 6,000 sq. ft. building site. (Ordinance #1228)

10.03 ACCESSORY USES: (Revised 02/03/86):

- .01) Private garages, private boat storage buildings, storage of mobile home trailers.
- .02) Detached accessory living quarter for the sole use of the family or of persons employed on the premises, or for the temporary use of guests of the occupants of the premises.
- .03) The keeping and raising of livestock and fowl for private use, provided they are fenced and provided further that all sheds and barns shall be located at least fifteen (15) feet from any public right-of-way or property held in different ownership.
- .04) Private greenhouses.
- .05) Private smoke houses.
- .06) Signs, subject to provisions of Section 25.

10.04 CONDITIONAL USES: (Revised 02/03/86):

- .01) Schools, churches, parks, cemeteries.
- .02) Utility substations.
- .03) Boat moorage, hangers.
- .04) Two-family duplex residences.
- .05) Public libraries.

- .06) Commercial greenhouses.
- .07) Home occupations. (See Sections 24.07 & 24.08)

10.05 PROHIBITED USES:

- .01) All commercial uses not specified.
- .02) All industrial and manufacturing uses not specified.
- .03) Multiple unit residential structures.
- .04) Mobile home trailer occupancy.

10.06 LOT AREA: As required in Section 24.02.

10.07 YARD REQUIREMENTS: As required in Section 24.03.

## **SECTION 11**

### **GENERAL RESIDENTIAL USE DISTRICT (R-2)(R-2A) (Ordinance #1199 & #1228)**

11.01 INTENT: The General Residential Use District (R-2) is intended for application to all areas that are:

- .01) Primarily characterized by single-family dwellings, and
- .02) Further characterized by densities in excess of five (5) families per gross acre; and
- .03) Further characterized by the presence of multi-family residences, boarding and rooming houses, public buildings, and planned unit development.

11.02 PERMITTED USES: Uses that are permitted as matter of right:

- .01) Single-family residences.
- .02) Two-family residences (duplex) Multi-family residences, including Townhouse Development (as set forth in Section 23).
- .03) Manufactured Residential Housing (see Manufactured Residential Housing Option, Section 24.11 revised Ordinance #1199).
- .04) Schools, public or private.
- .05) Public libraries, parks, play fields, tot lots, community centers.

11.03 ACCESSORY USES: (Revised 02/03/86):

.01) All uses permitted under Section 10.03

11.04 CONDITIONAL USES: (Revised 02/03/86):

.01) Essential utility substation and facilities.

.02) All public buildings not specified.

.03) Mobile home parks providing the following minimum conditions are conformed to:

a) Mobile home parks shall be connected to public sewer and public water supply facilities.

b) Application for Conditional Land Use Permit shall be submitted with a site plan in conformance with the minimum standards established in Section 24.12 hereof.

.04) Golf course.

.05) Boat moorage, hangers.

.06) Recreational facilities, including Club House facilities.

.07) Mobile home trailer occupancy.

.08) Home occupations (See Sections 24.07 & 24.08).

11.05 PROHIBITED USES:

.01) All commercial uses not specified.

.02) All industrial and manufacturing uses not specified.

.03) All agricultural activities not specified.

11.06 LOT AREA: Lot area requirements for permitted residential use shall be as follows:

Minimum Lot Area \*

.01) **Single-family residential:** As required in Section 24.01.

.02) **Two-family residential:** As required in Section 24.02.

.03) **One, Two or Three Story Multi-family residential:**  
Public sewer and public water shall be required. The maximum floor area ratio shall be 1.0. Floor area ratio is the figure obtained

when the area of all the floors of the buildings on a site is divided by the area of the site. Height shall not exceed three stories. Maximum site coverage shall not exceed 60%.

11.07 YARD REQUIREMENTS:

- .01) Single-family and two family and multi-family buildings shall conform to the yard requirements of Section 24.03.

**\* NOTE: SUBJECT TO LOT SIZE INCREASES ON SLOPES MAY BE REQUIRED UNDER SECTION 24.03.**

**SECTION 14**

**COMMERCIAL USE DISTRICT (C)(C-A)**

14.02 PERMITTED USES: (Revised #1199 12/14/94; #1228 2/9/98)

- .01) Commercial, business land uses. (General merchandising, retail stores, financial, insurance and real estate establishments and general office buildings).
- .02) Personal and professional services.
- .03) Movie houses, theaters.
- .04) Motels, hotels, apartments, multi-family dwelling units including Townhouse Development (as set forth in Section 23).
  - .04.01) Single family residences.
  - .04.02) Manufactured Residential Housing (See Manufactured Residential Housing Option, Section 24.22).
- .05) Eating and drinking places.
- .06) All public buildings and facilities.
- .07) Clubs, lodges and fraternal organizations.
- .08) Boat launching or moorage facility, marine boat charter service.
- .09) Laundromats, car washes.
- .10) Signs, subject to provisions in Section 25.

14.03 CONDITIONAL USES:

- .01) All light industrial and manufacturing activities not specified.
- .02) Bus terminals, automobile service stations.
- .03) Amusement and recreation services.
- .04) Mobile home parks.

14.04 PROHIBITED USES:

- .01) All heavy industrial activities.
- .02) Trucking yards and terminals.
- .03) Petroleum product storage terminals.

14.05 LOT AREA: Lot area requirements for Residential usage shall conform with Section 24.03, hereof.

14.06 YARD REQUIREMENTS: Yard requirements for Residential usage shall conform with Section 24.03, hereof.

14.07 SITE COVERAGE: The maximum coverage shall be 70% of the lot area.

14.08 OFF-STREET PARKING: Off-street parking shall conform to Section 24.09, hereof.

14.09 OFF-STREET LOADING: See Section 24.10 for development standards.

**SECTION 15**

**SECTION I.** A new section, entered into the previously reserved Section 15 of Ordinance #932, entitled 'AN ORDINANCE ESTABLISHING ZONING REGULATIONS...' shall read as follows: (adopted 09/25/89 – Ordinance #1155).

**NEIGHBORHOOD COMMERCIAL DISTRICT (NC)**

(Ordinance #1155; 1989)

15.01 INTENT: The purpose of this classification and its application is to provide for the location of and grouping of uses which are considered compatible uses having common performance standards in that they represent on-premise retail enterprises and involve only incidental and limited fabrication or assembly of commodities, or comprise a type of

enterprise dispensing commodities, or providing professional services, or providing personal services to the individual. These services are intended to provide local facilities to serve the everyday need of the neighborhood area. To meet this need will require that the facilities permitted in this classification shall locate adjacent to residential areas on access streets directly serving such residential areas. By establishing limitations upon building height and floor space as set forth in this classification, it is the further objective to maintain a limited intensity of land-use compatible with serving the neighborhood residential area, rather than on a community-wide basis. A further purpose of this classification and its application is to permit the more efficient and economical design and installation of all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting from a defined intensity of land-use. Public utility installations, being governed by circumstances related to geographical area to be served, are also permitted in this classification.

15.02 PERMITTED USES: Any of the following types of uses which can meet the following standards are permitted and allowed by this classification, subject to the limitations set forth in this Chapter:

- .01) Business offices and any type of use rendering professional services or personal services to the individual, provided:
  - a) The service does not involve keeping the person receiving the service overnight on the premises.
  - b) The service does not include selling alcoholic beverages for on-premise consumption.
  - c) The professional service does not include kennels or small animal hospitals or clinics.
- .02) Any public utility installation relating directly to local distribution of services including switching and transmission stations but not including warehouses, service yards or the like unless otherwise permitted by this title.
- .03) Public off-street parking facilities, whether publicly or privately owned and operated, provided any area so used shall not be used for a vehicle, trailer or boat sales area or for the accessory storage of such vehicles.
- .04) Churches.
- .05) Public office buildings, art galleries, museums, libraries, police and fire stations.

- .06) Residential and multiple housing uses permitted in Restricted Residential (R-1) and General Residential (R-2) Zones.

15.03 CONDITIONAL USES: Any of the following types of uses may be permitted upon securing a conditional use permit pursuant to the provisions of Section 28 and subject to the conditions set forth in this Chapter.

- .01) Any on-premise retail enterprise dispensing commodities (but not including automobile, boats, trailers and heavy-duty equipment) and which may involve only incidental and limited fabrication or assembly of commodities.
- .02) Storage facilities providing individual "cells" for storage of personal goods and which do not provide commercial warehousing.

15.04 LIMITATION ON USES: Every use locating in an N-C Zone shall be subject to the following further conditions and limitations:

- .01) All uses shall conform to the general provisions and exceptions, off-street parking requirements and loading area requirements set forth in 24.09(3) and 24.10 respectively and all parking lots, parking areas and loading areas shall be surfaced, screened, developed and maintained.
- .02) All uses shall be conducted wholly within an entirely enclosed building except:
  - a) Public utility installations,
  - b) Growing stock in connection with horticulture nurseries, whether the stock is in open ground, pots or container,
  - c) Parking and loading areas,
  - d) Public off-street parking lots.
- .03) Any areas used as set forth in paragraph (2) of this action, except horticultural nurseries and public utility installations, shall be improved and maintained as required for off-street parking areas.
- .04) No automobile service or repair stations or facilities are permitted in the N-C Zone.
- .05) All products made incident to a permitted use which are manufactured, processed or treated on the premises shall be sold on the premises only and at retail only, and not more

than three persons may be employed in the manufacturing, processing or treatment of products.

- .06) Any repairing done on the premises shall be incidental only and limited to custom repairing of the types of merchandise sold on the premises at retail; the floor area devoted to such repairing shall not exceed twenty percent (20%) of the total floor area occupied by the particular enterprise of which it is a part, except that the limitations of this paragraph shall not apply to shoe, radio, television or other small household appliance repair service.
- .07) No used or second-hand articles, materials or equipment unless accessory to the primary activity may be sold or offered for sale on the premises.
- .08) All operations conducted on the premises shall not be objectionable beyond the property boundary lines by reason of noise, steam, odor, fumes, gases, smoke, vibration, hazard or other causes, and any use which produces odor, fumes (toxic or non-toxic), gases, airborne solids or other atmospheric contaminants.
- .09) If a building site has a boundary line which is a common line with "R" classified property, a wall or view-obscuring fence or hedge not less than five feet (5') nor more than six feet (6') in height shall be installed and maintained for screening purposes and controlling access. Where the wall of a building is on such common property line, no separate wall or fence need be installed along that portion of the common property line occupied by the wall of the building.

**15.05 PERMITTED HEIGHT:**

In an N-C Zone, no building or structure shall exceed a height of twenty-five feet (25') above average lot grade.

**15.06 REQUIRED OPEN SPACES:**

Building line setbacks shall conform to the provisions set forth in Section 24.03(01), 24.03(02) and 24.03(3).

**SECTION II. ZONING MAP AMENDMENT:** Block 16, Corrected Plat of South Bend, bounded by Pacific and Central Avenues and First and Second Streets shall be re-zoned to NEIGHBORHOOD COMMERCIAL (N-C) from "RESTRICTED RESIDENTIAL" and the South Bend Zoning Map shall be corrected to reflect this zoning designation. (Revised Ordinance #1155 9/25/89)

**SECTION III. CONSTITUTIONALITY OR INVALIDITY:** If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

## **SECTION 16**

### **INDUSTRIAL USE DISTRICT (I-1)**

16.01 INTENT: The purpose of this classification is to provide for the location and grouping of industrial uses and activities which involve manufacturing, assembling, fabrication and processing, bulk handling, storage and warehousing and heavy trucking. The grouping of the above uses and activities permits a pattern of land use, thoroughfares, public facilities and utilities, so designed as to support its specialized needs.

16.02 PERMITTED USES:

- .01) Manufacturing Industries – e.g., ceramic products; assembly of appliances such as electronic instruments; dairy products; food products including storage and packaging; prefabricated building components; textile manufacture; cabinet and carpentry shops; machine shops; concrete products manufacture and sales.
- .02) Building materials store and yard.
- .03) Boat building sales and repair.
- .04) Contract construction service shops and storage yards – e.g., paint shop, plumbing shops.
- .05) Laboratories.
- .06) Wholesale business and storage.
- .07) Automobile and truck service and repair.
- .08) Feed and Fuel yards.
- .09) Freight terminals including parcel service delivery.

- .10) Warehouses.
- .11) Any utility installation relating directly to local distribution of services including switching and transmission stations – including gas works; power, light or steam plants; water works, sewage works.
- .12) Log storage.
- .13) Rock crusher.
- .14) Saw mills, shingle mills, lumber mills.
- .15) Welding and sheet metal shops.
- .16) Parking lots.
- .17) Laundries.
- .18) Machinery and transportation sales, service and repair.
- .19) Saw and filing shops.
- .20) Accessory uses.
- .21) Emergency fire and police facilities.

#### 16.03 CONDITIONAL USES:

- .01) Explosives manufacture and storage. (IBC -Table 415.3.1)
- .02) Pulp manufacture.
- .03) Poultry and livestock slaughter houses.
- .04) Wrecking yards and storage of wrecked automobiles.
- .05) Petroleum products processing and refining.

#### 16.04 PROHIBITED USES:

- .01) All residential uses except those that are accessory to the principal use.
- .02) Hotels, motels.

- .03) Schools, except those that are accessory to the principal use.
- .04) Business and commercial uses except those that are accessory to the principal use and those that are otherwise specifically permitted.

16.05 LIMITATION ON PERMITTED USES: Every use permitted shall conform to the following:

- .01) All uses shall conform to off-street parking and loading requirements contained in Section 24.09 and 24.10 of the Ordinance.
- .02) Any use permitted in this classification that is adjacent to any residential and/or commercial use district shall be screened by evergreen trees in landscaping, accessory office buildings, or solid eight foot (8') fence of wood or other appropriate material, or combinations thereof.

16.06 SUPPLEMENTARY REGULATIONS:

- .01) Lot Area Minimum - 20,000 square feet
- .02) Minimum Lot Width - 100 feet
- .03) Building Setback Line:
  - a) **Front Yard** – The minimum front yard from the main wall of the building to the centerline of road shall not be less than:  
  
Sixty-five (65') feet on arterial streets and roads; Fifty-five (55') feet on local access streets and roads, if yard is not used for off-street parking. If yard is used for off-street parking, the setback from the centerline of the road shall be not less than Eighty-five (85') feet on arterial streets and roads; Seventy-five (75') feet on local access streets and roads.
  - b) **Side Yard** – Twenty-five (25') feet.
  - c) **Rear Yard** – Twenty-five (25') feet.

**SECTION 20  
(DELETED 9/24/79 Ordinance #1007)**

## SECTION 22

### SHORELINE MANAGEMENT COMBINING DISTRICT (SM)

- 22.01 INTENT: The purpose of this district is to manage and protect the shorelines of the State in a manner which promotes the welfare of the people of South Bend and of the State generally and which also carries out the intent, policy and specific sections of the Shoreline Management Act of 1971 (RCW 90.58), including updates and revisions as written or hereinafter amended, and of the State regulations promulgated under said Act and, after adoption, of the South Bend Master Program for the management and protection of the shorelines.
- 22.02 GENERAL PROVISIONS: The following provisions apply to all permitted uses, construction and other forms of development, in the SM District:
- .01) The boundaries of the SM District shall be the boundaries of the jurisdiction of the Shorelines Management Act of 1971 (RCW 90.58).
  - .02) The provisions of the Shorelines Management Act of 1971 (RCW 90.58), of the State regulations promulgated under said Act and, after adoption, of the South Bend Master Program for the management and protection of the shorelines shall apply in addition to all other sections of this Ordinance.

## SECTION 23

### TOWNHOUSE (ZERO LOT LINE) DEVELOPMENT (NEW SECTION)

(Ordinance #1228, 02/09/1998)

**SECTION 1:** A new section, entered into the previously reserved Section 23 of Ordinance #932, entitled "AN ORDINANCE ESTABLISHING ZONING REGULATIONS..."

- 23.01 INTENT: It is the intent of this Chapter to:
- A) Encourage in-filling of skipped-over parcels in developed areas of the City;
  - B) Provide for the development of townhouses within residential and commercial zones which may be conveyed as individually owned, separately platted lots;

- C) Encourage within low and high density residential zones the development of townhouse structures built to standards designed to include amenities usually associated with conventional single-family detached housing, and to ensure their compatibility with the surrounding neighborhood;
- D) Provide for favorable housing, efficient use of land and energy, and the availability of a variety of housing types in a variety of locations to serve a wide range of individual homeowner requirements;
- E) Provide a guide for developers and city officials in meeting the purpose and provisions of this Chapter.

23.02 DEFINITIONS: These definitions shall be in addition to the definitions set forth in Section 2. Definitions of South Bend Zoning Ordinance #932 and shall apply solely to townhouse developments.

- A. "Townhouse" means a one-family dwelling unit which is part of a group of two or more such units separated by a common party wall having no doors, windows or other provisions for human passage or visibility. Each one-dwelling unit shall be attached by not more than two party walls.
- B. "Townhouse Group" means a cluster of grouping of townhouse units containing not less than two nor more than six individual townhouse dwelling units contiguous to one another.

23.03 WHERE PERMITTED: Townhouse developments may be permitted in the following use zones, consistent with the development standards in this Chapter.

- A. R-1 & R-1A – Limited to two-party structures.
- B. R-2 & R-2A
- C. C, CA & NC

23.04 DEVELOPMENT STANDARDS:

- A. Density. The density of the underlying zone governs unless a density increase is granted as provided in this Chapter.
- B. Density Increase. The City may approve and increase in the dwelling unit density of up to:
  - 1) Twenty percent in the R-1/R-1A zones;
  - 2) Twenty-five percent in the R-2/R-2A zones;

3) Twenty-five percent in the C/CA/NC zones; rounded to the nearest whole number, provided that three of the five following environmental and recreational amenities are met:

- a) Develop and equip significant recreational areas within the common open space with such features as, but not limited to, swimming pools, tennis courts, bike or pedestrian path systems, children's play areas;
- b) Substantial retention of natural ground cover, bushes and trees;
- c) Landscape the on-site drainage retention facility;
- d) Provide significant access to a lake, river, stream or other natural water body;
- e) Provide substantial and exceptional landscaping treatment either, as an adjunct to or in natural landscaping beyond the minimum required.

C. Lot Area and Lot Width of Each Townhouse Unit.

1. R-1/R-1A Zones

A Townhouse lot shall contain a minimum area of twenty-five hundred (2,500) square feet and a minimum lot width of twenty-five (25') feet.

2. R-2/R-2A/C/CA/NC Zones

A Townhouse lot shall contain a minimum area of one thousand six hundred (1,600) square feet and a minimum lot width of twenty (20') feet.

D. Height. The maximum height of any townhouse shall not exceed that allowed in the zone in which the development is located.

E. Setback Variation. No more than two abutting townhouses or townhouse clusters within the townhouse project site shall have a common front building setback. Variations in the setback of front building faces shall be at least four feet (4').

F. Front Yard Right-Of-Way Setback. No townhouse dwelling unit shall be located closer than twenty feet (20') to any public right-of-way nor within fifteen feet (15') of a private drive, access road or common open parking area to the front of such a dwelling unit.

G. Rear Yard Requirements. The minimum rear yard requirement shall be ten (10') feet to the rear property line.

- H. Private Yard Area. Every lot containing a townhouse must provide a private yard of at least three hundred (300) square feet, oriented to either the building front, rear or side, enclosed visually by fences, walls or plantings at least five feet (5') in height to screen first level views from adjacent units. This fence, wall or planting requirement may be waived if either of the following conditions is met:
1. 50-foot lot width minimum per individual townhouse unit;
  2. compliance with any two items listed in 23.04-B.3 (a through e).
- I. Side Yard Requirements. The minimum side yard requirements for exterior side-walls shall comply with the underlying zone.
- J. Minimum Distances Between Townhouse Groups. No portion of a townhouse, accessory structure or other building type in or related to one group or cluster of contiguous townhouses shall be nearer than ten feet (10') to any portion of a townhouse or accessory structure of another townhouse building or cluster.
- K. Access. When the only available driveway access is from a public street, each pair of units must share a common curb cut.
- L. Conversion. Conversion of existing structures to a townhouse project will be permitted provided all townhouse development standards outlined in this section are satisfied.
- M. Parking. Two off-street parking spaces per townhouse dwelling unit shall be developed.

#### 23.05 REVIEW AND APPROVAL PROCEDURE:

Townhouse developments shall be approved pursuant to the regulations and procedures established in the platting and subdivision ordinance, as modified below, and the standards of this Chapter.

- A. Review. The City Supervisor shall review and approve the creation of four or fewer townhouse lots. The approval does not involve a public hearing, but will be subject to notification to adjacent property owners. The decision of the City Supervisor is subject to appeal to the South Bend Planning Commission provided that notice of intent to appeal is filed with the South Bend Planning Commission within 24 calendar days of the administrative decision. The Planning Commission will review the creation of five or more lots as provided for through the subdivision process.

- B. Platting. A subdivision plat or short plat shall be required for all townhouse developments so that individual dwelling units are divided into lots with common walls located on lot lines.

When a townhouse development is platted, construction of townhouse dwellings may commence prior to final plat or final short subdivision approval provided:

- 1) The proposed subdivision has received preliminary approval or the short subdivision has received conditional approval, and the necessary legal instruments have been filed to assure construction of required public improvements;
- 2) Partial or complete construction of structures shall not relieve the sub-divider from, nor impair city enforcement of, conditions of subdivision approval;
- 3) Units may not be rented or sold, nor occupancy permits issued until final plat or final short plat approval.

- C. Site Plans. An application for a townhouse development include the following:

A site plan drawing or drawings at a scale not smaller than ten feet (10') to the inch, showing all the information required for a preliminary plat plus the following:

- 1) Site boundaries;
- 2) Street bounding or abutting the site;
- 3) Proposed buildings including dimensions, setbacks, identification of types and the number of dwelling units in each cluster;
- 4) Location and dimensions of open spaces;
- 5) Location and dimensions of garbage disposal areas;
- 6) The location and design of off-street parking facilities, showing their size;
- 7) Circulation plan, vehicular and pedestrian, and points of ingress/egress from the site, and their relationship to ingress/egress of neighboring properties;
- 8) Existing building and indication of future use or disposition of same;

- 9) Landscaping plan;
- 10) Typical front and side elevations and exterior architectural treatment of the proposed units;
- 11) The existing and proposed contours at two foot (2') intervals which locates existing streams, lakes, marshes and other natural features.

## SECTION 24

### GENERAL PROVISIONS AND SPECIAL EXCEPTIONS

24.01 REGULATIONS SUBJECT TO CHAPTER: The foregoing regulations of this Ordinance pertaining to the several classifications shall be subject to the general provisions, conditions and exceptions contained in Section 24.

24.02 LOT AREA: Unless otherwise specified, lot area requirements for residential land usage shall be as follows (Ordinance #1031, amending Ordinance #932, Section 24.02.01; passed 08/11/80; Ordinance #1228, amending Ordinance #932, Section 24.02.01; passed 02/09/98):

(.01) Single-family:

	<u>* Minimum Lot Area</u>	<u>Minimum Lot Width at Building Line</u>
Public Sewer and Public Water (or Public Sewer and Individual water)	5,000 sq. ft.	50 ft.

Except that existing Individual Lots as of June 1, 1980, may be Built upon as follows:

	4,800 sq. ft.	40 ft.
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(.02) Two-family (Duplex)

Public Sewer and Public Water	7,500 sq. ft.	60 ft.
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(.03) Townhouse

R-1 & R-1A Zones	2,500 sq. ft.	25 ft.
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(.04) Townhouse

R-2, R-2A, C, CA & NA Zones	1,600 sq. ft.	20 ft.
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**\* NOTE: Subject to lot size increases on slopes as given below:**

Minimum Lot Size Increases on Slopes

<u>Average Lot Slope</u>	<u>Percentage Increase Minimum Lot Size</u>
0 - 5%	0%
6 - 10%	25%
11 - 20%	50%
21 + %	100%

24.03 **YARD REQUIREMENT:** Unless otherwise specified, yard requirements shall conform as follows (as amended by Ordinance #1146 on 09/26/88):

.01) **FRONT YARD –**

- a) A building setback of twenty (20') feet from the front property line (or street or road right-of-way line) shall be maintained on streets or roads having a sixty (60') foot or lesser width.
- b) A building setback of ten (10') feet from the front property line (or street or road right-of-way line) shall be maintained on streets or roads having an eighty (80') foot or greater width.
- c) The Building Inspector may allow a front yard variance for new structures located in an area where existing construction exhibits non-conforming yard standards.

The Building Inspector shall calculate the front yard variance as the average setback exhibited by the existing construction, provided that in no case shall the new construction be placed closer than ten (10') feet from the street or road right-of-way line.

.02) **SIDE YARD –**

- a) A building setback of five (5') feet from the side property line, if located on an interior lot.

- b) A building setback of ten (10') feet from the side property line (or street or road right-of-way line) shall be maintained on streets or roads having a sixty (60') foot or lesser width on a corner lot. The side yard on a corner lot shall be determined as the yard adjacent to the street or road that does not provide prime access to the lot nor bears the address of the property.
- c) A building setback of five (5') feet from the side property line (or street or road right-of-way line) shall be maintained on streets or roads having an eighty (80') foot or greater width.

**.03) REAR YARD –**

Ten (10') feet from the rear property line.

**24.06 PERMITTED INTRUSIONS INTO REQUIRED YARDS:**

The following may project into required yards:

- .01) Fireplace structures not wider than eight (8') feet measured in the general direction of the wall of which it is a part and projecting not more than two (2') feet into any yard.
- .02) Cornices, canopies, eaves, or similar architectural features may project into any existing yard a maximum distance of three (3) feet.

**24.07 HOME OCCUPATIONS: (Revised 03/03/86)** The following home occupations and other operations similar in nature may be operated as a secondary use in any single-family dwelling:

- .01) Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and home furnishings.
- .02) Teaching of piano, voice and dancing.
- .03) Art studios, photographic studios, etc., in which are created only individual works of art.
- .04) Rooming, boarding and "Bed and Breakfast" accommodations.
- .05) Cabinet making, custom woodworking and other hand skills.
- .06) Office Practices such as real estate sales, insurance transportation, attorneys' practices, etc.

24.08 HOME OCCUPATION RESTRICTIONS: Home occupations shall be allowed under Section 24.07 subject to the following conditions:

- .01) The operation is entirely within the confines of the main building and/or accessory buildings and does not employ individuals other than those of the immediate family, except that there are no restrictions on the number of persons employed when the primary location for work is located outside a residential zone.
- .02) The hours of operation are not restricted provided that machinery is not operated beyond the hour of 11:00 PM when such machinery is audible beyond the property line.
- .03) There is no external or internal alteration affecting the character of the buildings as a dwelling.
- .04) Advertising signs or identification signs shall conform to Section 25 hereof.

24.09 OFF-STREET PARKING RESTRICTIONS:

.01) **MULTI-FAMILY:** Two (2) off-street parking spaces shall be provided for each living unit.

.02) **INDUSTRIAL:** One (1) space shall be provided for every three employees computed on the basis of the greatest number of employees on a single shift, plus one (1) square foot of parking area for each one (1) square foot of display and retail sales area.

- .03) **COMMERCIAL:** The following standards shall apply:
- a) Business and professional offices with on-site customer service – one (1) space for each four hundred (400) square feet of floor area shall be provided, unless adequate street parking is judged by the Commission to be available.
  - b) Gasoline Service Stations – one (1) parking space shall be provided for each two (2) employees, plus one (1) space for each service bay.

24.10 OFF-STREET LOADING: On every lot in the “commercial” or “industrial” district and on every lot in any district on which is conducted any hotel, public use, there shall be provided space, either inside or outside a building, for the loading and unloading of goods and materials. Such space shall not be less than fourteen (14’) feet in width, twenty-five (25’) feet in length nor less than fifteen (15’) in height when covered. Such space shall be provided with access to an alley or a street.

**24.11 MANUFACTURED RESIDENTIAL HOUSING: (Revised Ordinance #1199 12/12/94)**

.01) **RESIDENCE** – A manufactured residential unit shall have the status of any single family residence within any zone permitting single-family residences subject to the provisions set forth in this Section, i.e. (24.11).

- a) The land on which the manufactured housing unit is placed must be owned by the owner of the manufactured housing unit. The lot size for a manufactured residential housing unit shall conform to the lot size requirements established for residential units within the zone.
- b) The minimum width to length ratio for all single-family residences, including all types of manufactured residential housing, shall be 35% (i.e. the width of said single-family residence shall be a minimum of 35% of the length of said residence) and shall be a minimum of 864 square feet in the basic structure, less any additions. The minimum width for a single-family residence shall be 24 feet x 36 feet = 864 square feet. The only exception to this rule shall be for single-wide manufactured housing in designated mobile home parks, which shall have a minimum of 480 square feet in the basic structure less any additions, and for zoning map sections R-1A, R-2A, C-A, and N-C as described above.
- c) The minimum roof pitch for manufactured residential housing shall be 3/12 (3" rise for 12" run).
- d) All manufactured residential housing shall have concrete, mortared concrete blocks or other IBC approved foundation material shall be installed as permanent skirting on all manufactured residential housing.
- e) The following additional requirements shall apply to all types of manufactured residential housing:
  - 1) Bears or has been issued the certificate or seal of approval by the State Department of Labor & Industries or its successor;
  - 2) Has had all wheels, tongues, and under-carriage removed;
  - 3) Is affixed to its foundation to current manufacturer's guidelines;
  - 4) Is connected to all utilities in the manner required of single-family dwelling units of traditional construction;

- 5) Any accessory or incidental use to manufactured residential housing other than as a single-family residence must have prior written approval from the City Building Inspector.
- f) Constructing a new roof over the existing roof of any manufactured residential housing unit of any type or size is prohibited. This shall not refer to new layers of roofing material placed over old roofing material, but rather the construction of an entirely separate roof structure with an air space between the original roof and said new roof. This shall apply to all traditional stick-built residential construction as well.
- g) All manufactured residential housing must be new and previously unoccupied to qualify for issuance of a building permit. Used manufactured residential housing units of any type shall not be acceptable for site installation nor shall they qualify for a building permit except within a mobile home park, or upon issuance of a Conditional Use Permit for placing a manufactured residential unit upon a residential lot meeting, but not limited to, the following provisions:
  - 1) The unit must have been constructed after January 1, 1975.
  - 2) Exterior walls shall be of 2" x 6" studs;
  - 3) Improvement to be placed upon the subject property shall be equal to, or of greater value than, the average value of improvements within a four home radius of the subject property;
  - 4) Unit shall have eaves on all sides of not less than 12";
  - 5) Exterior siding shall be of wood products as permitted in standard site built homes or of metal or vinyl lap design;
  - 6) No exterior damage visible to open inspection shall exist;
  - 7) Interior remodeling or repair necessary to meet occupancy requirements shall be completed pursuant to the Washington Department of Labor and Industries' requirements and inspections;
  - 8) Clear current pictures of all exterior portions of the unit shall be provided upon submittal of an Application of Condition Use Permit;
  - 9) Physical inspections of the unit shall be made by the Planning Commission or its designee at the sole expense of the applicant;
  - 10) All conditions shall be met prior to occupancy and/or a performance bond determined to be adequate to complete the conditions of the permit. As a collateral form of surety, water service shall not be commenced until all conditions are

met. The South Bend Planning Commission shall be the first adjudicator of compliance.

- 11) All other provisions of South Bend Zoning Ordinance #932, as amended, shall apply.

Further, a manufactured residential housing unit sited within the City of South Bend may not be moved from one site to another within the city without first obtaining a Conditional Use Permit pursuant to this Ordinance. The only exception to this shall be a manufactured residential housing unit moved between existing designated mobile home parks within the city. (Repealed Ordinance #1231 in its entirety; Revised Ordinance #1245 10/11/99 24.11.g)

**24.12 MOBILE HOME TRAILER PARKS:** The following regulations shall apply to all mobile home parks proposed after the effective date of this Ordinance:

- .01) Every mobile home trailer park shall contain at least two (2) acres of land.
- .02) The density of the mobile home park shall be limited to fourteen (14) mobile homes per acre with the minimum mobile home site to be not less than 2,400 square feet.
- .03) Ten percent (10%) of the total area of a mobile home trailer park up to ten (10) acres shall be developed for recreation or open space purpose. Mobile home trailer parks greater than ten (10) acres may be required to develop a twenty percent (20%) of the total for recreation or open space purposes.
- .04) Two parking spaces shall be provided for each mobile home site and they shall not be a part of the minimum street width for internal circulation.
- .05) Streets shall have a surfaced width of not less than sixteen (16') feet. The internal circulation shall be approved by the Commission.
- .06) Landscaping and fences shall be provided and they shall be designed to screen the mobile home park from the street and adjoining properties. Landscaping and fencing plans shall be approved by the Planning Commission.
- .07) All the provisions of Ordinance No. 877 shall continue in force, except those provisions II.A.1, II.A.2, II.A.3, II.A.4 and II.C.2, of said ordinance are hereby repealed.

## SECTION 25

### SIGN REGULATIONS (Amended Ordinance #932; 05/22/89)

#### SECTION 1.

Subsections 24.13, 24.14, 24.15, 24.16, 24.17 and 24.18 of Section 24 "General Provisions and Special Exceptions" of Ordinance #932 are repealed in their entirety and a new Section #25 Signing and Sign Control is created.

#### SECTION 2.

Ordinance #1035 and all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

#### SECTION 3. Purpose.

The purpose of this Ordinance is to enhance the City and to protect the general health, safety and welfare of the citizens of the City by establishing standards and regulations for the placement, size and maintenance of exterior signs and sign structures.

#### SECTION 4. (932.25.1) Definitions.

- A. Generally. Except where specifically defined in this section, all words used in this section shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is mandatory; the word "any" denotes a use of discretion in making a decision. The words "used" or "occupied" shall be considered as though followed by the words "or intended, maintained, arranged or designated to be used or occupied."
- B. "Banner" means a piece of man-made or natural cloth, plastic or similar sheeting displaying a distinctive non-commercial design, attached by one or more edges to a pole or staff or other device intended for such display.
- C. "Billboards" means outdoor advertising signs containing a message, commercial or otherwise, unrelated to any use or activity of the property on which the sign is located.

- D. "Display Surface" means that part of the sign structure used to display an integrated advertising message.
- E. "Marquee" or "Canopy" means a permanent covering structure projecting from and attached to a building, affording protection from the elements; including but not limited to cloth awnings and mansard roofs.
- F. "Person" means any individual, corporation, association, firm, partnership and the like, singular or plural.
- G. "Sign" means any letters, figures, design, symbol, trademark or device intended to attract attention to any activity, service, place, subject, person, firm, corporation, public performance, article, machine or merchandise, and including display surfaces and supporting structures, thereof.
- H. "Sign Area" means the area of the sign shall be the display surface, including one side only of a double-faced sign, so determined by circumscribing the exterior limits on the mass of one display erected on one sign structure with a circle, triangle or quadrangle connecting all extreme points. Where a sign is composed of two or more individual letters mounted directly on a wall, the total display surface, including its background, shall be considered one sign for purposes of calculating sign area. The structure supporting a sign is not included in determining the area of the sign unless the structure is designed in a way to form an integral part of the display.
- I. "Freestanding Sign" means a single or multiple faced sign, supported from the ground by one or more columns, uprights or braces.
- J. "Pedestrian Sign" means a small sign designated to identify a business to a pedestrian and indicate the location of the entrance.
- K. "Projecting sign" means any sign other than a wall sign which extends more than twelve (12") inches from the façade of the building to which it is attached.
- L. "Roof Sign" means any sign erected on top of or above the parapet of a building.
- M. "Rotating Sign" means any sign which rotates on a fixed axis.
- N. "Temporary Sign" means a sign constructed of cloth, canvas, cardboard, wallboard or other light material, intended to be displayed for a limited period of time, not to exceed ninety (90) days within a single calendar year, unless otherwise specified in this section.

- O. "Wall Sign" means any sign attached to and supported by the wall of a building or the wall of a structure, with the exposed face of the sign in a plane parallel to the plane of said wall and not exceeding twelve (12") inches from the face of the building.
- P. "Window Sign" means any sign located inside and affixed to or within three (3') feet of the window panes of a building, whether temporary or permanent.
- Q. "Street" means a public right-of-way which affords a primary means of access to abutting property.
- R. "Street Frontage" means the side of a building facing the street.
- S. "Surface Area of Façade" means the area of that continuous exterior front, side or back surface of a building, including doors and windows, but excluding any roof area.

SECTION 5 (932.25.2) Applicability:

This section shall regulate signs within the city limits of South Bend, Washington.

SECTION 6 (932.25.3) Permit—Required:

No person shall erect, relocate or otherwise construct or alter any sign in the corporate limits of the city without complying with this section and, when required, obtaining a sign application from the Zoning Administrator of the City. A separate permit shall be required for each sign for which a permit is required.

SECTION 7 (932.25.4) Permit—Application:

Each permit application shall be filed with the Zoning Administrator by the property owner, lessee, contract purchaser or other person entitled to possession of the property, or by an authorized agent, on a form provided by the city, and shall contain and include the following:

- A. Building name and location;
- B. Building owner and lessee; sign owner and sign lessee; name of business; primary product and/or service;

- C. Location of existing and proposed signs;
- D. Descriptions of signs, including dimensions, materials and copy material;
- E. Required Fee;
- F. Name, address and telephone number of the sign installer.

SECTION 8 (932.25.6) Permit—Fee Schedule:

A permit fee, in an amount as shall from time to time be set by the City Council by resolution, shall be paid to the City.

SECTION 9 (932.25.6) Activities Exempt From the Permit Requirements:

The following activities shall not require a permit:

- A. The changing of advertising copy or message on a lawfully erected painted or printed sign, theatre marquee or similar signs specifically designed for the use of changeable copy.
- B. Maintenance or cleaning of a sign, and repainting existing copy of a permitted sign or legal nonconformance sign; provided the repainting of a legal nonconforming sign does not occur after the amortization period.

SECTION 10 (932.25.7) Exempt Signs:

- A. The following signs are exempt from the permit requirements of this section:
- B. Official traffic signs, directional signs, banners, signals, business directory maps, kiosks, and public notices erected by public authorities;
- C. Informational service signs, such as "Customer Parking", "Driveway Entrance" and "Exit", not to exceed (3) square feet. Horizontal directional signs on the flush with paved areas are exempt from these standards;
- D. Signs identifying public conveniences, such as restrooms, telephones, bus stops and taxicab stands, not to exceed (3) square feet;

- E. Informational warning signs, such as "No Trespassing", "No Dumping", "No Parking", not to exceed (6) square feet;
- F. Building address identification number limited to twelve (12") inches in height;
- G. A permanent building identification, including building plaques, cornerstones, name plates and similar devices when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent construction;
- H. Temporary political signs and signs displayed in windows of party political headquarters, provided they are removed within fourteen (14) days after election. No temporary political signs may fall into any other prohibited categories of this Ordinance. Signs not removed within (30) days following the date of the election for which signs are intended shall be removed by the City Supervisor, with the candidate charged for the cost of the removal;
- I. Temporary decorations customarily displayed at special holidays, such as Christmas and Independence Day, provided they are removed within fourteen (14) days after the holiday;
- J. One temporary real estate sign per listing agency (for each street frontage) located on the premises for sale, lease or rent, not exceeding an area of (12) square feet; provided, that it is removed fourteen (14) days after the sale, lease or rent of the premises;
- K. One temporary sign for each street frontage denoting the architect, engineer or contractor, but not including any advertisement of any product, placed upon work under construction, not to exceed (10) square feet from each firm and removed within (30) days of project completion;
- L. Any sign located within a building;
- M. Flags of government and commercial institutions;
- N. Sculptures, fountains, mosaics, not incorporating advertising or identification of a business;
- O. Signs painted directly in windows, and window signs, except as the type of sign may be specifically prohibited elsewhere in this Ordinance.
- P. Traditional theatre marquees, not exceeding (260) square feet;

- Q. Barber Poles;
- R. Any sign required to be displayed by the owner of a franchise;
- S. Any existing sign having properly issued variance or permit for its installation;
- T. Any sign in existence at time of implementation of this Ordinance. Such a sign, whether conforming or non-conforming, shall be allowed in its present condition in the event that bringing it into conformity with the current ordinance shall exceed the sum of \$200.00. However, in the event that said sign shall be deemed to present a public safety hazard by the City Supervisor, the City Supervisor may elect to have said sign brought into conformity within (90) days of written notice to the owner to do so. At that time, owner of said sign must either remove the nonconforming sign or bring it up to the standards outlined herein. Further, in the event the owner of a nonconforming, pre-existing sign shall elect to remove or replace such sign, the new/replaced sign must conform to the present ordinance.

SECTION 11 (932.25.8) Requirements Applicable to All Nonexempt Signs:

A. **Sign Illumination.** Illumination from or upon any sign shall be shaded, shielded, directed or reduced as to avoid undue brightness, glare or reflection of light on private or public property in the surrounding area, and so as to avoid unreasonably distracting pedestrians or motorists.

“Undue brightness” is illumination in excess of that which is reasonably necessary to make the sign reasonably visible to the average person on an adjacent street or recognized pedestrian or marine route.

B. **Content.** Content of sign shall be limited to identification of business, major enterprise, products or services available on the premises. A sign may utilize changeable copy; provided that the copy is limited to identification of products sold and services offered or contains a community service message.

C. **Compliance with Other Ordinances.** Nothing in this section shall be construed to modify or in any other manner alter the requirement that any sign comply with all other ordinances of the city as they may now exist or hereafter be amended.

D. **Structure and Erection of Signs.** The structure and erection of signs within the City shall be governed by the International Building Code (most recent edition). Compliance with said International Building Code shall be a prerequisite to issuance of a sign permit under this code.

E. **Sign Maintenance.** All signs shall be constantly maintained in a state of security, safety and repair. If any sign is found not to be so maintained or is insecurely fastened or otherwise dangerous, it shall be the duty of the owner and/or occupant of the premises on which the sign is fastened to repair or remove the sign within **5 days** after received notice from the City Supervisor.

**SECTION 12 (932.25.9) Permitted Signs:**

The following signs are permitted in all Commercial and Industrial zones:

A. There is no limit on the total sign area of nonexempt signs. Such signs may be wall signs, marquee signs, pedestrian signs, freestanding signs, projecting signs, or any combination thereof, subject to the following standards:

- 1) **Wall Signs.** Wall signs shall be mounted parallel to the building façade and shall project no more than twelve (12') inches from the wall on which they are attached.
- 2) **Marquee Signs.** A sign may be mounted on the front or front outer top edge of a marquee, parallel to the street frontage; provided, that the sign shall not exceed a vertical distance of two feet (2') above the front outer top horizontal edge of the marquee and, further, the sign shall not extend below the front outer bottom horizontal edge of the marquee or sides of the marquee. All supporting mechanisms must be concealed from view; or a sign may be mounted on the side of a marquee, provided it does not extend above the top of the side.
- 3) **Pedestrian Signs.** A pedestrian sign attached to the underside of a marquee shall be at a right angle to the plane of the building façade and not to exceed beyond the outer edge of the marquee. A clearance of not less than eight (8') feet from the underlying sidewalk shall be maintained.
- 4) **Freestanding Signs.** Each business may have one freestanding sign as long as no portion of the sign shall encroach onto or above the public ways. However, a Freestanding Sign may extend over the sidewalk if it is set back two (2') feet from the curb face.

- 5) **Projecting Signs.** Projecting signs may be mounted at a right angle to the plane of the building façade, provided the sign shall not extend more than eight (8') feet from the building façade, be no larger than (32) square feet in area, and in all cases, shall be set back two (2') feet from street curb faces. In the event said Projecting Sign is fourteen (14') feet or higher (measured to the bottom of sign), this two (2') foot setback may be waived and said sign shall be allowed to extend to the existing curb face. Further provided, signs occurring under marquees shall be governed by the requirements for pedestrian signs in subdivision (3) of this subsection. Projecting signs not occurring under the marquees shall maintain a clearance of not less than eight feet (8') from the underlying sidewalk.
- 6) **Roof Signs.** No roof signs shall extend higher than thirty-five (35') feet from the ground.
- 7) **Billboard Signs.** Billboards, which term includes any off-premise advertisement signs, shall be permitted only for businesses with no frontage on Highway 101, **and** only for businesses oriented predominately toward tourist business. All billboards must comply with Section 11(A).

It is the intent of this section to encourage use of natural, rustic-appearing solid wood signs in South Bend. In order to be allowed to erect an off-premise billboard, such sign shall be of rustic wood construction and shall conform with the following requirements:

- (7.1) Shall be only illuminated indirectly.
- (7.2) Have the sign background (all non-lettered, non-pictorial areas) remain in natural wood finish and not painted.
- (7.3) Be constructed of solid cedar planking or other long-lasting, non-laminated, natural weathering wood, not to include plywood.
- (7.3) Have all framing and supports of natural wood or stone.
- (7.4) An to alternate "off-premise" signs prescribed in Subsections 7.2, 7.3 and 7.4 may be a metal sign designed in conformance with the Manual or Uniform Traffic Control Devices. Said sign shall be permitted only for off-highway tourist related businesses; use white lettering and/or symbols on a blue background and identify the service(s) by

one work or symbol, the name of the business and simple directions.

B. The following types of on-premise advertising or identification signs shall be permitted anywhere in Agricultural, Restricted Residential, and General Residential zones, provided that the signs conform to all applicable provisions of Section 11 of this Ordinance.

- 1) One sign not exceeding (10) square feet in area. The top of the sign shall not exceed five (5') feet above ground level.
- 2) The sign shall contain information relating to the dwelling, farm or ranch on which it is located.

SECTION 13 (932.25.10) Prohibited Signs:

The following signs are prohibited in all zones:

A. All signs illuminated by, or containing blinking, flashing, intermittent or moving lights; provided, that digital time/temperature signs and the moving hands of a clock otherwise allowed under this section shall not be prohibited;

B. All strings of pennants, banners, flyers, ribbons or other fluttering devices; provided, that such devices may be displayed to make notice of the opening of a business for a period not to exceed ten (10) days. This section shall not prohibit seasonal decorations or seasonal banners affixed to light poles by the municipality or nonprofit organizations; nor shall it prohibit pennants, banners, etc. for special business promotions, for not more than thirty (30) days. South Bend Chamber of Commerce business banners is exempt from this thirty-day time limit.

C. Billboards, which term includes any off-premise advertisement signs, except as permitted in Section 12(7);

D. Temporary signs attached to, located on or resting against a motor vehicle or trailer for the purpose of advertisement or directing people to a business;

E. All signs which purport to call attention to a business or building with words such as "look", "stop", "slow down" or other words of like import;

F. All moving, rotating or animated signs, except barber poles;

G. All signs which no longer serve an ongoing business and all signs whose primary purpose is to promote a business outside the City of South Bend;

**SECTION 32  
PENALTY PROVISIONS**

32.01 VIOLATORS PUNISHABLE BY FINE AND IMPRISONMENT:

Any violation of the provisions of this Ordinance or amendments thereto is hereby made a misdemeanor. Each day such violation continues may be considered a separate offense.

32.02 INJUNCTIVE AND OTHER PROCEEDINGS:

Notwithstanding the imposition of any penalties hereunder, the City may institute any appropriate action or proceedings to require compliance with or to enjoin violation of the provisions of this Ordinance or any administrative orders or determinations made pursuant to this Ordinance.

**SECTION 33**

**REPEAL OF CONFLICTING ORDINANCES AND ENACTMENT**

33.01 REPEAL OF CONFLICTING ORDINANCES AND ADOPTION:

All Ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

This Ordinance shall become effective on December 31, 1974.

INTRODUCED AND PASSED THIS 9<sup>TH</sup> DAY OF DECEMBER, 1974 by the following vote:

7 AYES

0 NAYS

0 ABSENT

CLAYTON G. KIMURA  
CLAYTON G. KIMURA, MAYOR

ATTEST:

\_\_\_\_\_  
A.M. BOND, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CHARLES WELSH, CITY ATTORNEY

H. All signs which have no permanent attachment to a building or the ground, including but not limited to A-Frame signs, pole attachments and mobile signs. In addition, signs which are posted or attached to utility poles, trees, fences, or other signs, rocks or other natural features; however, A-Frame signs (sandwich boards) are permitted one per business if they are no larger than 2' wide x 5' tall, are situated in line with the telephone poles on the street and are properly weighted to withstand winds of 60 M.P.H.

I. Perpendicular signs that project further than eight (8') feet from the building façade; provided, that signs occurring under marquees shall be governed by the requirements for pedestrian signs. No perpendicular signs shall be larger than (32) square feet.

J. All signs on the North side of Highway 101 within the city limits of South Bend, if such sign in any way obstructs the view towards the Willapa River;

K. All political campaign signs upon City-owned or leased property;

L. All signs not specifically addressed herein and contrary to the provisions of this section.

#### SECTION 14 (932.25.11) Removal of Prohibited and Nonconforming Signs:

A. Within Ninety (90) days, the City Supervisor shall classify or cause to be classified, all signs in the central business district as either "prohibited", "legal nonconforming", or "permitted".

B. The City Supervisor shall notify either the owner or lessee of such sign, or the owner of the property on which the sign is located, that it is either a prohibited or nonconforming sign under the terms of this section. This notification shall occur within Forty-five (45) days of the completion of the City Supervisor's classification.

C. If a prohibited sign advertises a business no longer existing or a product no longer sold on the premises, it shall be removed within thirty (30) days of receipt of the notice from the City Supervisor.

D. A prohibited sign, existing and in use on June 1, 1989, may be retained in use until June 1, 1994; provided, that if the business or service advertised by the sign is discontinued during that five-year period, the sign shall be removed within thirty (30) days of discontinuance.

E. Any sign which is of a type of sign permitted under Section 12, but which does not conform to the specific requirements for that type of sign, shall be classified as legal nonconforming, and may remain in use until June 1, 1994.

Such sign shall be either removed or made to conform to the requirements of this section by June 1, 1994.

SECTION 15 (932.25.12) Variances:

A. When the strict enforcement of these regulations may impose an excessive hardship upon any applicant, depriving him of signage rights extended to other parties under this section, then a variance from these regulations may be requested.

B. Variance applications shall be made to the Board of Adjustment.

C. A variance application shall be submitted on the form obtained from the City. It shall be made by the owner or lessee of a sign or the owner of the property and shall be acknowledged by the owner of the property, if other than the applicant.

D. Upon receipt of an application satisfying the requirements of this section, the City shall deliver the application to the City Supervisor. The Supervisor shall prepare a report to the Board of Adjustment, summarizing the factors involved, his recommendation and findings. A copy of the report shall be mailed to the applicant and copies shall be made available, at cost, for use by any interested party.

E. Upon receipt of an application satisfying the requirements of this section, the City Supervisor shall schedule a public hearing before the Board of Adjustment. Notice of such public hearing shall be posted at the site of the proposal by the City Supervisor at least ten (10) days prior to the hearing and **published two times at least three (3) days apart** in a newspaper of general circulation, except that the final notice to be published in the newspaper **shall not be more than three (3) days prior to the date of hearing.**

F. Prior to making a recommendation on an application for a variance, the Board shall hold at least one public hearing. The Board's determination for approval, denial, or approval with modifications or conditions shall be recorded in the minutes in written form with findings and conclusions upon compliance with subdivisions (1) and (2) of this subsection as follows:

1. Every variance shall comply with at least one of the following criteria:
  - a) The size of the building is such that the maximum permitted sign area would result in a sign that is too small to read from either side of the public rights-of-way adjacent to the building façade or from recognized pedestrian or marine routes;

- b) The location of the building and entrance is such that the proposed sign would not be readable from public rights-of-way or recognized pedestrian or marine routes;
  - c) The building façade or other features, such as marquees, is such that no practical location in which to construct a conforming sign exists.
2. Every variance shall comply with all of the following criteria:
- a) The variance shall not be detrimental to the public interest;
  - b) The variance shall not be detrimental to abutting properties;
  - c) The variance shall not be inconsistent with the purpose of this section.

SECTION 16 (932.25.13) Notice:

Any notice required to be given by this section shall be given either to the owner or lessor of a sign, or to the owner of the property on which the sign is located. In the event notice is given to the owner or lessor of a sign, the notice shall be given either by personal service or by certified mail, return receipt requested, to the name of the owner or lessor, as shown on the application for a sign permit. If there is no application for a sign permit on file with the City, the notice shall be given, either by personal service or by certified mail, return receipt requested, to the person in whose name the property stands, according to the records of the Pacific County Assessor.

SECTION 17 (932.25.14) Enforcement:

A. It shall be the duty of the City Supervisor to administer all provisions of this section. It shall be the duty of the Chief of Police to enforce all provisions of this section, upon notification by the City Supervisor of a violation of this Ordinance.

B. No oversight or dereliction on the part of the City Supervisor or any official or employee of the City vested with the duty or authority to issue permits or licenses, nor issuance of a license in conflict with the provisions of this section, shall legalize, authorize, waive or excuse the violation of any of the provisions of this section, nor shall it stop the City from enforcing the terms of this section. Any permit or license issued in violation of this section shall be null and void.

C. In the event any person, firm, or corporation shall use, erect, construct, move or alter, or attempt to use, erect, construct, move or alter any sign in violation of the provisions of this section, the same is declared a public nuisance, against which the City may prosecute the action in a court of competent jurisdiction seeking an injunction against the continuance of such nuisance.

SECTION 18. Penalty:

Any person violating any provision of this section is guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred (\$500) Dollars, or ninety (90) days in jail, or both such fine and imprisonment. Each day that a violation continues shall constitute a separate offense.

**SECTION 26**

**NONCONFORMANCE BUILDINGS AND USES**

26.01 INTENT: Within the districts established by this Ordinance or amendments that may later be adopted, there exist uses, characteristics of uses, structures and lots which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

26.02 CONSTRUCTION PRIOR TO EFFECTIVE DATE OF ADOPTION:

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently.

26.03 EFFECT OF REMOVAL OR DESTRUCTION OF NONCONFORMING BUILDINGS:

If any nonconforming building is destroyed, or removed, every future use of land on which the building was located shall conform to the provision of this Ordinance.

26.04 RECONSTRUCTION OF BUILDINGS PARTIALLY DESTROYED OR DAMAGED:

A nonconforming building damaged or partially destroyed to the extent of not more than fifty percent (50%) of its market value at the time of its destruction by fire, explosion or other casualty or act of God or the public enemy, may be restored and the occupancy or use of such partial destruction or damage may be continued subject to all other provisions of this section.

26.05 STRUCTURAL ALTERATION OR ENLARGEMENT OF NONCONFORMING BUILDINGS:

- .01) Unless otherwise specifically provided in this Ordinance, nonconforming buildings may not be enlarged or structurally altered unless an enlargement or structural alteration makes the building more conforming, or is required by law. However, where a building or buildings and customary accessory buildings are nonconforming only by reason of substandard yards, open spaces or height, the provisions of this Ordinance prohibiting structural alterations or enlargements of an existing building under such circumstances shall not increase the degree of nonconformity and any enlargements of new buildings and structures shall not increase the degree of nonconformity and any enlargements of new buildings and structures shall observe the yards and open spaces required.
- .02) Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such buildings. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance.
- .03) Upkeep, repairing and maintenance of nonconforming buildings is permitted.
- .04) A nonconforming building or part thereof or any nonconforming tract of land which has not been occupied for a period exceeding one year, twelve (12) calendar months, shall not be reoccupied except by a conforming use.

## SECTION 28

### VARIANCES, CONDITIONAL USE PERMITS AND APPEALS FROM ADMINISTRATIVE DECISIONS

- 28.01 BOARD OF ADJUSTMENT: The Board of Adjustment of the City of South Bend, consisting of five (5) members appointed by the Council to serve without compensation for terms of three (3) years, shall hear and decide applications for variances and appeals from administrative decisions. Original appointees to this Board of Adjustment shall serve staggered terms. The Planning Commission shall hear and decide applications for Conditional Use Permits. The Board shall take all actions relating to Variances and the Commission shall take all actions relating to Conditional Uses under provisions 28.04 through 28.16.
- 28.02 BOARD OF ADJUSTMENT MAY GRANT VARIANCES: The Board of Adjustment shall have the authority to grant a Variance from the provisions of this Ordinance when the conditions as set forth in section 28.03 herein have been found to exist, provided, that any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.
- 28.03 REQUIRED SHOWINGS FOR A VARIANCE: Before any variance may be granted, it shall be shown:
- .01) That because of special circumstances applicable to subject property, including size, shape, topography, location of surroundings, the strict application of the zoning code is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical zone classification;
  - .02) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.
- 28.04 NOTICE AND HEARING ON APPLICATION FOR VARIANCE OR CONDITIONAL USE PERMIT:  
Upon filing of an application for a variance or a conditional use permit by a property owner or by a lessee, which application sets forth fully the grounds for, and the facts deemed to justify the granting of the variance or conditional use permit, The Board or Commission shall give notice as provided in Section 30.06 of a public hearing to consider the matter.

28.05 BOARD OF ADJUSTMENT SHALL HEAR AND DECIDE APPEALS FROM ADMINISTRATIVE DECISIONS:

The Board of Adjustment shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this Ordinance.

28.06 APPEALS FROM ADMINISTRATIVE DECISIONS – TIME LIMIT:

Appeals from administrative decisions may be taken to the Board of Adjustment by any person aggrieved, or by an officer, department, board or bureau of the County affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the Board of Adjustment within twenty (20) days of the date of the action being appealed.

28.07 APPEAL – NOTICE OF TIME AND PLACE:

Upon the filing with the Board of Adjustment of an appeal from an administrative decision, the matter shall be set for consideration and notice given as provided in Section 30.06. Upon receiving notice of appeal, the officer from whom the appeal is being taken shall forthwith transmit to the Board of Adjustment all of the records pertaining to the decision being appealed together with such additional written report as he/she deems pertinent.

28.08 SCOPE OF AUTHORITY ON APPEAL:

The Board of Adjustment may, in conformity with this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.

28.09 BOARD OR COMMISSION SHALL ANNOUNCE FINDINGS AND DECISIONS:

Not more than forty (40) days after the termination of the proceedings of the public hearing on a variance or conditional use permit, or not more than (40) days after termination of the proceedings involving an appeal from an administrative decision, the Board or Commission shall announce its findings and decision. If a variance or conditional use permit be granted, the record shall show such conditions and limitations as the Board or Commission may impose. If an administrative decision is reversed or modified, the record shall show the findings and facts upon which the Board made its determination.

28.10 NOTICE OF DECISION OF BOARD OF ADJUSTMENT:

Following the rendering of a decision on a variance or conditional use permit application, a copy of the written order by the Board or Commission shall be mailed to the applicant at the address shown on the application and filed with the Board or Commission.

28.11 EFFECTIVE DATE OF DECISION – TIME FOR APPEAL:

The decision of the Board or Commission shall be final and conclusive unless within ten (10) days from the date of said action, the original applicant or an adverse party files an appeal to the Superior Court for a “Writ of Mandamus”. The filing of such appeal within such time limit shall stay the effective date of the order of the Board or Commission until such time as the appeal shall have been adjudicated or withdrawn.

28.12 PLANNING DEPARTMENT SHALL CORRECT ZONING RECORD:

When a variance or conditional use permit is approved by the Board or Commission, the Board or Commission shall make an appropriate record and shall inform the administrative department having jurisdiction over the matter involved of the adjusted status of the property.

28.13 PERMITS OR VARIANCES MAY BE REVOKED:

The Commission or Board may revoke or modify any conditional use permit or variance. Such revocation or modifications shall be made on any one or more of the following grounds:

- .01) That the approval was obtained by fraud;
- .02) That the use for which such approval was granted has been abandoned;
- .03) That the use for which such approval was granted has at any time ceased for one (1) year or more;
- .04) That the permit or variance granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute resolution, code, law or regulations;  
or
- .05) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

28.14 INITIATION OF REVOCATION PROCEEDINGS:

The Commission or Board may initiate proceedings to revoke a conditional use permit or variance. Individuals who are aggrieved may petition the body having jurisdiction to initiate revocation proceedings.

28.15 PUBLIC HEARING REQUIRED:

Before a permit or a variance may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting and appeals shall be the same as required by this Ordinance for the initial consideration thereof.

28.16 EXPIRATION:

Any permit or variance granted pursuant to this Ordinance becomes null and void if not exercised within the time specified in such permit or variance or if no date is specified within one (1) year from the effective date of approval of said permit or variance.

## SECTION 29

### AMENDMENTS AND APPEALS

29.01 ZONING ORDINANCE MAY BE AMENDED:

Whenever public necessity, convenience, and general welfare require the boundaries of the zones established on maps by this Ordinance, the classification of property uses herein, or other provisions of this Ordinance may be amended as follows:

- .01) By the adoption of, or the amendment of, a zoning map or maps; or
- .02) By amending the text of this Ordinance.

29.02 INITIATION OF AMENDMENTS:

Amendments of this Ordinance and the official maps which are a part hereof may be initiated by:

- .01) A verified application of one or more owners of property which is proposed to be reclassified; or
- .02) The adoption of a motion by the Council requesting the Commission to set a matter for hearing and recommendations; or
- .03) An action of the Commission to set a hearing date.

29.03 PUBLIC HEARINGS ARE REQUIRED:

The Commission shall hold at least one public hearing before taking action on any amendment to this Ordinance and notice of such hearings shall be given as provided in Section 30.06.

**29.04 NOTICE OF COMMISSION'S DECISION:**

When the Commission's action is to recommend approval or denial of an amendment, the Commission shall notify the applicant by mailing a notice of the action of the Commission to the applicant at the address shown on the application. If the action of the Commission is to recommend approval of an amendment, a copy of the action together with the findings considered by the Commission to be controlling, shall be forwarded to the City Council.

**29.05 CITY COUNCIL TO HOLD PUBLIC MEETING:**

At the next regular public meeting of the City Council following the filing of the Commission's recommended approval of an amendment, the Council shall consider the recommendation of the Commission.

**29.06 FINALITY OF PLANNING COMMISSION'S ACTION:**

The action of the Planning Commission in denying an application for an amendment, shall be final and conclusive unless an appeal is filed as provided in Section 29.07.

**29.07 ACTIONS OF COMMISSION MAY BE APPEALED – TIME LIMIT FOR:**

Action of the Commission may be appealed by an applicant or any aggrieved person provided such appeal is filed within twenty-four (24) days from the date of the Commission's action. Such appeal shall be addressed by the Council.

**29.08 DECISION OF CITY COUNCIL:**

Enactment of a Resolution by the City Council approving an amendment, shall constitute final action. When the action of the Council is to deny a request for an amendment, the adoption of the motion shall constitute final action.

**SECTION 30**

**PROCEDURES, FEES, HEARINGS AND NOTICES**

**30.01 FORMS OF APPLICATIONS AND TYPES OF INFORMATION:**

The Commission shall prescribe the form in which applications are made for changes in zone boundaries or classifications and appeals, and for variances and conditional use permits. No application shall be accepted unless it complies with such requirements and is verified as to the correctness of information given by the applicant attesting thereto.

30.02 RECORDS:

The Planning agency shall cause to be kept a brief minute record of the proceedings. Such record, applications filed pursuant to this Ordinance, the written order or motion showing the action and the reasons therefore and evidence of notice and other material shall become a part of the records of the agency to which application is made. Provisions for custody of such additional records or minutes may be adopted by the agency.

30.03 FILING FEES: (Revised Ordinance #1183 8/10/92)

A development fee shall be paid upon the filing of any development application in pursuance of the following schedule:

(.01)	Variance	\$100
(.02)	Conditional Use Permit	\$100
(.03)	Re-Zone (Change of Zone)	\$100
(.04)	Shorelines Management Permit Application: Projects with a development cost of less than \$25,000	\$166
	plus \$1/\$1,000 x (total development cost - \$25,000)	
(.05)	SEPA Review and Notice	\$100
(.06)	Townhouse Development	
	▪ Two Unit Group	\$ 50
	▪ Each Additional Unit	\$ 20
(.07)	Short Subdivision (1 – 4 Lots)	
	▪ Short Subdivision Preliminary Application	\$200
	▪ Minor Revisions	\$ 50
	▪ Major Revisions	\$150
	▪ Appeal of Short Subdivision Standards	\$150
(.08)	Long Subdivision (5 or more lots)	
	▪ Preliminary Plat (each lot)	\$ 20
	▪ Minimum Fee	\$300
	▪ Maximum Fee	\$2,000
	▪ Minor Revision (no advertisement no referrals)	\$ 50
	▪ Moderate Revision (referrals but no Re-advertisement)	\$100
	▪ Major Revision (referrals & re-advertisement)	\$250
(.09)	Final Plat Checking	
	▪ 5 – 25 Lots per parcel	\$ 22
	▪ 26 – 50 Lots per parcel	\$ 20
	▪ 51 – 100 Lots per parcel	\$ 18
	▪ 101 – More Lots per parcel	\$ 16
(.10)	Boundary Line Adjustment	
	▪ Boundary Line Adjustment	\$150
	▪ Minor Revisions to proposed BLA	\$ 25
	▪ Major Revisions to proposed BLA	\$ 75

30.04 SETTING OF HEARING:

The date of public hearing before the Planning Commission or the Board of Adjustment shall be not less than ten (10) days nor more than sixty (60) days from the time of filing of an application or an appeal from an administrative decision.

30.05 HEARINGS MAY BE CONTINUED WITHOUT PUBLIC NOTICE:

If, for any reason, testimony on any matter set for public hearing or being heard cannot be completed on the date set for such hearing, the person presiding at such public hearing or meeting may, before adjournment or recess of such matters under consideration, publicly announce the time and place to, and at which, said hearing or meeting will be continued. No further notice is required.

30.06 NOTICE OF HEARINGS:

Notice of the time and place of public hearings at which a matter will be considered shall be given by at least one (1) publication in a newspaper of general circulation in the City not less than ten (10) days before the date of said public hearing. Notice of public hearing to consider a variance or conditional use permit may be given in writing to all property owners of record within a radius of three hundred feet (300') of the exterior boundaries of subject property and to any governmental agency requesting such notice.

30.07 REQUIRED CONTENT OF NOTICE:

Notice of hearing on zone reclassification amendments, variances, or conditional use permits shall set forth the identification of the property under consideration (not necessarily the legal description), the nature of the proposed change or use and the time and place of the public hearing.

## **SECTION 31**

### **ADMINISTRATION ENFORCEMENT**

31.01 APPOINTMENT OF OFFICIAL:

The Council hereby appoints the City Supervisor to administer the requirements of this Ordinance on behalf of the Planning Commission.

31.02 ADMINISTRATION AND ENFORCEMENT:

If the administrative official shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall take any action authorized by this Ordinance to insure compliance with or prevent violations of its provisions.

31.03 INTERPRETATION:

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

31.04 NO CONFLICTING LICENSES OR PERMITS SHALL BE ISSUED:

No license or permit in conflict with the provisions of this Ordinance shall be issued, and if issued, any such license or permit shall be null and void.

31.05 DUTY OF BUILDING INSPECTOR:

It shall be the duty of the Building Inspector to see that this Ordinance is conformed to through the proper legal channels. He/she shall issue no permit for the construction or alteration of any building or part thereof unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.

31.06 DUTY OF PUBLIC UTILITY DISTRICT, SEWER DISTRICTS, WATER DISTRICTS/HEALTH AND OTHER UTILITY DISTRICTS:

A Septic Tank Shoreline Management Permit, road access permit, building permit, or other development permit shall not be issued and electrical power hookup, community water supply connection, public sewer connection or other public utility connection or hookup shall not be made for any structure or use in violation of this Ordinance. It shall be the duty of the Pacific County Public Utility District #2 and the Grays Harbor-Pacific Health District to issue permits and grant utility service only to those structures and uses that conform in all respects with the provisions of this Ordinance. Continuation of utility service to structures and uses that are nonconforming and legal at the time the Ordinance is enacted shall not be affected; provided that utility service that is discontinued after the enactment of the Ordinance shall not be reissued unless in conformance with the provisions of this Ordinance; provided further that the discontinuance of the utility service after the enactment of this Ordinance is not caused by fire or other act of God. After adequate notification, the administrative official shall issue a written statement for each application for development permit or utility hookup stating whether the applied for structure for use conforms to this Ordinance.

31.07 CONSTITUTIONALITY OR INVALIDITY:

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this Ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

## APPENDIX

- I. Bylaws and Rules of Procedure
- II. Ordinance #876
- III. Ordinance #877
- IV. Ordinance #886
- V. Ordinance #922
- VI. Ordinance #932
- VII. Ordinance #954
- VIII. Ordinance #1031
- IX. Ordinance #1035
- X. Ordinance #1146
- XI. Ordinance #1153
- XII. Ordinance #1155
- XIII. Ordinance #1181
- XIV. Ordinance #1183
- XV. Ordinance #1199
- XVI. Ordinance #1228
- XVII. Ordinance #1231
- XVIII. Ordinance #1232
- XIX. Ordinance #1245
- XX. Ordinance #1272

## BYLAWS AND RULES OF PROCEDURE

WE, the members of the Planning Commission of the City of South Bend, State of Washington, pursuant to Ordinance No. 876 passed on the 26th day of May, 1969, do hereby adopt, publish and declare the following rules of procedure:

1. The official name shall be "CITY OF SOUTH BEND PLANNING COMMISSION".
2. The official seat of the commission shall be in the City Hall of the City of South Bend, Washington, and meetings shall be held there except on such occasions, and at such times as the Commission may by a majority vote otherwise direct.
3. The officers of this Commission shall consist of a Chairman, a Vice-Chairman and a recording Secretary.
4. Duties: The Chairman shall preside over the meetings of the Commission and shall exercise such powers incidental to such office and shall retain to himself the right as a member of the Commission to have his own vote recorded on all deliberations. The Chairman shall be able to participate fully in all activities of the Commission, with the exception of making and seconding motions. The Chairman shall sign all official correspondence of the Commission. The Vice-Chairman shall preside in the absence of the Chairman and perform all of such duties incidental thereto. The City of South Bend Executive Secretary shall be an ex-officio member of the Commission and shall be bound with the duty of recording all activities of the Commission, with the help of the staff of the City.
5. The Commission shall, at all times, have the authority to appoint a chairman or secretary pro-tem in the absence of the duly elected Chairman or Secretary.
6. The term of office for the Commission shall be set forth in Ordinance No.876 of the City of South Bend.
7. The Commission shall convene once each month on the 1st Monday of that month at the hour of 7:00 P.M., except in the event that no business matters are pending before the Planning Commission. Special meetings of said Commission may be convened at additional times at the call of the chairman or upon majority request by the Commission members. Written notice of such a meeting and its purpose shall be given to all members not less than 24 hours in advance thereof, and the same notice shall be posted in City Hall. All meetings shall be held in accordance with applicable State Laws and City Ordinances, in particular, the State Open Meetings Act.

8. A quorum at any meeting shall consist of four (4) or more members. Also, any action taken by such quorum shall be deemed and taken as the action of the Commission. The affirmative vote of at least three (3) members shall be necessary for the adoption of any motion or other voting matter, unless otherwise specified in these Bylaws.

8a. The regular order of business at meeting of the Commission shall be:

1. Call to Order
2. Roll Call
3. Approval of Minutes of the preceding meeting(s)
4. Public Hearings
5. Old and New Business
6. Communications
7. Reports from Members and Committees
8. Staff Reports
9. Adjourn

8b. Each formal action of the Commission shall be embodied in a formal motion which will be entered verbatim in the Minutes. The Chairman shall, at the Chairman's discretion or at the request of any member, read the motion before being voted on, as provided for in Section 8.

9. Matters of compensation, removal from office, expenditures, and general powers shall be as set forth in Ordinance No. 876 of the City of South Bend.

10. All Public Hearings of the Commission shall be held according to the following procedures:

a. Chairman opens the Public Hearing and reviews the application orally. Background information may be provided by the staff. To the maximum extent possible, copies of all testimony and reports shall be submitted in writing to be made a part of the hearing record.

b. The staff shall present technical analysis, review planning considerations and policy, cite possible alternatives and may make recommendations.

c. The applicant, or spokesman for same, may speak in favor of the application.

d. Interested parties shall be given a reasonable time to comment or make inquiries.

e. Information submitted shall be factual, relevant and not merely duplication of previous presentations. A reasonable time shall be allowed for all speakers. Each person speaking shall give his/her name, address and nature of interest in the matter before the Commission.

f. Brief rebuttal for proponents and opponents will be heard separately and consecutively.

g. Commissioners shall voice other significant consideration and pose any relevant questions through the Chairman. The Chairman shall interrogate the parties for the necessary answers.

h. If necessary the Commission may continue the Public Hearing to such times and places as the Commission may deem appropriate. When all Public, Commission and Staff comments have been completed, the Commission shall vote to close the hearing.

i. The Commission shall discuss the pending application in order to insure that all relevant points are considered. Action will then be taken following the introduction of a formal motion with appropriate discussion prior to a vote.

11. All members of the Commission shall exercise every effort to avoid conflict of interest, or the appearance thereof, in the actions of the Commission. Any member who in his/her judgment has an interest in any matter before the Commission that would tend to prejudice his/her actions shall so disclose publicly, shall step down and abstain from the deliberation and voting on that matter. However, a member of the Planning Commission who has removed himself/herself from such deliberation and voting as described herein, shall have the option of becoming a speaker as outlined in 10e. All members of the Commission shall be bound by RCW Chapter 42.22 and 42.23 - the "Code of Ethics for Public Officers and Employees," and by the Appearance of Fairness Doctrines as outlined in RCW 42.36.

12. The Bylaws and Rules of Procedure of this Commission may be amended at any regular meeting thereof by a majority vote of those present, providing the same constitute a quorum.

Dated: \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ORDINANCE # 876

AN ORDINANCE ESTABLISHING A CITY PLANNING COMMISSION, THE NUMBER OF MEMBERS THEREOF, TENURE OF OFFICE, COMPENSATION AND POWERS.

WHEREAS, it is desirable to provide for the orderly planning and growth of the City of South Bend in accordance with the laws of the State of Washington,

NOW THEREFORE, BE IT ORDAINED by the Council of the City of South Bend, Washington as follows:

SECTION I

There is hereby created a City Planning Commission consisting of SIX members to be appointed by the Mayor and confirmed by the City Council, provided that not more than one-third of which number may be ex-officio members by virtue of any office held in the City of South Bend. The term of office for the ex-officio members shall correspond to their respective tenures.

The term of office for the first appointive members shall be designated from one to six years in such manner as to provide that the fewest possible terms will expire in any one year. Thereafter, the term of office for each appointive member shall be six years. Vacancies occurring otherwise than through expiration of terms shall be filled for the unexpired term.

Members may be removed after public hearing by the Mayor with approval of the City Council for inefficiency, neglect of duty, or malfeasance in office.

Members shall be selected without respect to political affiliation and shall serve without compensation.

SECTION II

The Commission shall elect its own chairman and create and fill such other offices as it may determine it requires. The Commission shall hold at least one regular meeting in each month for not less than nine months in each year. It shall adopt rules for transaction of business and shall keep a written record of its meetings, resolutions, transactions, findings and determinations which record shall be a public record.

SECTION III

The expenditures of any Commission or Regional Commission authorized and established under this Ordinance, exclusive of gifts shall be within the amounts appropriated for the purpose by the Council. Within such limits, any Commission may employ such employees and expert consultants as are deemed necessary for its work.

SECTION IV

The Commission may act as the research and fact-finding agency of the City, and to that end, may make such surveys, analyses, researches and reports as are generally requested by the City Council, and may also act, generally, in accordance with the powers as set out in RCW 35.63.060; and the Commission may also prepare for the adoption and enforcement of coordinated plans for the physical development of the City of South Bend, and for the adoption and enforcement thereof by the City Council, all in accordance with RCW 35.63.080.

SECTION V

The Commission may cooperate with the Commissioners of Pacific County, Washington to form, organize and administer a Regional Planning Commission for the making of a regional plan for the region defined as may be agreed upon, all in accordance with RCW 35.63.070.

PASSED BY THE COUNCIL OF THE CITY OF SOUTH BEND THIS  
26TH DAY OF MAY, 1969.

DICK TAYLOR, MAYOR

---

ATTEST:

ARTHUR BOND, CITY CLERK

APPROVED AS TO FORM:

CHARLES B. WELSH, CITY ATTORNEY

ORDINANCE # 877

AN ORDINANCE PROVIDING FOR THE REGULATION, MAINTENANCE, OPERATION AND LICENSING OF TRAILER PARKS; AND REGULATING THE PARKING AND USE OF TRAILERS AND MOBILE HOMES WITHIN THE CITY LIMITS OF SOUTH BEND, WASHINGTON; AND PROVIDING FOR INSPECTION AND PENALTIES FOR VIOLATION THEREOF,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON AS FOLLOWS:

SECTION 1

DEFINITIONS

A. TRAILER: Any construction which might be used as a dwelling, shop or sleeping place for one or more persons (persons shall include corporations, partnerships, firms and associations) which was originally designed or subsequently renovated to permit movement from one place to another by its own power or by being towed by another vehicle.

B. MOBILE HOME: A trailer which has substantially lost its identity as a mobile unit by virtue of being placed on a permanent foundation, having its hitch, wheels and axles removed and connection with fixed pipes for water and sewer or other utilities.

C. TRAILER PARKS: Site or tract of land owned by the same person or persons upon which two or more trailers and/or two or more mobile homes are placed for occupancy, and shall include all structures and equipment incidental thereto.

D. TRAILER OR MOBILE HOME PAD: Any unit of ground upon which a trailer or mobile home may be placed, and such incidental structures and equipment thereto.

E. INSPECTOR: Such person designated by the City Council to make inspections required by this ordinance and attend to the enforcement thereof.

SECTION II

REQUIREMENTS AND PROHIBITIONS

A. TRAILER PARKS:

1. Shall have a minimum square footage of 10,000 square feet.
2. Each pad shall have a minimum of 2,000 square feet.

3. Each pad shall have side yards and front and rear yards of a minimum of 10 feet. One of said yards may be prepared as parking space.
4. Access driveways to each pad shall be a minimum of 20 feet in width.
5. Each pad shall have its own separate water, sewer and other utility connections.
6. Such parks shall also conform to such additional regulations as may be imposed by the State or County Health Departments.

B. PUBLIC WAYS:

1. No person shall park, occupy or use any trailer upon any street, highway, alley or other public place within the corporate limits of the City of South Bend for a period exceeding twenty-four hours.

C. PROHIBITIONS: No trailer shall be parked, used or occupied upon any land within the corporate limits of the Town except as hereinafter provided, nor shall any property owner permit such parking, use or occupancy upon his land except as provided hereinafter.

1. Trailers are permitted only in trailer parks.
  - a) An exception thereto shall be made by special permit secured from the Inspector as to trailers on private property wherein said use is by a visitor or guest of said property owner; said use shall not be permanent in nature and must meet the sanitary requirements of said Inspector. In no case shall said permit period exceed thirty days (30), and shall not be renewable.
2. Mobile homes are permitted in trailer parks and in other designated areas of the City, provided that the area is not less than 5,000 square feet and utility requirements set forth for pads hereinabove specified are met.

SECTION III

APPLICATIONS, INSPECTIONS AND LICENSING

A. It shall be unlawful for any person to construct or operate any trailer park within the limits of the City of South Bend, Washington, unless he holds a valid permit issued annually by the Inspector in the name of such person for the specific trailer park. All applications for permits shall be made to the

Inspector, who shall issue a permit upon compliance by the applicant with provisions of this Ordinance and of any regulations adopted pursuant thereto, and of any other applicable legal requirements. No permit shall be transferable. Every person holding such a permit shall give notice in writing to the Inspector within twenty-four hours (or the next working day) of having sold, transferred, given away, or otherwise disposed of, interest in or control of any trailer park. Such notice shall include the name and address of the person succeeding to the ownership or control of such trailer park.

The original application for permit for trailer park shall be made within one week from the effective date of this Ordinance or prior to the establishment of a new trailer park; the permit fee for the original application shall be \$25.00 and the annual fee \$10.00.

B. Whenever, upon inspection of any trailer park, the Inspector finds that conditions or practices exist which are in violation of any provision of this Ordinance, or of any regulations adopted pursuant thereto, the Inspector shall immediately give notice in writing to the person to whom the permit was issued that unless such conditions or practices are corrected within a reasonable period of time specified in the notice by the Inspector, the permit will be suspended. At the end of such period, the Inspector shall re-inspect such trailer park, and if such conditions or practices have not been corrected, he shall suspend the permit and give notice in writing of such suspension to the person to whom the permit was issued. Upon receipt of the notice of suspension, such person shall cease operation of such trailer park. The reasonable time for compliance shall in no event exceed 180 days, and in the event of noncompliance for sanitary reasons, shall not exceed 30 days.

C. All trailers outside the limits of the trailer park must also apply for a special permit within one week from the effective date of this Ordinance or within twenty-four hours (or the next working day) of moving into the city limits, and the fee for this special permit shall be \$5.00 and shall not be renewable.

D. A permit must also be obtained for the installation of a mobile home; the permit fee being \$10.00, and the application for the permit must be made prior to commencement of the installation, and the permit shall state the time within which the permanent installation will be completed, but not longer than 180 days, and the permit shall be granted only after completion and approval by the Inspector.

E. Annual inspections will be made thereafter, and the fee therefor shall be \$2.50.

F. Upon proper application for permit for trailer or installation of a mobile home outside the limits of trailer parks, the Inspector shall either immediately issue the permit or notify the applicant that the permit does not meet the requirements as set forth herein.

#### SECTION IV

##### APPEALS

Any applicant for permit or license who fails to be granted such may appeal from the action of the Inspector to the City Council, who shall forthwith review the facts and affirm, overrule or modify the Inspector's decision, which determination shall be conclusive except for review by the Superior Court of Pacific County.

#### SECTION V

##### PENALTIES

If any person, firm or corporation be in violation of any of the provisions herein, he shall be punished by a fine not to exceed \$300.00 or by imprisonment not to exceed ninety (90) days, or both such fine and imprisonment.

Each day that such violation is continued shall be considered as a separate offense.

INTRODUCED AND PASSED THIS 26TH DAY OF MAY, 1969 by the following votes:

6 AYES

0 NAYS

1 ABSENT

L. R. TAYLOR, MAYOR

ATTEST:

ARTHUR BOND, CITY CLERK

APPROVED AS TO FORM:

CHARLES B. WELSH, CITY ATTORNEY

ORDINANCE #886

AN ORDINANCE ADOPTING BY REFERENCE A UNIFORM BUILDING CODE, ESTABLISHING BUILDING PERMIT FEES, AND ADOPTING YARD AND AREA REGULATIONS FOR BUILDINGS.

BE IT ORDAINED by the Council of the City of South Bend, Washington as follows:

SECTION 1: There is hereby adopted by reference, the International Conference of Building Officials Uniform Building Code, Volume 1 as published in 1967 except as hereinafter provided.

SECTION 2: The aforesaid building code is hereby amended by substituting the building permit fee schedule in place of Section 303, Table 3-A, Volume I of said Code.

<u>TOTAL VALUATION</u>	<u>FEE</u>
Less than \$100.00	\$2.00
\$101.00 to \$300.00	3.50
\$301.00 to \$500.00	5.00
\$501.00 to \$1,000.00	8.00
\$1,001.00 to \$25,000.00	8.00 for the first \$1,000 plus \$3.00 for each additional \$1,000 or fraction thereof, to and including \$25,000.00
\$25,000.00 to \$50,000.00	\$80.00 for the first \$25,000 plus \$2.50 for each additional \$1,000 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$142.50 for the first \$50,000 plus \$1.50 for each additional \$1,000 or fraction thereof, to and including \$100,000.00
\$100,001.00 and up	\$217.50 for the first \$100,000 plus \$1.00 for each additional \$1,000 or fraction thereof.

SECTION 3. That in the event of a conflict in the requirements of the aforesaid Building Code as published in 1967 and other Ordinances of the City of South Bend, the more restrictive of the regulations shall apply with the exception of the permit fees as hereinabove set out.

SECTION 4. That the following yard and area regulations are hereby adopted:

1. No building or structure for residential or agricultural or accessory purposes shall be constructed closer than:
  - A. Front Yard: 20 feet from the street right of way line EXCEPT that in areas of existing constructions the Building Inspector may average the location of the structure applied for with such existing construction provided that in no event shall the applied for structure be placed closer than 10 feet from said right of way line.
  - B. Side Yards: 5 feet from any side property line EXCEPT for a corner lot where the side yard shall be increased to a total of 10 feet along the street side as measured from the right of way line.
  - C. Rear Yard: 25 feet from the rear property line EXCEPT that a garage or carport may be constructed within said area provided that in no event shall any portion thereof be located closer than 5 feet to the said rear property line.
2. For the construction of a commercial or industrial nature, no setbacks have been established beyond those provided for in the Uniform Building Code.

INTRODUCED AND PASSED this 23rd day of March, 1970 by the following votes:

7 AYES

0 NAYS

0 ABSENT

LLOYD R. TAYLOR, MAYOR

ATTEST:

A.M.BOND, CITY CLERK

APPROVED AS TO FORM:

CHARLES B. WELSH, CITY ATTORNEY

ORDINANCE #922

AN ORDINANCE AMENDING ORDINANCE #886 OF THE CITY OF SOUTH BEND, WASHINGTON AND WHICH ORDINANCE IS ENTITLED AS FOLLOWS, TO WIT: AN ORDINANCE ADOPTING BY REFERENCE A UNIFORM BUILDING CODE, ESTABLISHING BUILDING PERMIT FEES AND ADOPTING YARD AND AREA REGULATIONS FOR BUILDINGS,

AND AMENDING said Ordinance by adopting the 1973 edition of the Uniform Building Code and Fee Schedule as provided in Section 1 and 2 of Ordinance #886; and repealing all Ordinances or parts of Ordinances in conflict herewith,

NOW, THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DOES ORDAIN AS FOLLOWS:

SECTION 1: That Section 1 of Ordinance #886 of the City of South Bend, Washington which is entitled as follows, to-wit:

"An Ordinance adopting by reference a uniform building code, establishing building permit fees, and adopting yard and area regulations for buildings" is hereby amended to read as follows:

The 1973 edition of the Uniform Building Code and its supplements with Appendices, adopted and published by the International Conference of Building Officials, and subject to the amendments and additions of said Code be, and the same is hereby adopted as the Building Code for the City of South Bend; provided that the hereinafter adopted deletions, changes additions and amendments to the Uniform Building Code shall govern over the provisions of the Uniform Building Code.

SECTION 2: That Section 2 of aforesaid Ordinance #886 as passed by the City of South Bend, Washington, be and the same is hereby amended to read as follows:

The building permit fee schedules shall be that set forth in Section 303, Table 3-A of said Code.

This Ordinance was introduced on the 14th day of January, 1974 and passed by the City Council of said City of South Bend on the 11th day of February 1974 by the following vote:

5 AYES

2 NAYS

0 ABSENT

CLAYTON G. KIMURA, MAYOR

ATTEST:

A. M. BOND, CITY CLERK

CITY OF SOUTH BEND ZONING ORDINANCE

# 932

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An Ordinance establishing Zoning Regulations for the City of South Bend, Washington, and providing for the administration, enforcement, and amendment thereof;

WHEREAS, the City Council of South Bend deems it necessary for the purpose of promoting the public health, safety and general welfare of the City; and

WHEREAS, the Planning Commission has established such zones and classifications of districts as will afford broad protective controls as may be deemed appropriate and necessary to serve the public health, safety and general welfare; and

WHEREAS, all requirements of Chapter 35.63 RCW which pertains to the preparation and adoption of official controls are being conformed to;

NOW, THEREFORE, the City council of the City of South Bend do ordain as follows:

## SECTION 1

### TITLE AND PURPOSE

- 1.01 TITLE: This Ordinance shall be known as the Zoning Ordinance of the City of South Bend, Washington.
- 1.02 PURPOSE: The purpose of this Ordinance is to promote the public health, safety and general welfare, and to facilitate the adoption and enforcement of the coordinated plans which are either developed or being designed to encourage the most appropriate use of land throughout the City; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsuitable areas; and to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural environment; and to provide for adequate public services.

## SECTION 2

### DEFINITIONS

- 2.01 GENERAL: Whenever the following words and phrases appear in this Ordinance, they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular shall include the plural, and plural the singular; the word "shall" is always mandatory, and the word "may" indicates a use of discretion in making decisions.

- 2.02 ACCESSORY: A use, a building or structure which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, parcel or tract.
- 2.03 ALLEY: A public thoroughfare or way which affords only a secondary means of access to abutting property.
- 2.04 AMENDMENT: A change in the wording, context or substance of this Ordinance, adoption of a zoning map hereunder, or a change in the zone boundaries upon zoning maps adopted hereunder.
- 2.05 APARTMENT: A room or a suite of two or more rooms which is intended or designed to be occupied as a dwelling unit for one family.
- 2.06 APARTMENT HOUSE: A building or portion thereof, designed for occupancy by three or more families living independently of each other.
- 2.07 BOARD: Board of Adjustment
- 2.08 BLOCK: All property abutting upon one side of a street between intersection and intercepting streets, or between a street and a railroad right-of-way, water-way, or dead-end street.
- 2.09 BUILDING: Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.
- 2.10 BUILDING AREA: The total allowable ground coverage of a building or structure which provides shelter.
- 2.11 BUILDING HEIGHT: The vertical distance from the average ground level of the site to the highest point of the structure.
- 2.12 BUILDING LINE: That line beyond which a building shall not extend into any required yard.
- 2.13 BUILDING SITE: A parcel of land assigned to a use or to a building including all yard and open spaces required by this Ordinance, whether the area so devoted is comprised of one lot, a combination of lots, or a fraction of lots.
- 2.14 BUSINESS; BUSINESS USE: Necessarily imply employment of one or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.
- 2.15 CAMP - PUBLIC: Land or premises used or intended to be used, let or rented for camping purposes by two or more camping parties, trailers, tents, or movable or temporary dwellings.
- 2.16 CLASSIFICATION: A use category in the broad list of land uses, in which certain uses, either individually or as to type, are identified as possessing similar characteristics or performance standards and are permitted as compatible uses in the same zone or classification. A classification, as the term is employed in this Ordinance, includes provisions, conditions and requirements related to the permissible location of permitted uses.

- 2.17 COMMISSION: South Bend Planning Commission
- 2.18 (Reserved)
- 2.19 CONDOMINIUM: A form of ownership of real property in which some portions of the real property are owned in common while other portions are privately owned.
- 2.20 COUNCIL: City of South Bend Council
- 2.21 DENSITY: The intensity of activity occurring per unit of land area, ordinarily expressed as the number of families per acre.
- 2.22 DISTRICT: An area accurately defined as to boundaries and location on the Map and within which area only certain types of land use are permitted, and within which other types of land use are prohibited, as set forth in the Ordinance. Such area is subject to all the regulations applicable to the district (and combining district) that are contained in this Ordinance. The word "zone" may also be used in place of district.
- 2.23 DWELLING: A building designed exclusively for residential purpose including one-family and multiple family dwellings, but no including hotels, motels, mobile home trailers, and other forms of transient housing.
- 2.24 DWELLINGS, TYPE OF:
- 1) Dwelling, Group - More than two separate buildings each containing one or more dwelling units.
  - 2) Dwelling, One Family - A detached building designed exclusively for occupancy by one family and containing one dwelling unit.
  - 3) Dwelling, Two Family (Duplex) - A building designed exclusively for occupancy by two families living independently of each other and containing two dwelling units.
  - 4) Dwelling, Multiple - A building designed exclusively for occupancy by three or more families, living independently of each other and containing three or more dwelling units.
- 2.25 DWELLING UNIT: A building or portion thereof designed exclusively for residential purposes and providing complete housekeeping service for one family.
- 2.26 FLOOD: A temporary rise in stream, lake or tidal water level that results in the inundation of areas not ordinarily covered by water.
- 2.27 FLOODWAY: The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regulatory flood.
- 2.28 FLOOD FREQUENCY: The average frequency statistically determined

for which it is expected that a specific flood level or discharge may be equaled or exceeded.

- 2.29 FLOOD HAZARD AREA: Those lands inundated by a flood which could be expected to occur on the average of once every 100 years.
- 2.30 FLOOD PROTECTION ELEVATION: The elevation to which uses regulated by Section 20 are required to be elevated or floodproofed. See provision 20.02.03.
- 2.31 FLOOR AREA RATIO (F.A.R.): Area of all floors of a building on a site divided by the area of the site.
- 2.32 LIVESTOCK: Horses, bovine animals, sheep, goats, swine, donkeys, or sheep.
- 2.33 LOADING SPACE: On-site space or berth for the temporary parking of a vehicle while loading or unloading merchandise, materials or passengers.
- 2.34 LOT: Land held as a unit regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title.
- 2.35 LOT LINE, FRONT: In the case of an interior lot, a line separating the lot from the street; in the case of a corner lot, the lot front line shall be the line separating the narrowest street frontage of the lot from the street. In the case of corner lots having equal street frontage, that property line the prolongation of which creates the front property line for the greatest number of interior lots in the same block, shall be considered as the lot front line of such corner lot.
- 2.36 LOT LINE, REAR: A line which is opposite and most distant from the front lot line, and, in the case of an irregular triangular or gore shaped lot, a line within a lot ten feet in length parallel to and at the maximum distance from the front lot line.
- 2.37 LOT LINE, SIDE: Any lot lines other than the front or rear lot lines.
- 2.38 LOT OF RECORD: A lot or parcel described by metes and bounds or a lot which is part of a plat or subdivision and recorded as required by Washington State Law.
- 2.39 LOT TYPES:
- 1) Corner Lot - A lot situated at the intersection of two or more streets.
  - 2) Interior Lot - A lot other than a corner lot.
  - 3) Through Lot - A lot fronting two streets.
- 2.40 MANUFACTURE: Involves transformation -- the fashioning of raw materials into a change of form for use.

- 2.41 MAP: The District Map(s) endorsed Exhibit A of this Ordinance.
- 2.42 TRAILER CAMP: Any area or tract of land used or designed to accomodate two or more mobile home trailers.
- 2.43 MOBILE HOME RESIDENCE: A mobile home which has substantially lost its identity as a vehicle by virtue of being permanently fixed in a location upon land by foundation attached structures, fixed pipe connections with sewer, water or other utilities, and placement on the Pacific County Real Property Tax Rolls.
- 2.44 MOBILE HOME TRAILER: A vehicle without motor power designed to be drawn by a motor vehicle and to be used for human habitation, including a trailer coach, camper, mobile home or any self-propelled vehicle having a body designed for or converted to the same use as a house trailer.
- 2.45 NONCONFORMING BUILDING: A building, or portion thereof, which was lawfully erected or altered and maintained but which, because of the application of this Ordinance to it, no longer conforms to the regulations of the zone in which it is located as defined by this Ordinance.
- 2.46 NONCONFORMING USE: A use which was lawfully established and maintained but which because of the application of this Ordinance to it, no longer conforms to the use regulations of the zone in which it is located, as defined by the Ordinance.
- 2.47 OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock gravel, refuse, fill structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.
- 2.48 OPEN SPACE: Any land area so designated for preservation, according to criteria established by Section 2 of Chapter 87, Washington Laws, 1970 - 2nd Ex. Session.
- 2.49 OWNER: The party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.
- 2.50 PRIVATE: Belonging to or concerning an individual person, company or interest: restricted to the individual person, or arising independently of others.
- 2.51 PRIVATE BOAT STORAGE BUILDINGS: Accessory building designed for storage of owner's private or commercial boat(s) including related gear.
- 2.52 PERSON: Includes any individual, firm, co-partnership, association, corporation, governmental agency or political subdivision.

- 2.53 PRINCIPAL USE: See Use, Principal
- 2.54 PUBLIC UTILITY: A private business or organization such as a public service corporation, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation of persons or freight.
- 2.55 REACH: A hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a man-made or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.
- 2.56 REGULATORY FLOOD: A flood which is representative of large floods known to have occurred generally in the flood hazard area and reasonably characteristic of what can be expected to occur on a particular stream or coastal site. The regulatory flood has a frequency of approximately 100 years as is determined by an analysis of floods on a particular stream or coastal site and other streams or coastal sites in the same general region.
- 2.57 RECLASSIFICATION OF PROPERTY: A change in zone boundaries upon the zoning maps, which map is part of this Ordinance, when adopted in the manner prescribed by law.
- 2.58 RECLASSIFICATION OF USE: The assignment by amendment of this Ordinance, of a particular use to a different use classification than that in which the use was originally permitted.
- 2.59 SETBACK: The distance that buildings or uses must be removed from their lot lines, except that eave overhangs and ornamental overhangs may extend into required yard areas up to three feet.
- 2.60 STORE: A use devoted exclusively to the retail sale of a commodity or commodities.
- 2.61 STREET: A public or recorded private thoroughfare which affords primary means of access to abutting property.
- 2.62 STREET LINE: The boundary line between a street and the abutting property otherwise referred to as the street right-of-way line.
- 2.63 STRUCTURE: Anything constructed, erected, or located on the ground or water, or attached to the ground or to an existing structure, including but not limited to residences, apartments, barns, stores, offices; factories, sheds, cabins, mobile and floating homes, and other buildings.

- 2.66 USE: The purpose (activity) for which land, its premises or a building thereon is designed, arranged, or intended, occupied, maintained, let or leased.
- 2.67 USE, ACCESSORY: See Accessory.
- 2.68 USE, CONDITIONAL: A use permitted in one or more classification, as defined by this Ordinance, but which use because of certain characteristics peculiar to it or because of size, technological processes or type of equipment, or because of exact location with reference to surrounding streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be inimical to the public interest.
- 2.69 USE CONDITIONAL PERMIT: The documented evidence of authority granted by the South Bend Board of Adjustment to locate a conditional use at a particular location.
- 2.70 USE, PRINCIPAL: Primary or principal use is the main use, as distinguished from a subordinate or accessory use, or the use for which a structure is specifically designed or actually employed.
- 2.71 VARIANCE: A modification of the regulations where, because of the unusual nature, shape, exceptional topographic conditions, or extraordinary situation or conditions connected with a specific peice of property, the literal enforcement of the Ordinance would pose undue hardship unnessary in carrying out the purpose of the Ordinance.
- 2.72 YARD: The required unoccupied space, open to the sky, on the same lot with a building or structure.
- 2.73 YARD, FRONT: The total area between the front line of the building and the front property line facing the street side, the depth of which is measured as the least horizontal distance between the street line and the exterior wall of the building.
- 2.74 YARD, REAR: A yard extending from one property line to another, except in the case of corner building sites when the rear yard shall extend from the interior side property line to the opposite side yard. Yard is measured as to depth as the least horizontal distance between the rear side line and the exterior wall.
- 2.75 YARD SIZE: A yard extending from the front yard to the rear yard, except in the case of corner building sites, where the side yard on the flanking street shall extend to the rear property line.
- 2.76 ZONE: See 2.22 DISTRICT.

CLASSIFICATIONS, MAPS, BOUNDARIES, AND CONFORMANCE

- 3.01 CONFORMANCE WITH ORDINANCE PROVISIONS: No person, including a firm or corporation, shall use or erect, move or alter any structure or land unless in conformity with this Ordinance.
- 3.02 DESIGNATION OF DISTRICTS: The City is hereby divided into several districts which the Council deems best suited to carry out the purpose of this Ordinance. These districts, also referred to as zones, are listed as follows:

<u>ZONE</u>	<u>SYMBOL</u>
(AGRICULTURAL USE DISTRICT	A
(RESTRICTED RESIDENTIAL	R-1
{GENERAL RESIDENTIAL	R-2
(COMMERCIAL USE DISTRICT	C
(INDUSTRIAL	I-1

The City is also divided into Combining Districts which may be applied to areas that are zoned as the above. Said Combining Districts may impose additional requirements. Combining Districts are listed as follows:

<u>COMBINING DISTRICT</u>	<u>SYMBOL</u>
FLOOD PLAIN COMBINING DISTRICT	FP
SHORELINE ENVIRONMENT	SE

- 3.03 DISTRICT MAP AS PART OF ORDINANCE: The above named districts and the boundaries of said districts are shown upon the Map and the amendments thereto adopted by the Council and attached hereto, the same being endorsed "Exhibit A of Ordinance No. \_\_\_\_\_. By reference, said Map and amendments thereto, are made a part of this Ordinance as if the information set forth thereon was fully described herein. The Commission may from time to time republish said Map to incorporate the amendments thereto.
- 3.04 BOUNDARIES OF DISTRICTS: Where uncertainty exists with respect to the boundaries of the various districts as shown on the Map accompanying and made part of this Ordinance the following rules shall apply:

1) The district boundaries are either streets or alleys unless otherwise shown.

2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the Map are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such district.

3) In unsubdivided property, the district boundary lines on the Map shall be determined by use of the scale contained on such Map.

## SECTION 6

### AGRICULTURAL USE DISTRICT (A)

6.01 INTENT: The Agricultural Use District is primarily intended for application to all areas that are predominantly agricultural, horticultural, and aquacultural in character. Land uses which are incidental and/or compatible to the principal use shall be permitted outright in the Agricultural Use District.

6.02 PERMITTED USES:

.01) All agricultural and horticultural uses, including the processing of agricultural products.

.02) All aquacultural uses, including all shellfish farming and harvesting, including the opening, shucking of shells and the bottling and canning of oysters and other shellfish for the fresh market.

.03) The growing and harvesting of forest products

.04) Game management.

.05) Owner's single family residence.

.06) Commercial greenhouses, nurseries.

.07) Buildings or structures necessary for the operation of public utilities.

.08) Animal hospitals, kennels, riding stables.

.09) Golf Courses, cemeteries.

.10) Open space.

6.03 ACCESSORY USES:

.01) Housing facilities to accommodate employees employed by the subject owner on the premises, *provided*, such facilities are permitted only on holdings containing ten (10) acres or more and provided further that such housing facilities shall

be considered accessory to the main dwelling.

.02) Accessory buildings and uses customarily incidental to the permitted uses.

.03) Sale of the products of agriculture, horticulture and aquaculture on the premises upon which such products are cultivated.

.04) Signs, subject to provisions 25.13, 24.14 and 24.15

6.04 CONDITIONAL USES:

.01) All uses not specifically permitted or prohibited.

.02) Schools, churches, community centers.

.03) Gun clubs, rifle and pistol ranges

.04) Recreational camp areas for travel trailers

.05) Auto racing courses, race tracks

.06) Airports, heliports.

.07) Sanitary landfills, composting sites, transfer sites

.08) Parks:

6.05 PROHIBITED USES:

.01) All commercial uses not specified

.02) All industrial uses not specified

.03) All manufacturing uses not specified.

.04) Apartment and other similar multiple residential dwellings, mobile home parks.

6.06 LOT AREA: The minimum required area of a lot in an Agricultural Use District, "A", shall be two (2) acres.

6.07 YARD REQUIREMENT: Placement of buildings and structures on any lot in an "A" Zone shall conform to the following:

1) Front Yard - Not less than 30 feet.

2) Any building or structure shall observe a distance of not less than ten (10) feet from any side or rear property line. A single family residence and/or other housing facilities may require a greater side and/or rear yard setbacks, as a condition of health and/or nuisance factors.

6.08 SEWERAGE AND WATER: Sewage and waste disposal and provision of water shall be satisfactory to the Grays Harbor - Pacific

SECTION 10

RESTRICTED RESIDENTIAL USE DISTRICT (R-1)

10.01 INTENT: The Restricted Residential Use District (R-1) is intended for application to all areas that are:

.01) Primarily characterized by single-family dwellings, and,

.02) Further characterized by densities not in excess of five (5) families per gross acre.

10.02 PERMITTED USES:

.01) Single family residences.

.02) Mobile home residences. (See mobile home option Section 24.11)

10.03 ACCESSORY USES:

.01) Private garages, private boat storage buildings, storage of mobile home trailers.

.02) Detached accessory living quarter for the sole use of the family or of persons employed on the premises, or for the temporary use of guests of the occupants of the premises.

.03) The keeping and raising of livestock and fowl for private use, provided they are fenced and provided further that all sheds and barns shall be located at least fifteen (15) feet from any public right-of-way or property held in different ownership.

.04) Private greenhouses.

.05) Private smoke houses.

.06) Home occupation (See sections 24.07 and 24.08)

.07) Signs, subject to provisions 24.13 through 24.19.

10.04 CONDITIONAL USES:

.01) Schools, churches, parks, cemeteries.

.02) Utility substations.

.03) Boat moorages, hangers.

- .04) Two-Family Residences
- .05) Public libraries.
- .06) Commercial greenhouses.

10.05 PROHIBITED USES:

- .01) All commercial uses not specified.
- .02) All industrial and manufacturing uses not specified.
- .03) Multiple unit residential structures.
- .04) Mobile home trailer occupancy.

10.06 LOT AREA: As required in Section 24.02

10.07 YARD REQUIREMENTS: As required in Section 24.03

SECTION 11

GENERAL RESIDENTIAL USE DISTRICT (R-2)

11.01 INTENT: The General Residential Use District (R-2) is intended for application to all areas that are:

- .01) Primarily characterized by single family dwellings, and,
- .02) Further characterized by densities in excess of five (5) families per gross acre; and
- .03) Further characterized by the presence of multi-family residences, boarding and rooming houses, public buildings, and planned unit development.

11.02 PERMITTED USES: Uses that are permitted as a matter of right:

- .01) Single-family residences.
- .02) Two-family residences (duplex), Multi-family residences.
- .03) Boarding and rooming houses.
- .04) Mobile home residences. ( See mobile home option Section 24.11)
- .05) Schools, public or private.
- .06) Public Libraries, parks, play fields, tot lots, community centers.

11.03 ACCESSORY USES:

- .01) All uses permitted under Section 10.03 hereof.

11.04 CONDITIONAL USES:

- .01) Essential utility substation and facilities.
- .02) All public buildings not specified.
- .03) Mobile home parks providing the following minimum conditions are conformed to:
  - a) Mobile home parks shall be connected to public sewer and public water supply facilities.
  - b) Application for Conditional Land Use Permit shall be submitted with a site plan in conformance with the minimum standards established in Section 24.12 hereof.
- .04) Golf Course
- .05) Boat moorages, hangers.
- .06) Recreational facilities, including club house facilities.
- .07) Mobile home trailer occupancy
- .08) Professional and personal services.

11.05 PROHIBITED USES:

- .01) All commercial uses not specified.
- .02) All industrial and manufacturing uses not specified.
- .03) All agricultural activities not specified.

11.06 LOT AREA: Lot area requirements for permitted residential uses shall be as follows:

<u>Land Use:</u>	<u>Minimum Lot Area</u> <sup>1/</sup>
.01) <u>Single-family residential:</u>	As required in Section 24.02
.02) <u>Two-family Residential:</u>	As required in Section 24.02
.03) <u>One, two or three story Multi-family residential:</u>	Public Sewer and public water shall be required. The maximum floor area ratio shall be 1.0. Floor area ratio is the figure obtained when the area of all the floors of the buildings on a site is divided by the area of the site. Height shall not exceed three stories. Maximum site coverage shall not exceed 60%.

NOTE: <sup>1/</sup> Subject to lot size increases on slopes may be required under Section 24.02.

11.07 YARD REQUIREMENTS:

.01) Single-family and two-family and multi-family buildings shall conform to the yard requirements of Section 24.03.

SECTION 14

COMMERCIAL USE DISTRICT (C)

14.02 PERMITTED USES:

.01) Commercial, business land uses. (General merchandising, retail stores, financial, insurance and real estate establishments and general office bulidings.)

.02) Personal and professional services.

.03) Movie houses, theaters.

.04) Motels, hotels, apartments, multi-family dwelling units.

.05) Eating and drinking places.

.06) All public buildings and facilities.

.07) Clubs lodges or fraternal organization

.08) Boat launching or moorage facility, marine boat charter services.

.09) Laundromats, car washes

.10) Signs, subject to provisions 24.13 through 24.19.

14.03 CONDITIONAL USES:

.01) All light industrial and manufacturing activities not specified.

.02) Bus terminals, automobile service stations.

.03) Amusement and recreation services.

.04) Mobile home parks.

14.04 PROHIBITED USES:

.01) All heavy industrial activities.

.02) Trucking yards and terminals.

.03) Petroleum product storage terminals

14.05 LOT AREA: Lot area requirements for Residential usage shall

conform with Section 11.06 hereof.

- 14.06 YARD REQUIREMENTS: Yard requirements for Residential usage shall conform with Section 11.07, hereof.
- 14.07 SITE COVERAGE: The maximum coverage shall be 70% of the lot area.
- 14.08 OFF-STREET PARKING: Off-street parking shall conform to Section 24.09, hereof.
- 14.09 OFF-STREET LOADING: See Section 24.10 for development standards.

## SECTION 16

### INDUSTRIAL USE DISTRICT (I-1)

- 16.01 INTENT: The purpose of this classification is to provide for the location and grouping of industrial uses and activities which involve manufacturing, assembling, fabrication and processing, bulk handling, storage and warehousing and heavy trucking. The grouping of the above uses and activities permits a pattern of land use, thoroughfares, public facilities and utilities, so designed as to support its specialized needs.
- 16.02 PERMITTED USES:
- .01) Manufacturing Industries - e.g., ceramic products assembly of appliances such as electronic instruments; dairy products; food products including storage and packaging; prefabricated building components; textile manufacture; cabinet and carpentry shops; machine shops; concrete products manufacture and sales.
  - .02) Building materials store and yard.
  - .03) Boat building sales and repair.
  - .04) Contract construction service shops and storage yards - e.g., paint shop, plumbing shops.
  - .05) Laboratories.
  - .06) Wholesale business and storage.
  - .07) Automobile and truck service and repair.
  - .08) Feed and fuel yards.
  - .09) Freight terminals including parcel service delivery.
  - .10) Warehouses.
  - .11) Any utility installation relating directly to local distribution of services including switching and transmission stations - including gas works; power, light or steam plants; water works, sewage works.

- .12) Log storage
- .13) Rock Crusher.
- .14) Saw mills, shingle mills, lumber mills.
- .15) Welding and sheet metal shops.
- .16) Parking lots.
- .17) Laundries.
- .18) Machinery and transportation sales, service and repair
- .19) Saw and filing shops.
- .20) Accessory uses.
- .21) Emergency fire and police facilities.

16.03 CONDITIONAL USES

- .01) Explosives manufacture and storage.
- .02) Pulp manufacture.
- .03) Poultry and livestock slaughter houses.
- .04) Wrecking yards and storage of wrecked automobiles.
- .05) Petroleum products processing and refining.

16.04 PROHIBITED USES:

- .01) All residential uses except those that are accessory to the principal use.
- .02) Hotels, motels.
- .03) Schools, except those that are accessory to the principal use.
- .04) Business and commercial uses except those that are accessory to the principal use and those that are otherwise specifically permitted.

16.05 LIMITATIONS ON PERMITTED USES: Every use permitted shall conform to the following.

- .01) All uses shall conform to off-street parking and loading requirements contained in Sections 24.09 and 24.10 of this Ordinance.
- .02) Any use permitted in this classification that is adjacent to any residential and/or commercial use district shall be

screened by evergreen trees in landscaping, accessory office buildings, or solid eight foot (8') fence of wood or other appropriate material, or combinations thereof.

16.06 SUPPLEMENTARY REGULATIONS:

- .01) Lot area Minimum ---20,000 square feet
- .02) Minimum lot width -- 100 feet
- .03) Building Setback line:

a) Front Yard - The minimum front yard from the main wall of the building to the centerline of road shall be not less than:

Sixty-five (65) feet on arterial streets and roads; fifty-five (55) feet on local access streets and roads, if yard is not used for off-street parking. If yard is used for off-street parking, the setback from the centerline of the road shall be not less than eighty-five (85) feet on arterial streets and roads; seventy-five (75) feet on local access streets and roads.

- b) Side Yard - twenty-five (25) feet.
- c) Rear Yard - twenty-five (25) feet.

SECTION 20

DELETED

## SECTION 22

### SHORELINE MANAGEMENT COMBINING DISTRICT (SM)

22.01 INTENT: The purpose of this district is to manage and protect the shorelines of the state in a manner which promotes the welfare of the people of South Bend and of the State generally and which also carries out the intent, policy and specific sections of the Shoreline Management Act of 1971 (RCW 90.58) and of the State regulations promulgated under said act and, after adoption, of the South Bend master program for the management and protection of the shorelines.

22.02 GENERAL PROVISIONS: The following provisions apply to all permitted uses, construction and other forms of development, in the SM District:

.01) The boundaries of the SM District shall be the boundaries of the jurisdiction of the Shorelines Management Act of 1971 (RCW 90.58).

.02) The provisions of the Shoreline Management Act of 1971 (RCW 90.58), of the State regulations promulgated under said act, and, after adoption, of the South Bend master program for the management and protection of the shorelines shall apply in addition to all other sections of this ordinance.

## SECTION 24

### GENERAL PROVISIONS AND SPECIAL EXCEPTIONS

24.01 REGULATIONS SUBJECT TO CHAPTER: The foregoing regulations of this Ordinance pertaining to the several classifications shall be subject to the general provisions, conditions and exceptions contained in Section 24.

24.02 LOT AREA: Unless otherwise specified, lot area requirements for residential land usage shall be as follows:

<u>.01) Single-Family</u>	<u>Minimum Lot Area 1/</u>	<u>Minimum Lot Width at Building Line</u>
Public Sewer and Public Water (or Public Sewer and Individual Water)	5000 sq. ft.	50 ft.
Individual Sewer and Public Water	12,500 Sq.ft.	80 ft.
<u>.02) Two-Family (Duplex)</u>		
Public Sewer and Public Water,	7500 sq. ft.	60 ft.

NOTE: 1/ Subject to lot size increases on slopes as given below:

Minimum Lot Size Increases on Slopes

<u>Average Lot Slope</u>	<u>Percentage Increase Minimum Lot Size</u>
0-5%	0%
6-10%	25%
11-20%	50%
21+	100%

24.03 YARD REQUIREMENT: Unless otherwise specified, yard requirements shall conform as follows:

.01) Front Yard - Twenty (20) feet from the street or road right-of-way line, except that the Building Inspector may allow a front-yard variance for new structures located in an area where existing construction exhibits non-conforming yard standards. The Building Inspector shall calculate the front-yard variance as the average set-back exhibited by the existing construction, provided that in no case shall the new construction be placed closer than ten (10) feet from the street or road right-of-way line.

.02) Side Yard - Five feet from side property lines, except that the side yard shall be increased to ten feet on corner lots. The side yard on a corner lot shall be determined as the yard adjacent the street or road that does not provide access to the lot.

.03) Rear Yard - Ten (10) feet from the rear property line.

24.06 PERMITTED INTRUSIONS INTO REQUIRED YARDS: The following may project

.01) Fireplace structures not wider than eight (8) feet measured in the general direction of the wall of which it is a part and projecting not more than two feet into any yard.

.02) Cornices, canopies, eaves, or similar architectural features may project into any existing yard a maximum distance of three feet.

24.07 HOME OCCUPATIONS: The following home occupations and other operations similar in nature may be operated as a secondary use in any single family dwelling:

.01) Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and home furnishing.

.02) Teaching of piano, voice and dancing.

.03) Art studios, photographic studios, etc., in which are created only individual works of art.

.04) Rooming and boarding of not more than six (6) persons exclusive of the resident family.

.05) Cabinet making, custom wood-working and other hand skills.

.06) Office practices such as real estate sales, insurance transaction, attorney's practice, etc.

24.08 HOME OCCUPATION RESTRICTIONS: Home occupations shall be allowed under Section 24.07 subject to the following conditions:

.01) The operation is entirely within the confines of the main building and/or accessory buildings and does not employ individuals other than those of the immediate family, except that there are no restrictions on the number of persons employed when the primary location for work is located outside a residential zone.

.02) The hours of operation are not restricted provided that machinery is not operated beyond the hour of 11:00 PM when such machinery is audible beyond the property line.

.03) There is no external or internal alteration affecting the character of the buildings as a dwelling.

.04) Advertising signs or identification signs shall conform to sections 24.13 through 24.19 hereof.

24.09 OFF-STREET PARKING RESTRICTIONS:

.01) Multi-family: two (2) off-street parking spaces shall be provided for each dwelling.

.02) Industrial: one (1) space shall be provided for every three employees computed on the basis of the greatest number of employees on a single shift, plus one (1) square foot of parking area for each one (1) square foot of display and retail sales area.

.03) Commercial: the following standards shall apply:

a) Business and professional offices with on-site customer service - one (1) space for each four hundred (400) square feet of floor area shall be provided, unless adequate street parking is judged by the Commission to be available.

b) Gasoline service stations - one (1) parking space shall be provided for each two (2) employees, plus one (1) for space for for each service bay.

24.10 OFF-STREET LOADING: On every lot in a commercial or industrial district and on every lot in any district on which is conducted any hotel, public use, there shall be provided space, either inside or outside a building, for the loading and unloading of goods and materials. Such space shall not be less than fourteen (14) feet in width twenty-five (25) feet in length nor less than fifteen (15) feet in height when covered. Such space shall be provided with access to an alley or a street.

24.11 MOBILE HOME OPTION:

.01) Residence - A mobile home residence shall have the same status a single family residence shall in any "R" zone, provided that the following provisions are conformed to:

a) The land on which the mobile home is placed must be owned by the owner of the mobile home. The lot size for a mobile home residence shall conform to the lot size requirements established for the Residential Zone.

b) The mobile home shall be placed on a foundation specified by standards promulgated by the Board and enforced by the Building Inspector.

c) All running gear shall be removed.

d) The mobile home residence shall have fixed pipe connections with sewer, water and other utility hook-ups.

e) Within two (2) weeks after the application for building permit, the mobile home owner shall request the Assessor of the County of Pacific to place his mobile home residence on the real property tax rools of said County.

f) The mobile home trailer shall contain a minimum of 480 square feet in the basic structure less any additions.

24.12 MOBILE HOME TRAILER PARKS: The following regulations shall apply to all mobile home parks proposed after the effective date of this Ordinance:

.01) Every mobile home trailer park shall contain at least two (2) acres of land.

.02) The density of the mobile home park shall be limited to fourteen (14) mobile homes per acre with the minimum mobile home site to be not less than 2,400 square feet.

.03) Ten percent (10%) of the total area of a mobile home trailer park up to ten (10) acres shall be developed for recreation or open space purpose. Mobile home trailer parks greater than ten (10) acres may be required to develop a twenty percent (20%) of the total for recreation or open space purposes.

.04) Two parking spaces shall be provided for each mobile home site and they shall not be a part of the minimum street width for internal circulation.

.05) Streets shall have a surfaced width of not less than sixteen feet (16) feet. The internal circulation shall be approved by the Commission.

.06) Landscaping and fences shall be provided and they shall be designed to screen the mobile home park from the street and adjoining properties. Landscaping and fencing plans shall be approved by the Planning Commission.

.07) All the provisions of Ordinance No. 877 shall continue in force, except those provisions II.A.1., IIA.2., II.A.3, II. A.4, and II.C.2, of said ordinance are hereby repealed.

24.13 The following types of signs shall be prohibited in all zones: Off-premise advertising signs, signs within a street right-of-way except those of an official nature, and signs not conforming to sections 24.13 through 24.17.

.01) Said prohibition (24.13) shall apply to the Restricted Residential, General Residential and Shoreline Management zones without exception. In other zones, the only exception to the foregoing prohibition on off-premise advertising signs is that no more than two off-premise signs shall be allowed, facing in opposite directions and located as follows with respect to the use being advertised: a) One hundred fifty feet or less measured along the edge of the main road from the main entrance to the use being advertised or from the intersection of the main road with the secondary road on which the use is located; or (b) One hundred fifty feet from the main building of the advertised use; or (c) Fifty feet from a regularly use parking lot maintained by and contiguous to the advertised use.

.02) Size of Sign: The size of the off-premise advertising sign allowed under the above exception (24.13.01) shall not exceed twelve (12) feet in area or six (6) feet above ground level in height .

24.14 The following types of special signs, shall be permitted on private property in all zones:

.01) Construction Signs: construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of sixteen (16) square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) days after the beginning of the intended use of the project.

.02) Real Estate - Real estate signs advertising the sale or lease of the premises or part of the premises on which the signs are displayed, up to a total area of twelve (12) square feet. Such signs shall be removed within fourteen (14) days after the sale or lease.

.03) Integral - Names of buildings, dates of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

.04) Private Traffic Direction - Signs directing traffic movement onto a premise or within a premise, not exceeding three (3) square feet in area for each sign. Horizontal directional signs on and flush with paved areas are exempt from these standards.

.05) Small Signs - Signs not exceeding two (2) square feet in area, attached flat against the building, stationary and not illuminated, announcing only the names and occupation of building tenant.

.06) Rental Signs - Rental signs on the premises announcing rooms for rent, room and board, apartment or house for rent and not exceeding four (4) square feet in area.

.07) Governmental - Governmental or official notices, flags, emblems or insignia.

.08) Political - Political signs provided they do not fall into any of the categories given under 24.15 below and provided they are removed within 30 days following the date of the election for which the signs are intended.

.09) Warning - Signs posted to warn against hunting, fishing, trespassing, dogs, hazards and similar special warning signs.

24.15 The following types of signs are prohibited in all zones and shall be removed within 30 days following notification by the Commission:

.01) Mock Traffic Signs - Signs which imitate an official traffic sign or signal or which contain the words "stop", "go slow", "caution", "danger", "warning", or similar words.

.02) Misleading Signs - Signs which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.

.03) Attention - demanding signs - Signs which contain or consist of pennants, ribbons, streamers, spinners, or other similar or moving devices. These devices when not part of any sign are similarly prohibited.

.04) Improperly Mounted Signs - Signs which are posted or attached to utility poles, trees, fences, or other signs, rocks or other natural features. Sandwich boards and portable signs.

.05) Animated Signs - Signs which have animated parts or which swing or otherwise move as a result of wind pressure because of the manner of suspension or attachment, except when necessary to maintain the structural integrity of the sign.

24.16 The following types of on-premise advertising or identification signs shall be permitted anywhere in Agricultural, Restricted Residential and General Residential Zones; provided that signs for non-conforming uses shall conform to the applicable provisions of Section 24.17.

.01) Size of Sign:

a) Single - Family Dwelling: One sign not exceeding two (2) square feet in area.

b) Farms, Ranches, Commercial Forests, Golf Courses- Two signs of each which shall not exceed 32 square feet.

c) Roadside Stands and Other Uses Contained within a Building: Up to one and a half square feet of sign per lineal foot of building frontage.

d) General - Where an above described sign would not be visible from the street by a person of normal visual acuity, a free-standing sign no greater in area than thirty two (32) square feet may be placed at the entrance to the property. Ground signs shall not exceed six (6) feet in height.

e) Open Space Recreation Areas: One sign shall be permitted which shall not exceed 32 feet at each vehicular entrance and shall be appropriately landscaped.

.02) Content: The on-premise identification signs shall contain information relating to the dwelling, farm or ranch etc. on which it is located.

24.17 In addition to signs allowed under Sections 24.13, 24.14 and 24.16 advertising or identification signs shall be permitted anywhere in the Commercial and Industrial zones subject to the following regulations:

.01) Size of Sign:

(a) Single-Family Dwelling: One sign non exceeding two (2) square feet in area.

(b) Multi-Family Dwellings, Offices, Clinics, Schools Churches and Other Public and/or Semi-Public Buildings-  
The total sign area allowed per property shall not exceed twelve times the square root of the building frontage. In the case of multiple occupancy of a building, it shall be the responsibility of the building owner to distribute the allowed sign area between various occupants.

(c) Special Residential Streets or Residential Neighborhoods  
Permanent identification signs not exceeding twelve (12) square feet may be attached to a wall or fence at each vehicular entrance, and shall be appropriately landscaped.

(d) Mobile Home Parks - One identification sign per entrance with a maximum sign height of five feet shall be permitted.

(e) Business and Other Commercial or Industrial Buildings -  
The total sign area permitted shall not exceed twelve times the square root of the building frontage. In the case of multiple occupancy of a building, it shall be the owner's responsibility to distribute the permitted sign area between the various occupant. The maximum area of an individual ground sign shall be 50 square feet. Where frontage is on more than one street, only the signs computed with respect to the frontage on a street shall face that street. Frontage on a freeway or limited access highway which provided no access to the property cannot be used to compute sign area.

(f) Signs may be on the vertical faces of marquees but no part of the sign shall project above the vertical marquee face. Signs oriented to pedestrian traffic may be suspended below the surface of the marquee not more than 12 inches.

.02) Content: Signs for apartments, offices, and all other uses may contain the building name and related information.

24.18 All signs not conforming to section 24.13 through 24.17 and in place at the time of adoption of this ordinance shall be removed or made conforming within 3 years from the adoption date. Non-conforming signs established during the three year period following the adoption of this ordinance shall be removed or made conforming within 3 years from the adoption date. Non-conforming signs existing after 3 years from the date of adoption date shall be removed or made conforming by the owner of the property on which the sign is located. Removal or conformance shall be within 30 days of notification by the Commission to the property owner. If the owner of the property is not found or refuses receipt of the notice, the Commission shall post the sign and

and property on which it is located with a notice that the sign must be removed or made conforming. If the sign is not removed or made conforming within 30 days after such posting, the Chief of Police shall destroy the sign, and for that purpose may enter upon private property without incurring liability for doing so.

## SECTION 26

### NONCONFORMING BUILDINGS AND USES

- 26.01 INTENT: Within the districts established by this Ordinance or amendments that may later be adopted, there exist uses, characteristics of uses, structures and lots which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- 26.02 CONSTRUCTION PRIOR TO EFFECTIVE DATE OF ADOPTION:  
To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on dilligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on dilligently.
- 26.03 EFFECT OF REMOVAL OR DESTRUCTION OF NONCONFORMING BUILDINGS:  
If any nonconforming building is destroyed, or removed, every future use of land on which the building was located shall conform to the provisions of this Ordinance.
- 26.04 REONSTRUCTION OF BUILDINGS PARTIALLY DESTROYED OR DAMAGED:  
A nonconforming building damaged or partially destroyed to the extent of not more than fifty percent (50%) of its market value at the time of its destruction by fire, explosion or other casualty or act of God or the public enemy, may be restored and the occupancy or use of such building or part thereof which existed at the time of such partial destruction or damage may be continued subject to all other provisons of this section.
- 26.05 STRUCTURAL ALTERATION OR ENLARGEMENT OF NONCONFORMING BUILDINGS:  
.01) Unless otherwise specifically provided in this Ordinance, nonconforming buildings may not be enlarged or structurally altered unless an enlargement or structural alteration makes the building more conforming, or is required by law. However, where a building or buildings and customary accessory buildings are nonconforming

only by reason of substandard yards, open spaces, or height, the provisions of this Ordinance prohibiting structural alterations or enlargements shall not apply, provided any structural alterations or enlargements of an existing building under such circumstances shall not increase the degree of nonconformity and any enlargements of new buildings and structures shall observe the yards and open spaces required.

.02) Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such buildings. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance.

.03) Upkeep, repairing and maintenance of nonconforming buildings is permitted.

.04) A nonconforming building or part thereof or any nonconforming tract of land which has not been occupied for a period exceeding one (1) year, twelve (12) calendar months, shall not be re-occupied except by a conforming use.

## SECTION 28

### VARIANCES, CONDITIONAL USE PERMITS AND APPEALS

#### FROM ADMINISTRATIVE DECISIONS

28.01 BOARD OF ADJUSTMENT: The Board of Adjustment of the City of South Bend, consisting of three (3) members appointed by the Council to serve without compensation for terms of three (3) years, shall hear and decide applications for variances and appeals from administrative decisions. Original appointees to this Board of Adjustment shall serve staggered terms. The Planning Commission shall hear and decide applications for conditional use permits. The Board shall take all actions relating to variances and the Commission shall take all actions relating to conditional uses under provisions 28.04 through 28.16.

28.02 BOARD OF ADJUSTMENT MAY GRANT VARIANCES: The Board of Adjustment shall have the authority to grant a variance from the provisions of this Ordinance when the conditions as set forth in section 28.03 herein have been found to exist, provided, that any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

28.03 REQUIRED SHOWINGS FOR A VARIANCE: Before any variance may be granted, it shall be shown:

.01) That because of special circumstances applicable to subject property, including size, shape, topography, location of surroundings, the strict application of the zoning code is found to deprive subject property of rights and privileges enjoyed by other properties in the vicinity and under identical

zone classification;

.02) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

- 28.04 NOTICE AND HEARING ON APPLICATION FOR VARIANCE OR CONDITIONAL USE PERMIT: Upon filing of an application for a variance or a conditional use permit by a property owner or by a lessee, which application sets forth fully the grounds for, and the facts deemed to justify the granting of the variance or conditional use permit, The Board or Commission shall give notice as provided in Section 30.06 of a public hearing to consider the matter.
- 28.05 BOARD OF ADJUSTMENT SHALL HEAR AND DECIDE APPEALS FROM ADMINISTRATIVE DECISIONS: The Board of Adjustment shall have the authority to hear and decide appeals from any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this Ordinance.
- 28.06 APPEALS FROM ADMINISTRATIVE DECISIONS - TIME LIMIT: Appeals from administrative decisions may be taken to the Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau of the County affected by any decision of an administrative official. Such appeals shall be filed in writing in duplicate with the Board of Adjustment within twenty (20) days of the date of the action being appealed.
- 28.07 APPEAL - NOTICE OF TIME AND PLACE: Upon the filing with the Board of Adjustment of an appeal from an administrative decision, the matter shall be set for consideration, and notice given as provided in Section 30.06. Upon receiving notice of appeal, the officer from whom the appeal is being taken shall forthwith transmit to the Board of Adjustment all of the records pertaining to the decision being appealed together with such additional written report as he deems pertinent.
- 28.08 SCOPE OF AUTHORITY ON APPEAL: The Board of Adjustment may, in conformity with this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and to that end, shall have all the powers of the officer from whom the appeal is taken, insofar as the decision on the particular issue is concerned.
- 28.09 BOARD OR COMMISSION SHALL ANNOUNCE FINDINGS AND DECISIONS: Not more than forty (40) days after the termination of the proceedings of the public hearing on a variance or conditional use permit, or not more than (40) days after termination of the proceedings involving an appeal from an administrative decision, the Board or Commission shall announce its findings and decision. If a variance or conditional use permit be granted, the record shall show such conditions and limitations as the Board or Commission may impose. If an administrative decision is reversed or modified, the record shall show the findings and facts upon which the Board made its determination.
- 28.10 NOTICE OF DECISION OF BOARD OF ADJUSTMENT: Following the rendering of

a decision on a variance or conditional use permit application, a copy of the written order by the Board or Commission shall be mailed to the applicant at the address shown on the application and filed with the Board or Commission.

- 28.11 EFFECTIVE DATE OF DECISION - TIME FOR APPEAL: The decision of the Board or Commission shall be final and conclusive unless within ten (10) days from the date of said action the original applicant or an adverse party files an appeal to the superior court for a writ of mandamus. The filing of such appeal within such time limit shall stay the effective date of the order of the Board or Commission until such time as the appeal shall have been adjudicated or withdrawn.
- 28.12 PLANNING DEPARTMENT SHALL CORRECT ZONING RECORD: When a variance or conditional use permit is approved by the Board or Commission the Board or Commission shall make an appropriate record and shall inform the administrative department having jurisdiction over the matter involved of the adjusted status of the property.
- 28.13 PERMITS OR VARIANCES MAY BE REVOKED: The Commission or Board may revoke or modify any conditional use permit or variance. Such revocation or modifications shall be made on any one or more of the following grounds:
- .01) That the approval was obtained by fraud;
  - .02) That the use for which such approval was granted has been abandoned;
  - .03) That the use for which such approval was granted has at any time ceased for one (1) year or more;
  - .04) That the permit or variance granted is being exercised contrary to the terms or conditions of such approval or in violation of any statute resolution, code, law or regulations; or
  - .05) That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.
- 28.14 INITIATION OF REVOCATION PROCEEDINGS: The Commission or Board may initiate proceedings to revoke a conditional use permit or variance. Individuals who are aggrieved may petition the body having jurisdiction to initiate revocation proceedings.
- 28.15 PUBLIC HEARING REQUIRED: Before a permit or a variance may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting and appeals shall be the same as required by this Ordinance for the initial consideration thereof.
- 28.16 EXPIRATION: Any permit or variance granted pursuant to this Ordinance becomes null and void if not exercised within the time specified in such permit or variance or if no date is specified within one (1) year from the effective date of approval of said permit or variance.

## SECTION 29

### AMENDMENTS AND APPEALS

- 29.01 ZONING ORDINANCE MAY BE AMENDED: Whenever public necessity, convenience, and general welfare require the boundaries of the zones established on maps by this Ordinance, the classification of property uses herein, or other provisions of this Ordinance may be amended as follows:
- .01) By the adoption of or the amendment of a zoning map or maps; or
  - .02) By amending the text of this Ordinance.
- 29.02 INITIATION OF AMENDMENTS: Amendments of this Ordinance and the official maps which are a part hereof may be initiated by:
- 1) .01) A verified application of one or more owners of property which is proposed to be reclassified; or
  - .02) The adoption of a motion by the Council requesting the Commission to set a matter for hearing and recommendations; or
  - .03) An action of the Commission to set a hearing date.
- 29.03 PUBLIC HEARINGS ARE REQUIRED: The Commission shall hold at least one (1) public hearing before taking action on any amendment to this Ordinance and notice of such hearing shall be given as provided in Section 30.06.
- 29.04 NOTICE OF COMMISSION'S DECISION: When the Commission's action is to recommend approval or denial of an amendment, the Commission shall notify the applicant by mailing a notice of the action of the Commission to the applicant at the address shown on the application. If the action of the Commission is to recommend approval of an amendment a copy of the action together with the findings considered by the Commission to be controlling shall be forwarded to the Council.
- 29.05 BOARD TO HOLD PUBLIC MEETING: At the next regular public meeting of the Board following the filing of the Commission's recommended approval of any amendment, the Council shall consider the recommendations of the Commission.
- 29.06 FINALITY OF PLANNING COMMISSION'S ACTION: The action of the Planning Commission in denying an application for an amendment, shall be final and conclusive unless an appeal is filed as provided in Section 29.07.
- 29.07 ACTIONS OF COMMISSION MAY BE APPEALED - TIME LIMIT FOR: Action of the Commission may be appealed by an applicant or any aggrieved person provided such appeal is filed within twenty-four (24) days from the date of the Commission's action. Such appeal shall be addressed to the Council.

29.08 DECISION OF BOARD: Enactment of a resolution by the Council approving an amendment, shall constitute final action. When the action of the Council is to deny a request for an amendment, the adoption of the motion shall constitute final action.

## SECTION 30

### PROCEDURES, FEES, HEARINGS AND NOTICES

30.01 FORMS OF APPLICATIONS AND TYPES OF INFORMATION: The Commission shall prescribe the form in which applications are made for changes in zone boundaries or classifications and appeals, and for variances and conditional use permits. No application shall be accepted unless it complies with such requirements and is verified as to the correctness of information given by the applicant attesting thereto.

30.02 RECORDS: The Planning agency shall cause to be kept a brief minute record of the proceeding. Such record, applications filed pursuant to this Ordinance, the written order or motion showing the action and the reasons therefore and evidence of notice and other material shall become a part of the records of the agency to which application is made. Provisions for custody of such additional records or minutes may be adopted by the agency.

30.03 FILING FEES: The following fees shall be paid upon the filing of any applications:

.01) Change of Zone (Re-Zone)	\$20.00
.02) Appeal	\$20.00
.03) Variance	\$20.00
.04) Conditional Use Permit	\$20.00

30.04 SETTING OF HEARING: The date of public hearing before the Commission or the Board of Adjustment shall be not less than ten (10) days, nor more than sixty (60) days from the time of filing of an application or an appeal from an administrative decision.

30.05 HEARINGS MAY BE CONTINUED WITHOUT PUBLIC NOTICE: If, for any reason, testimony on any matter set for public hearing, or being heard, cannot be completed on the date set for such hearing, the person presiding at such public hearing or meeting may, before adjournment or recess of such matters under consideration, publicly announce the time and place to, and at which, said hearing or meeting will be continued and no further notice is required.

30.06 NOTICE OF HEARINGS: Notice of the time and place of public hearings at which a matter will be considered shall be given by at least

one (1) publication in a newspaper of general circulation in the City not less than ten (10) days before the date of said public hearing Notice of public hearing to consider a variance or conditional use permit may be given in writing to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of subject property and to any governmental agency requesting such notice.

- 30.07 REQUIRED CONTENT OF NOTICE: Notice of hearing on zone reclassification amendments, variances, or conditional use permits shall set forth the identification of the property under consideration (not necessarily the legal description), the nature of the proposed change or use and the time and place of the public hearing.

## SECTION 31

### ADMINISTRATION ENFORCEMENT

- 31.01 APPOINTMENT OF OFFICIAL: The Council hereby appoints the city Supervisor to administer the requirements of this ordinance on behalf of the Planning Commission.
- 31.02 ADMINISTRATION AND ENFORCEMENT: If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this ordinance to insure compliance with or prevent violations of its provisions.
- 31.03 INTERPRETATION: In interpreting and applying the provisions of this Ordinance they shall be held to be the minimum requirements for the promotion of the public health, safety, confort, convenience and general welfare.
- 31.04 NO CONFLICTING LICENSES OR PERMITS SHALL BE ISSUED: No license or permit in conflict with the provisions of this Ordinance shall be issued, and if issued, any such license or permit shall be null and void.
- 31.05 DUTY OF BUILDING INSPECTOR: It shall be the duty of the Building Inspector to see that this ordinance is conformed to through the proper legal channels. He shall issue no permit for the construction or alteration of any building or part thereof unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.
- 31.06 DUTY OF PUBLIC UTILITY DISTRICT, SEWER DISTRICTS, WATER DISTRICTS/ HEALTH AND OTHER UTILITY DISTRICTS: A septic tank shoreline management permit, road access permit, building permit, or other development permit shall not be issued and electrical power hookup, community water supply connection, public sewer connection or other public utility connection or hookup shall not be made for any structure or use in violation of this ordinance. It shall be the duty of the Pacific County Public Utility District #2 and the Grays Harbor-Pacific Health District to issue permits and grant utility

service only to those structures and uses that conform in all respects with the provisions of this Ordinance. Continuation of utility service to structures and uses that are non-conforming and legal at the time the Ordinance is enacted shall not be affected; provided that utility service that is discontinued after the enactment of the Ordinance shall not be reissued unless in conformance with the provisions of this Ordinance; provided further that the discontinuance of the utility service after the enactment of this ordinance is not caused by fire or other act of God. After adequate notification, the administrative official shall issue a written statement for each application for development permit or utility hook up stating whether the applied for structure for use conforms to this Ordinance.

- 31.07 CONSTITUTIONALITY OR INVALIDITY: If any section, sub-section, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this Ordinance and each section, sub-section, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more section, sub-sections, sentences, clauses or phrases be declared invalid or unconstitutional.

## SECTION 32

### PENALTY PROVISIONS

- 32.01 VIOLATORS PUNISHABLE BY FINE AND IMPRISONMENT: Any violation of the provisions of this Ordinance or amendments thereto is hereby made a misdemeanor. Each day such violation continues may be considered a separate offence.
- 32.02 INJUNCTIVE AND OTHER PROCEEDINGS: Notwithstanding the imposition of any penalties hereunder, the City may institute any appropriate action or proceeding to require compliance with or to enjoin violation of the provisions of this Ordinance or any administrative orders or determinations made pursuant to this Ordinance.

SECTION 33

REPEAL OF CONFLICTING ORDINANCES AND ENACTMENT

33.01 REPEAL OF CONFLICTING ORDINANCES AND ADOPTION:

All Ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

This Ordinance shall become effective on December 31, 1974.

INTRODUCED AND PASSED this ninth day of December,

1974 by the following votes: Ayes 7 , Nays 0 , Absent 0 .

Clayton G. Kimura  
Mayor

ATTEST:

A. M. Bond  
City Clerk

APPROVED AS TO FORM:

Charles Welsh  
City Attorney

## ORDINANCE NO. 954

AN ORDINANCE RELATING TO THE STATE ENVIRONMENTAL POLICY ACT OF 1971: ESTABLISHING CITY ENVIRONMENTAL POLICY: AND DEFINING THE RESPONSIBILITIES OF CITY AGENCIES, PRIVATE PERSONS AND OTHER PUBLIC AGENCIES FOR ENVIRONMENTAL STATEMENTS.

WHEREAS, the South Bend City Council recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment; and

WHEREAS, by enacting the State Environmental Policy Act, Chapter 109, Laws of 1971, First Ex. Session (Ch.43.21C, RCW), the legislature has prescribed methods, including the preparation of an environmental impact statement for every major governmental action on proposals significantly affecting the environment, for accomplishing the aforesaid policies and objectives, and has vested local governments with responsibility for applying said methods;

NOW, THEREFORE, BE IT ORDAINED by the City Council of South Bend, Washington:

Section 1. Policies and Authority. The City of South Bend hereby adopts by reference the policies of the State Environmental Policy Act as expressed in RCW 43.21C.010 and RCW 43.21C.020.

Section 2. Adoption by Reference. The City hereby adopts by reference sections WAC 173.805.020 and WAC 173.805.080 of Chapter 173-805 of the Washington Administrative Code (the SEPA model ordinance adopted by the State of Washington Department of Ecology), summarized as follows:

The SEPA model ordinance (WAC 173-805) referred to is divided into two parts. The first part contains a list of the required mandatory portions of the guidelines (WAC 197-10) by the Council on Environmental Policy (CEP). This part includes sections on: Selection and responsibilities of a lead agency, governmental actions exempt from SEPA procedures, determinations of significant or non-significant impacts, with jurisdiction or special expertise, use of federal impact statements in the SEPA process and public notification through the SEPA Public Information Centers.

The second part of the model ordinance includes the portions of the guidelines by the Council on Environmental Policy, which are optional and may be used to the degree desired by the adopting agency. These optional portions include discussion of time limits in the SEPA process, designation of environmentally sensitive areas, transferring of lead agency status, designation of the responsible official, and sections on collection of fees from private applicants for impact determination and impact statement preparation.

The full Guidelines adopted by the Council on Environmental Policy contains all of the subjects above except the wholly optional subject of fees.

Section 3. Designation of Official to Perform Consulted Agency Responsibilities for the City.

1. The following person shall be responsible for the preparation of the written comments for the City in response to a consultation request prior to a threshold determination, participation in pre-draft consultation, or reviewing a draft EIS:

ORDINANCE # 1031

The Council of the City of South Bend, Washington, hereby ordains as follows:

The South Bend Zoning Ordinance # 932

Section 24.02.01 is hereby amended to read as follows:

,01) Single Family:

	Minimum Lot Area 1	Minimum Lot Width at Build- ing Line
Public Sewer and Public Water (or Public Sewer and Individual Water),	5,000	50
Except that existing individual lots as of June 1, 1980, may be built upon as follows:	4,800	40

INTRODUCED AND PASSED this 11th day of AUGUST, 1980,  
by the following votes:

AYES 4

NAYS 0

ABSENT 1

CLAYTON G. KIMURA, MAYOR

ATTEST:

A. M. BOND, CITY CLERK

APPROVED AS TO FORM:

JOEL PENOYAR, CITY ATTY.

## ORDINANCE # 1035

An ordinance amending Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled as to-wit:

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF;  
AND AMENDING SAID ORDINANCE AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH:

The City Council of the City of South Bend, Washington does ordain as follows:

SECTION 1: That Ordinance #932 entitled as above is hereby amended to read as follows:

24.13 The following types of signs shall be prohibited in all zones except as otherwise set forth in this Section: off-premise advertising signs, signs within the street right-of-way, except those of an official nature and signs not conforming to Sections 24.13 through 24.17.

.01) Each business within the City of South Bend shall be entitled to one off-premise sign subject to the following limitations: a) No signs shall be constructed on the North side of Highway 101 between the extended terminus of Weir Street and the Westerly boundary of the City of South Bend. if such sign in any way obstructs the view towards the Willapa River: b) No off-premise sign permitted under this section shall in any way obstruct the view of previously established signs.

.2) Size of Sign: The size of the sign shall not be larger than as set forth in 24.17.

24.14 The following types of special signs shall be permitted on private property in all zones:

.01) Construction Signs: Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose

.09) Warning: Signs posted to warn against hunting, fishing, trespassing, dogs, hazards and similar special warning signs.

24.15 The following types of signs are prohibited in all zones and shall be removed within 30 days following notification by the Commission:

.01) Mock Traffic Signs: Signs which imitate an official traffic sign or signal or which contain the words “stop”, “go slow”, “caution”, “danger”, “warning”, or similar words.

.02) Misleading Signs: Signs which are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.

.03) Attention – Demanding Signs: Signs which contain or consist of pennants, ribbons, streamers, spinners, or other similar or moving devices. These devices when not part of any sign are similarly prohibited.

.04) Improperly Mounted Signs: Signs which are posted or attached to utility poles, trees, fences, or other signs, rocks or other natural features.

.05) Animated Signs: Signs which have animated parts or which swing or otherwise move as a result of wind pressure because of the manner of suspension of attachment, except when necessary to maintain the structural integrity of the sign.

.06) Business Outside of Area: No sign shall be erected in the City of South Bend whose primary purpose is to promote a business outside the City of South Bend.

24.16 The following types of on-premise advertising or identification signs shall be permitted anywhere in Agricultural, Restricted Residential and General Residential Zones; provided that signs shall conform to the applicable Provisions of Section 24.17.

.01) Size of Sign: One sign not exceeding ten square feet in area or three feet above ground level.

.02) Content: The on-premise identification signs shall contain

not found or refuses receipt of the notice, the Commission shall post the sign on the property on which it is located with a notice that the sign must be removed or made conforming. If the sign is not removed or made conforming within 30 days after such posting, the Chief of Police shall destroy the sign, and for that purpose may enter upon private property without incurring liability for doing so.

.02) All signs (no exceptions taken) shall have an approved permit issued by the City Supervisor which shall conform with the requirements of this section. A fee of \$5.00 shall be paid upon receipt of the approved application. Signs prior to the adoption of this ordinance will be issued a permit without fee.

SECTION 2: All ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3: This ordinance shall be in effect immediately upon passage.

AYES 4                      NAYES 0                      ABSENT 1

Clayton G. Kimura

CLAYTON G. KIMURA, MAYOR

ATTEST: A. M. Bond

A.M. BOND, CITY CLERK

APPROVED AS TO FORM:

Joel Penoyar

JOEL PENOYAR, CITY ATTORNEY

8/11/80

ORDINANCE # 1146

An ordinance amending Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled to wit:

"AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF",

And repealing all ordinances or parts of ordinances in conflict herewith:

The City Council of the City of South Bend, Washington do ordain as follows:

SECTION I:

That Section 24.03 YARD REQUIREMENT, Ordinance #932 is amended to read as follows:

24.03 YARD REQUIREMENT: Unless otherwise specified, yard requirements shall conform as follows:

.01 Front Yard -

- a) A building setback of twenty (20) feet from the front property line (or street or road right-of-way line) shall be maintained on streets or roads having a sixty (60) foot or lesser width.
- b) A building setback of ten (10) feet from the front property line (or street or road right-of-way line) shall be maintained on streets or roads having an eighty (80) foot or greater width.
- c) The Building Inspector may allow a front yard variance for new structures located in an area where existing construction exhibits nonconforming yard standards. The Building Inspector shall calculate the front yard variance as the average setback exhibited by the existing construction, provided that in no case shall the new construction be placed closer than ten (10) feet from the street or road right-of-way line.

.02 Side Yard -

- a) A building setback of five (5) feet from the side property line, if located on an interior lot.
- b) A building setback of ten (10) feet from the side property line (or street or road right-of-way line) shall be maintained on streets or roads having a sixty (60) foot or lesser width on a corner lot. The side yard on a corner lot shall be determined as the yard adjacent to the street or road that does not provide prime access to the lot nor bears the address of the property.

ORDINANCE # 1153

An ordinance amending #932 of the City of South Bend, Washington and which ordinance is entitled as follows, to wit:

"AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF":

and repealing Ordinance #1035 in its entirety and, further repealing all other ordinances or parts of ordinances in conflict herewith:

THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:

" (Body of this Ordinance is contained in S. B. ZONING ORDINANCE under Section 25)"

SECTION 19.

This Ordinance shall become effective five (5) days from date of publication.

INTRODUCED AND PASSED this 22nd day of May, 1989 by the following roll-call vote:

4 AYES                      1 NAYS                      0 ABSENT

RAY D. SPURRELL, MAYOR

ATTEST:

COLENE K. MASON, CLERK/TREASURER

APPROVED AS TO FORM:

ELIZABETH PENOYAR, CITY ATTORNEY

ORDINANCE # 1155

An Ordinance establishing an additional land use zone designation, to-wit: "NEIGHBORHOOD COMMERCIAL USE DISTRICT (C-N)" and,

Amending Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled as follows, to-wit:

"AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF."

WHEREAS, the South Bend Planning Commission, pursuant to the requirements and specified duties set forth by RCW 35.63 and Section 29 "Amendments and Appeals" of South Bend Zoning Ordinance #932, has forwarded the hereinbelow amending zone designation and,

WHEREAS, the City Council of the City of South Bend, Washington has reviewed the proposed zone designation, now therefore:

THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION I. A new section, entered into the previously reserved Section 15 of Ordinance #932, entitled "AN ORDINANCE ESTABLISHING ZONING REGULATIONS..." shall read as follows:

"(Body of this Ordinance can be found in S.B. ZONING ORDINANCE under Section 15)."

SECTION IV. This Ordinance shall become effective five (5) days from date of publication.

INTRODUCED AND PASSED this 25th day of September, 1989 by the following roll-call vote:

4 AYES

0 NAYS

0 ABSENT

RAY D. SPURRELL, MAYOR

ATTEST:

COLENE K. MASON, CLERK/TREASURER

APPROVED AS TO FORM:

ELIZABETH PENOYAR, CITY ATTORNEY

ORDINANCE #1181

AN ORDINANCE RELATING TO ENVIRONMENTAL POLICY IN THE CITY OF SOUTH BEND. THE PURPOSE OF THIS ORDINANCE IS TO ADMINISTER THE PROVISIONS OF RCW 43.21C, 36.70A AND WAC 197-11. THIS ORDINANCE IS INTENDED TO BE USED IN CONJUNCTION WITH THE RULES AND REGULATIONS OF THE STATE ENVIRONMENTAL POLICY ACT (RCW 43.21C).

WHEREAS, the City Council of the City of South Bend, Washington has reviewed the documents contained herein and certify that public comment and testimony was heard, and

WHEREAS, the City Council of the City of South Bend, Washington deems an Environmental Policy is necessary to protect the peace and repose of the community and to ensure a consistent and orderly method for environmental protection, now therefore;

THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION I

GENERAL

- 1.01 Authority and Purpose. The City of South Bend (hereafter referred to as the "City") adopts this policy under the State Environmental Policy Act (SEPA), RCW 43.21C.120 and the SEPA rules, WAC 197-11-904 for the purpose of establishing an environmental review of SEPA in City governmental decision making. It is the intent of the City that compliance with this policy shall constitute complete procedural compliance with SEPA and the SEPA Rules.
- 1.02 Title. This policy constitutes and may be cited as the City of South Bend Environmental Policy.
- 1.03 Effective Date. The effective date of this policy is April 6, 1992.
- 1.04 Severability. If any provisions of this policy or its application to any person or circumstance is held invalid, such decision shall not affect the validity of the remaining portions of the policy or its application to other persons or circumstances.
- 1.05 Applicability. The requirements of this policy are applicable to all actions of the City and its departments, officers, boards, commissions, and councils; PROVIDED, that the extent to which the provisions hereof apply to proposals initiated prior to the effective date of this policy shall be governed by WAC 197-11-955.
- 1.06 SEPA Rules - Adoption by Reference. City adopts, by reference, the following sections or subsections of Chapter 197-11 of the Washington Administrative Code as now or hereafter amended and as supplemented by this chapter:

SECTION 2

DEFINITIONS

2.01 General. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, when used in this policy, the following terms shall have the following meanings unless the context indicates otherwise:

- (1) "Department" means any division, subdivision or organizational unit of the City established by ordinance, rule, or order.
- (2) "SEPA Rules" means Chapter 197-11 WAC adopted by the Department of Ecology.
- (3) "Ordinance" means the ordinance, resolution, or other procedure used by the City to adopt regulatory requirements.
- (4) "Early notice" means the City's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal.

2.02 SEPA Rules - Adoption by Reference. The City adopts, by reference, the following sections or subsections of Chapter 197-11 as now or hereafter amended and as supplemented by WAC 173-806-040:

WAC 197-11-700	Definitions
197-11-702	Act
197-11-704	Action
197-11-706	Addendum
197-11-708	Adoption
197-11-710	Affected tribe
197-11-712	Affecting
197-11-714	Agency
197-11-716	Applicant
197-11-718	Built environment
197-11-720	Categorical exemption
197-11-722	Consolidated appeal
197-11-724	Consulted agency
197-11-726	Cost-benefit analysis
197-11-728	County/city
197-11-730	Decisionmaker
197-11-732	Department
197-11-734	Determination of nonsignificance (DNS)
197-11-736	Determination of significance: DS
197-11-738	EIS

SECTION 3

PROCEDURE

3.01 Designation of Responsible Official.

- (1) For all proposals, public and private, the SEPA Coordinator shall be the City Supervisor or as so designated by the chief administrative officer.
- (2) For public proposals, the head (administrative official) of the department making the proposal shall be the responsible official. For private proposals, the head (administrative official) of the department with primary responsibility for approving the permits and licenses for the proposal shall be the responsible official. When multiple officials have permitting authority, the assignment of responsibility shall be determined by the SEPA Coordinator.
- (3) For all proposals for which the City is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections of the SEPA Rules that were adopted by reference in Section 1.06.
- (4) All actions, decisions and determinations to be taken or made, pursuant to this ordinance, by administrative officials, departments, or consulted agencies shall be subject to final review and approval by the SEPA Coordinator, subject to appeal pursuant to Section 10 hereinafter.

3.02 SEPA Public Information. The City shall retain all documents required by the SEPA Rules (Chapter 197-11 WAC) and make them available in accordance with Chapter 42.17 RCW.

3.03 Designation of Official to Perform Consulted Agency Responsibilities for the City.

- (1) The City SEPA Coordinator shall be responsible for preparation of written comments for the City in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

submitted to a consulted agency, the lead department shall wait a maximum of thirty (30) days for the consulted agency to respond. No response by a consulted agency shall be interpreted as a favorable response.

- (c) Threshold determinations which require that further studies, including field investigations, be initiated by the lead department shall be completed within thirty (30) days of submission of an adequate application and the completed checklist.
- (d) Threshold determinations for proposals where the applicant recommends in writing that an EIS be prepared because of probable significant adverse environmental impact(s) described in the application, shall, be made within fifteen (15) days of receiving an adequate application and completed checklist.

- (3) Extensions. Time extensions may be granted if good cause can be shown and requested in writing before the end of a deadline.

### 3.05 Additional Timing Consideration.

- (1) For nonexempt proposals, the DNS or final EIS for the proposal shall accompany the City's staff recommendation to any appropriate advisory body, such as the Planning Commission.
- (2) If the City's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request in writing that the City conduct environmental review prior to submission of the detailed plans and specifications.

### 3.06 Fees. The following fees which are in addition to any other fees provided for by law shall be charged when the City is the lead agency for a nonCity proposal.

- (1) Threshold Determinations. For every threshold determination, a fee of \$100.00 shall be required of the proponent of the proposal; except that a fee of \$150.00 shall be required on applications for subdivisions, commercial/industrial rezones and conditional use applications for excavations and landfills; PROVIDED, that no threshold determination fee shall be charged for a proposal which would be categorically exempt but for the provisions of WAC

the City cash, a surety bond or other security sufficient and acceptable in the sole discretion of the City; PROVIDED, that for consultant-prepared EIS's, the security may be in such lesser amount as deemed sufficient by the responsible official to cover estimated City costs. If accrued City costs will exceed the posted security, EIS preparation shall cease following reasonable notice to the applicant until posting by the applicant or proponent of such additional security as deemed sufficient by the responsible official to secure the payment of estimated additional City costs.

(d) If a proposal is modified so that an EIS is no longer required, the responsible official shall refund any fees collected under (a) through (c) of this section which remain after incurred costs are paid.

(3) The City shall collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

(4) The City may charge any person for copies of any document prepared under this ordinance and for mailing the document in the manner provided by Chapter 42.17 RCW.

3.07 SEPA Rules - Adoption by Reference. City adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-600	When to use existing environmental documents
197-11-610	Use of NEPA documents
197-11-620	Supplemental Environmental Impact Statement - Procedures
197-11-625	Addenda - Procedures
197-11-630	Adoption - Procedures
197-11-635	Incorporation by reference - Procedures
197-11-640	Combining documents

- (6) Any department making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal.
- (7) All determinations of lead agency status and responsibilities shall be immediately reported to the SEPA Coordinator, and shall be subject to review and final approval by the SEPA Coordinator.

4.02 Transfer of Lead Agency Status to a State Agency. For any proposal for a private project where the City would be the lead agency and for which one or more state agencies have jurisdiction, the SEPA Coordinator may elect to transfer the lead agency duties to a state agency. The state agency with jurisdiction appearing first on the priority listing in WAC 197-11-936 shall be the lead agency, and the City shall be an agency with jurisdiction. To transfer lead agency duties, the SEPA Coordinator must transmit a notice of the transfer together with any relevant information available on the proposal to the appropriate state agency with jurisdiction. The SEPA Coordinator shall also give notice of the transfer to the private applicant and any other agencies with jurisdiction over the proposal. Any actions, decisions, or determinations made by the SEPA Coordinator pursuant to this section shall be submitted to the City for review and final approval, before such action, decision, or determination is actually taken or made.

4.03 SEPA Rules - Adoption by Reference. Subject to the provisions of sub-section 3.01 above, with respect to the duties and responsibilities of the SEPA Coordinator, the City adopts, by reference, the following sections or subsections of Chapter 197-11 WAC as now or hereafter amended and as supplemented by this chapter:

197-11-916	Application to ongoing actions
197-11-920	Agencies with environmental expertise
197-11-922	Lead agency rules
197-11-924	Determining the lead agency
197-11-926	Lead agency for governmental proposals
197-11-928	Lead agency for public and private proposals
197-11-930	Lead agency for private projects with one agency with jurisdiction
197-11-932	Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a City
197-11-934	Lead agency for private projects requiring licenses from a local agency, not a City, and one or more state agencies
197-11-938	Lead agencies for specific proposals
197-11-942	Agreements on lead agency status

## SECTION 5

### CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

5.01 Purpose of This Part Adoption by Reference. This section contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an EIS to be prepared. This section also contains rules for evaluating the impacts of proposals not requiring an EIS. The City adopts the following WAC sections by reference, as supplemented in this part:

WAC 197-11-300	Purpose of this part
197-11-305	Categorical exemptions
197-11-310	Threshold determination required
197-11-315	Environmental checklist
197-11-330	Threshold determination process
197-11-335	Additional information
197-11-340	Determination of nonsignificance (DNS)
197-11-350	Mitigated DNS
197-11-360	Determination of nonsignificance (DNS)/initiation of scoping
197-11-390	Effect of threshold determination
197-11-800	Categorical exemptions
197-11-880	Emergencies
197-11-890	Petitioning DOE to change exemptions

### 5.02 Use of Exemptions.

- (1) Each department within the City that receives an application for a license or permit, or, in the case of governmental proposals, the department initiating the proposal, shall determine whether the license and/or the proposal is exempt. The department's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The City shall not require completion of an environmental checklist for an exempt proposal.
- (2) In determining whether or not a proposal is exempt, the department shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-080). If a proposal includes exempt and nonexempt actions, the department shall determine the lead agency, even if the license application that triggers the department's consideration is exempt.
- (3) If a proposal includes both exempt and nonexempt actions, the City may authorize exempt actions prior to

#### 5.04 Environmental Checklist.

- (1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license, certificate, or other approval not specifically exempted in this ordinance: except, a checklist is not needed if the City and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The City shall use the environmental checklist to determine the lead agency and, if the City is the lead agency, for determining the responsible official and for making the threshold determination.
- (2) For private proposals, the City will require the applicant to complete the environmental checklist, providing assistance as necessary. For City proposals, the department initiating the proposal shall complete the environmental checklist for that proposal.
- (3) The City may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:
  - (a) The City has technical information on a question or questions that is unavailable to the private applicant; or
  - (b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

#### 5.05 Mitigated Determinations of Nonsignificance.

- (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a determination of nonsignificance ("DNS") based on conditions attached to the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.
- (2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:
  - (a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

- (d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.
- (6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.
- (7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner prescribed by the City.
- (8) If the City's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the City should evaluate the threshold determination to assure consistency with WAC 197-11-340(a) (withdrawal of DNS).
- (9) The City's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarification or changes to a proposal, as opposed to a written request for early notice, shall not bind the City to issue s mitigated DNS.

- (3) In the event that the EIS is to be prepared by the City, the City may retain experts as needed. In addition, the responsible official may request the applicant to provide data and information relevant to any and all areas covered by the EIS, subject to limitations contained in this ordinance. If the applicant fails or refuses to provide data or information required for preparation of an adequate DEIS or for adequate response to critical comments received on a DEIS, the responsible official may refuse to further process or consider the private application.
- (4) The applicant shall bear and secure payment of City costs in accordance with Section 3.07.

#### 6.03 Public Hearing.

- (1) Whenever a public hearing on the environmental impact of a proposal is required pursuant to WAC 197-11-535(2), and City is the lead agency for such proposal, the departments with jurisdiction shall have representatives in attendance. In addition, the SEPA Coordinator shall be in attendance. Notice of said hearing shall be as follows:
  - (a) Publishing notice in a newspaper of general circulation in the City or general area where the proposal is located; and
  - (b) Mailing of written notice to agencies with jurisdiction and to all property owners of record within a three hundred foot radius of the external boundaries of the subject property.
- (2) The notice requirement of this section shall not apply to non-project actions.
- (3) The notice requirements of this section shall be completed no less than ten (10) days prior to the hearing.

- (b) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered; and
- (c) Notifying the news media.

7.03 Integration of Public Notice Requirements. Whenever possible, the City shall integrate the public notice required under this section with existing notice procedures for the City's nonexempt permit(s) or approval(s) required for the proposal.

7.04 Cost of Notice. The City may collect a reasonable fee from an applicant to cover the cost of meeting the public notice requirements of this ordinance relating to the applicant's proposal.

adverse impacts of its proposal. Voluntary additional mitigation may occur.

- (e) The City has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts.
  - (f) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.
- (3) The City may deny a permit or approval for a proposal on the basis of SEPA provided that:
- (a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and
  - (b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
  - (c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.
- (4) The City designates and adopts by reference the following policies as the basis for the City's exercise of authority pursuant to this section:
- (a) The City shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
    - (i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
    - (ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
    - (iii) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

SECTION 9

FORMS

9.01 Adoption By Reference. City adopts the following WAC forms and sections by reference:

WAC	197-11-960	Environmental checklist
	197-11-965	Adoption notice
	197-11-970	Determination of nonsignificance (DNS)
	197-11-980	Determination of significance and scoping notice (DS)
	197-11-985	Notice of assumption of lead agency status
	197-11-990	Notice of action

environmental determination was made and shall be filed within the time limits of and processed according to the procedures governing appeals of such final decisions, Provided: that appeals under this title may also be filed to review environmental determinations made after supplemental review including determinations made during proceedings conducted following remand from an appeal.

- (5) Appeals of environmental determinations for administrative permits for which appeals are not otherwise provided by City code shall be conducted as follows: Any decision or order of a department, responsible official, decisionmaker, or head administrative official is final unless appealed to the City with twenty days of the decision or order.

The appellant shall within that time: 1) file a written request for review before the City with the Clerk of the City; and 2) serve a copy of the request on the department, responsible official, decisionmaker, or head administrative official who rendered the decision or order. The City shall within twenty (20) days of the filing of a request for appeal, hear the appeal during a regular meeting of the Board. Any decision of the City is final unless appealed to the Superior Court of the State of Washington for Pacific County within thirty (30) days of the decision. Notice of the appeal must be served upon the City within the same time period.

- (6) In an appeal, the procedural determination made pursuant to the title by the responsible official shall be entitled to substantial weight.
- (7) All appeals under this title shall be governed by the procedures set forth in this chapter and except as provided herein.

10.02 Appeals of Conditions or Denial of Administrative Decision.

The City Establishes the following appeal procedures subject to Section 10.01, RCW 43.21C.075 and WAC 197-11-680:

- (1) Any agency or person with standing may appeal the administrative environmental determination for issuance of the following:
  - (A) A final DNS. Appeal of the DNS must be made to the City by filing a written notice of appeal to

SECTION 11  
SEPA POLICIES

The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the City.

The City adopts by reference the policies in the following City codes, ordinances, resolutions and plans, as now exists or hereinafter amended, as a possible basis for the exercise of substantive authority in the conditioning or denying of proposals.

Chapter 43.21C RCW State Environmental Policy Act

Pacific County Growth Management Resource Lands and Critical Area Designations and Policies: In addition to the findings and policies of the Pacific County Resource Lands and Critical Areas, the following mitigation policies are to be exercised on developments such that land uses activities shall be located and designed to minimize conflict.

Forest Resource Lands

1. Notification shall be placed on all subdivision proposals that the adjacent land is in forest resource use and subject to a variety of activities by that may not be compatible with residential development.

Agricultural Resource Lands

1. The obligation for buffer strips is to farms that choose to subdivide or transition to a non-compatible use.
2. Existing farm uses are to be protected from adjacent non-compatible development uses.
3. When land containing prime and unique agricultural land is converted, the prime and unique agricultural land uses shall be maintained while allowing for other uses on suitable land.
4. Prime and unique agricultural lands are to be retained within existing and future city boundaries.
5. Agricultural land may be annexed as transitional land into the city limits for urban preferred land uses.

### Aquifer Recharge Areas

1. Non-forestry activities and other developments in critical recharge areas must demonstrate to the water purveyor and local governments all potential environmental impacts to the recharge area as a result of the proposed development.

2. On proposed developments, the effects and impacts of stormwater runoff from urban areas should be carefully analyzed and cities and counties should consider retention of all stormwater on-site as an aquifer recharge protection measure.

### Geologically Hazardous Areas

1. On new construction, road construction practices shall be modified to avoid erosion, landslide, and slumping.

### Frequently Flooded Areas

1. Forest and associated watersheds within a development shall be managed through Forest Practices or Best Management Practices to reduce flood damage and associated impacts to frequently flooded areas.

2. Development proposals shall address coastal high hazards and the impact of coastal flooding to loss of life and property.

### Fish and Wildlife Habitat Areas

1. Construction activities shall mitigate impact to wildlife displacement and habitat reduction through open space, wetland, and habitat retention areas.

2. Education shall be considered as a mitigation measure to enhance and conserve wildlife habitat.

3. Proposed development shall consider as a mitigation measure, the compatibility and use of fish and wildlife habitat within buffer areas.

4. Proposed fish and wildlife habitat areas shall consider the total habitat value provided rather than habitat needed for a single species.

ORDINANCE # 1199

An ordinance amending Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled as follows, to wit:

"AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF," and

Amending the official Zoning Map of the City of South Bend, Washington by adding sub-zones of the primary zoning designations, and

Repealing all ordinances or portions of ordinances in conflict herewith:

WHEREAS the City Council of South Bend deems it necessary for the purpose of promoting the public health, safety and general welfare of the City; and

WHEREAS the proposed amendments have been developed by the South Bend Planning Commission in conformance with the provisions of Title 35.63 which pertains to the preparation and adoption of official land use controls;

NOW, THEREFORE, the City Council of the City of South Bend, Washington do ordain as follows:

SECTION 1. There shall be added to Section 2, DEFINITIONS of Ordinance #932 the following definition:

2.40.01 MANUFACTURED RESIDENTIAL HOUSING: Shall include all types of manufactured housing: i.e. mobile home housing, modular housing, and prefabricated housing. This shall include all types of residential housing units which are substantially manufactured, fabricated or preconstructed off-site.

SECTION 2. There shall be added to Section 6, AGRICULTURAL USE DISTRICT (A) of Ordinance #932 the following provisions for permitted uses:

6.02.05.01 MANUFACTURED RESIDENTIAL HOUSING (see Manufactured Residential Housing Option, Section 24.11).

SECTION 3. Section 10, RESTRICTED RESIDENTIAL USE DISTRICT (R-1) Subsection 10.02.02 of Ordinance #932 shall be amended to read as follows:

10.02.02 Manufactured Residential Housing (see Manufactured Residential Housing Option, Section 24.11).

unit is placed must be owned by the owner of the manufactured housing unit. The lot size for a manufactured residential housing unit shall conform to the lot size requirements established for residential units within the zone.

- b) The minimum width to length ratio for all single family residences, including all types of manufactured residential housing, shall be 35% (i.e. the width of said single family residence shall be a minimum of 35% of the length of said residence) and shall be a minimum of 864 square feet in the basic structure, less any additions. The minimum width for a single family residence shall be 24 feet. Hence, the minimum dimensions for a single family residence shall be 24 feet X 36 feet = 864 square feet. The only exception to this rule shall be for single wide manufactured housing in designated mobile home parks, which shall have a minimum of 480 square feet in the basic structure less any additions, and for zoning map sections R-1A, R-2A, C-A, and N-C as described above.
- c) The minimum roof pitch for manufactured residential housing shall be 3/12 (3" rise for 12" run).
- d) All manufactured residential housing shall be installed upon a full, continuous and permanent footing of steel-reinforced concrete. Further, concrete, mortared concrete blocks or other UBC approved foundation material shall be installed as permanent skirting on all manufactured residential housing.
- e) The following additional requirements shall apply to all types of manufactured residential housing:
  - 1. Bears or has been issued the certificate or seal of approval by the State Department of Labor & Industries or its successor;
  - 2. Has had all wheels, tongues, and under-carriage removed;
  - 3. Is affixed to its foundation to current manufacturer's guidelines;
  - 4. Is connected to all utilities in the manner required of single family dwelling units of traditional construction;

An ordinance amending Section 30.3 Filing Fees of Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled to wit:

'AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF,"

and repealing all ordinances or parts of ordinances in conflict herewith:

WHEREAS, substantial extraordinary expenses relating to land use development permits are incurred in the administration and enforcement of these permits, and

WHEREAS, development permits primarily benefit the permittee, now therefore

THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION I: That Section 30.03 of Ordinance #932 entitled "FILING FEES" shall be amended to read as follows:

30.03 FILING FEES:

A development fees shall be paid upon the filing of any development application in pursuance of the following schedule:

(.01)	Variance	\$100
(.02)	Conditional Use Permit	\$100
(.03)	ReZone (Change of Zone)	\$100
(.04)	Shorelines Management Permit Application:	
	Projects with a development cost of	
	less than \$25,000	\$166
	plus \$1/\$1000 x (total development cost - \$25,000)	
(.05)	SEPA Review and Notice	\$100

SECTION II: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION III: That this ordinance shall become effective upon publication.

THIS ORDINANCE was introduced on the 10<sup>th</sup> day of August 19 92 and passed by the following roll call vote of the 24<sup>th</sup> day of August, 19 92 :

4 AYES                      0 NAYES                      1 ABSENT

R. D. Spurrell  
R. D. SPURRELL, MAYOR

ATTEST: Coleene K. Mason  
COLEENE K. MASON, CLERK/TREASURER

APPROVED AS TO FORM:  
Elizabeth Penoyar  
ELIZABETH PENOYAR, CITY ATTORNEY

ORDINANCE # 1228

AN ORDINANCE adding provision for Townhouse (Zero Lot Line) Development under Section 23 (a previously reserved chapter) of South Bend Zoning Ordinance #932 and,

Amending Ordinance #932 of the City of South Bend, Washington and which ordinance is entitled as follows, to-wit:

"AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WASHINGTON AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF."

WHEREAS, the South Bend Planning Commission has determined that Townhouse Development is a desirable and needed housing alternative to traditional housing, and

WHEREAS, Townhouse Development is consistent with and furthers the goals and policies of the South Bend Comprehensive Plan.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:

SECTION 1: A new section, entered into the previously reserved Section 23 of Ordinance #932, entitled 'AN ORDINANCE ESTABLISHING ZONING REGULATIONS...' shall read as follows:

**SECTION 23  
TOWNHOUSE (ZERO LOT LINE) DEVELOPMENT  
(NEW SECTION)**

23.01 Intent. It is the intent of this chapter to:

- A. Encourage infilling of skipped-over parcels in developed areas of the city;
- B. Provide for the development of townhouses within residential and commercial zones which may be conveyed as individually owned, separately platted lots;
- C. Encourage within low and high density residential zones the development of townhouse structures built to standards designed to include amenities usually associated with conventional single-family

- a. Develop and equip significant recreational areas within the common open space with such features as, but not limited to, swimming pools, tennis courts, bike or pedestrian path systems, children's play areas;
- b. Substantial retention of natural ground cover, bushes and trees;
- c. Landscape the on-site drainage retention facility;
- d. Provide significant access to a lake, river, stream or other natural water body;
- e. Provide substantial and exceptional landscaping treatment either as an adjunct to or in natural landscaping beyond the minimum required;

C. Lot Area and Lot Width of Each Townhouse Unit.

1. R-1/R-1A Zones

A Townhouse lot shall contain a minimum area of twenty-five hundred (2,500) square feet and a minimum lot width of twenty-five (25') feet.

2. R-2/R-2A/C/CA/NC Zones

A Townhouse lot shall contain a minimum area of one thousand six hundred (1,600) square feet and a minimum lot width of twenty (20') feet.

- D. Height. The maximum height of any townhouse shall not exceed that allowed in the zone in which the development is located.
- E. Setback Variation. No more than two abutting townhouses or townhouse clusters within the townhouse project site shall have a common front building setback. Variations in the setback of front building faces shall be at least four feet (4').
- F. Front Yard Right-of-Way Setback. No townhouse dwelling unit shall be located closer than twenty feet (20') to any public right-of-way nor within fifteen feet (15') of a private drive, access road or common open parking area to the front of such a dwelling unit.

The Planning Commission will review the creation of five or more lots as provided for through the subdivision process.

- B. Platting. A subdivision plat or short plat shall be required for all townhouse developments so that individual dwelling units are divided into lots with common walls located on lot lines.

When a townhouse development is platted, construction of townhouse dwellings may commence prior to final plat or final short subdivision approval provided:

1. The proposed subdivision has received preliminary approval or the short subdivision has received conditional approval, and the necessary legal instruments have been filed to assure construction of required public improvements;
2. Partial or complete construction of structures shall not relieve the subdivider from, nor impair city enforcement of, conditions of subdivision approval;
3. Units may not be rented or sold, nor occupancy permits issued until final plat or final short plat approval.

- C. Site Plans. An application for a townhouse development shall include the following:

A site plan drawing or drawings at a scale not smaller than ten feet (10') to the inch, showing all the information required for a preliminary plat plus the following:

1. Site boundaries;
2. Streets bounding or abutting the site;
3. Proposed buildings including dimensions, setbacks, identification of types and the number of dwelling units in each cluster;
4. Location and dimensions of open spaces;
5. Location and dimensions of garbage disposal areas;
6. The location and design of off-street parking facilities, showing their size;
7. Circulation plan, vehicular and pedestrian, and points of ingress/egress from the site, and their relationship to ingress/egress of neighboring properties;
8. Existing buildings and indication of future use or disposition of same;
9. Landscaping plan;
10. Typical front and side elevations and exterior architectural treatment of the proposed units;
11. The existing and proposed contours at two foot (2') intervals which locates

24.02 LOT AREA: Unless otherwise specified, lot area requirements for residential land usage shall be as follows (Ordinance #1031, amending Ordinance #932, Section 24.02.01; passed 08/11/80):

(.01) Single-family:

	<u>Minimum Lot Area</u>	<u>Minimum Lot Width at Building Line</u>
Public Sewer and Public Water (or Public Sewer and Individual water)	5,000 sq. ft.	50 ft.

Except that existing Individual lots as of June 1, 1980, may be built upon as follows:

4,800 sq. ft.	40 ft.
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(.02) Two-family (Duplex)

Public Sewer and Public Water	7,500 sq. ft.	60 ft.
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(.03) Townhouse

R-1 & R-1A Zones	2,500 sq. ft.	25 ft.
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(.04) Townhouse

R-2, R-2A, C, CA & NA Zones	1,600 sq. ft.	20 ft.
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**NOTE:** 1/ Subject to lot size increases on slopes as given below:

Minimum Lot Size Increases on Slopes

<u>Average Lot Slope</u>	<u>Percentage Increase Minimum Lot Size</u>
0- 5%	0%
6- 10%	25%
11-20%	50%
21 + %	100%

SECTION 6: That Section 30.03 FILING FEES of Section 30 entitled PROCEDURES, FEES HEARINGS AND NOTICES of Ordinance #932 shall be amended to read as follows:

30.03 FILING FEES:

A development fee shall be paid upon the filing of any development

SECTION 7: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

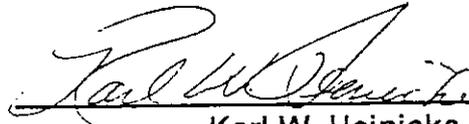
SECTION 8: That this ordinance shall become effective five (5) days after publication.

THIS ORDINANCE was introduced on the   9th   day of             
February, 1998           and passed by the following vote on the   9th   day of  
  February  , 1998          :

  5   AYES

  0   NAYS

  0   ABSENT

  
\_\_\_\_\_  
Karl W. Heinicke, Mayor

ATTEST:   
\_\_\_\_\_  
Nick Thompson, Clerk-Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Sullivan, City Attorney

ORDINANCE # 1231

AN ORDINANCE AMENDING SECTIONS 1.2.40.01 AND 7: 24.11(G) OF ORDINANCE #1199 WHICH ORDINANCE AMENDS ORDINANCE #932 OF THE CITY OF SOUTH BEND, WA AND WHICH ORDINANCE IS ENTITLED AS FOLLOWS, TO WIT:

**“AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF”.**

WHEREAS, upon review, the South Bend Planning Commission has determined that an unnecessary hardship upon the citizens of South Bend may be created by application of the terms for “new and previously unoccupied” residential housing provided in Section 7. 24.11(g) of Ordinance #1199 and

WHEREAS, the South Bend Planning Commission has recommended a relaxation of this standard with conditions.

NOW THEREFORE, the City Council of the City of South Bend, WA do ordain as follows:

SECTION 1. Section 1.2.40.01 of Ordinance #1199 shall be amended to read as follows:

MANUFACTURED RESIDENTIAL HOUSING (MANUFACTURED HOME or MOBILE HOME) means a structure designed and constructed to be transportable in one or more sections, and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards of 1974 as adopted by Chapter 43.22 RCW if applicable. A structure which met the definition of a “manufactured” home at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

SECTION 2. Section 7.24.11(g) of Ordinance #1199 shall be amended to read as follows :

All manufactured residential housing must be new and previously unoccupied to qualify for issuance of a building permit. Used manufactured residential housing units of any type shall not be acceptable for site installation nor shall they qualify for a building permit except within a mobile home park, or upon issuance of a

ORDINANCE # 1232

**AN ORDINANCE AMENDING ORDINANCE #1220 ENTITLED AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SOUTH BEND ADOPTING A CITY OF SOUTH BEND 1997 COMPREHENSIVE PLAN.**

WHEREAS, certain technical corrections to the 1997 Comprehensive Plan's text and the Future Land Use Map are necessary to achieve consistency with planning practices in general and more specifically with the provisions of RCW36-70A-060 (4) relating to forest land and agricultural land within urban growth areas, and

WHEREAS, the owners of lots 16 to 31, inclusive, Block 22 and lots 16 to 24, inclusive Block 23, both within the Land Companys 2<sup>nd</sup> Addition to South Bend have petitioned for "Open Space" designation of this property, and

WHEREAS, upon the required public notices and hearing, the South Bend Planning commission has recommended that various definitions be deleted from and. an "Open Space" zoning designation be added to the South Bend Comprehensive Plan along with appropriate map amendments to reflect this action. and

WHEREAS. the City Council of the City of South Bend upon review of the record has determined that these changes are necessary for the administration of the City's Comprehensive Plan,

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH BEND, WASHINGTON DO ORDAIN AS FOLLOWS:**

SECTION I: There is hereby created the land use designation "Open Space" as defined in RCW 84.34.020 (*attached*), "Open Space" within the City of South Bend Urban Growth Area shall consist of not less than five (5) acres in area, although contiguous Open Space area adjacent to but outside the Urban Growth Area may be used in the calculation of this area. Multiple ownerships may be used in the aggregate.

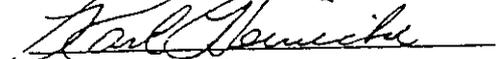
SECTION II: Correction to the text of the South Bend Comprehensive shall delete the designations "Conservation (W)", "Agricultural Open Space (A)" and "Resource Lands" and be designated "Open space". Specifically identified corrections shall include but not be limited to:

- A. "Conservation". page 2-15 (Table 2-4, and
- B. "Agriculture, Forestry and Resource", Section 2.7.8, page 2-17, and
- C. "Agricultural" Section 2.9.6, page 2-20, and
- D. Future Land Use Map designations for "Agricultural/Open Space" and "Conservation".

SECTION V. ADOPTION. This ordinance shall be in full force and effect five (5) days after its date of publication as provided by law.

INTRODUCED AND PASSED this 14<sup>th</sup> day of September, 1998 by the following vote:

AYES 5 NAYS 0 ABSENT 0

  
Karl Heinicke, Mayor

ATTEST: 

Nick Thompson, Clerk/Treasurer

## ORDINANCE # 1245

**AN ORDINANCE AMENDING SECTION 1.2.40.01 AND 7: 24.11(G) OF ORDINANCE #1199 WHICH ORDINANCE AMENDS ORDINANCE #932 OF THE CITY OF SOUTH BEND, WA. AND WHICH ORDINANCE IS ENTITLED AS FOLLOWS, TO WIT:**

**“AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SOUTH BEND, WA. AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF”, AND FURTHER REPEALS ORDINANCE #1231 IN ITS ENTIRETY.**

**WHEREAS**, upon review, the South Bend Planning Commission has determined that an unnecessary hardship upon the citizens of South Bend may be created by application of the terms for "new and previously unoccupied" residential housing provided in Section 7.24.11(g) of Ordinance #1199; and

**WHEREAS**, it has further been determined that a number of factors, in addition to age, may weigh more heavily in determining the suitability of placing a given unit within a neighborhood, and

**WHEREAS**, the South Bend Planning Commission has recommended a relaxation of this standard with conditions.

**NOW THEREFORE**, the City Council of the City of South Bend, WA do ordain as follows:

**SECTION 1.** Section 1.2.40.01 of Ordinance #1199 shall be amended to read as follows:

MANUFACTURED RESIDENTIAL HOUSING (MANUFACTURED HOME or MOBILE HOME) means a structure designed and constructed to be transportable in one or more sections, and is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities that include plumbing, heating and electrical systems contained therein. The structure must comply with the national mobile home construction and safety standards of 1974 as adopted by Chapter 43.22 RCW if applicable. A structure which met the definition of a "manufactured" home at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable.

Continued... Ordinance #1245

SECTION 3. That Ordinance #1231 is herewith repealed in its entirety and all other ordinances in conflict herewith are hereby repealed.

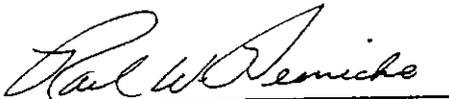
SECTION 4. That this Ordinance shall become effective five (5) days from date of its publication.

**INTRODUCED** on the 27th day of September 27, 1999 and **PASSED** on the 11th day of October, 1999 by the following vote:

  5   AYES

  0   NOES

  0   ABSENT

  
Karl W. Heinicke, MAYOR

ATTEST:   
Betty J. Sovereign, Clerk-Treasurer

**ORDINANCE # 1272**

***AN ORDINANCE OF THE CITY OF SOUTH BEND, WASHINGTON, RELATING TO WIRELESS COMMUNICATIONS FACILITIES (WCF) ADDING A NEW CHAPTER 16.57 TO THE SOUTH BEND MUNICIPAL CODE, DECLARING AN EMERGENCY, AND ESTABLISHING AN EFFECTIVE DATE.***

**WHEREAS**, the Telecommunications Act of 1996 (“the Act”) provides that local governments may not unreasonably discriminate among providers of wireless communications services and may not establish regulations which prohibit or have the effect of prohibiting the provision of wireless communication services; and

**WHEREAS**, the Act preserves local zoning authority over decisions regarding the placement, construction, and modification of Wireless Communication Facilities (WCF); and

**WHEREAS**, recent changes in telecommunications technology have caused WCF facilities to become a rapidly growing segment of the telecommunications industry; and

**WHEREAS**, Congress in the Act has preempted the City from consideration of the public health impact from radiation emitted by WCF to the extent that they comply with applicable FCC regulations regarding the same; and

**WHEREAS**, the City Council finds that the unregulated and under-regulated development of WCF within the City could create significant noise, visual, land use, and other impacts within the City; and

**WHEREAS**, the City Council and the Planning Commission received substantial written and oral testimony related to the noise impacts of existing WCF within residential areas of the City and the City Council finds that said facilities generate significant adverse noise impacts in existing residential areas; and

**WHEREAS**, the City desires to provide guidance to wireless telecommunication service providers and to balance the implementation of wireless telecommunications services with preservation of the character, views, aesthetics, and minimal noise levels within the City; and

**WHEREAS**, the City Council finds that adoption of a permit process which provides clear development standards coupled with administrative review of WCF Permit Applications will result in a fast and predictable process for obtaining land use permits associated with the development; and

**WHEREAS**, the City’s comprehensive planning process and associated development regulations are designed to ensure that property is developed in a planned and thoughtful manner which protects the scenic beauty, the tree-scaped feathered edge of the City’s hillsides, and absence of

visual clutter within the City, preserves property values, and considers the effect of noise generated from WCF and the health, safety, and welfare of the residents of the community; and

**WHEREAS**, maintenance of property values is vital to preserving the City's tax base and revenues; and

**WHEREAS**, the unregulated siting of WCF may compromise the scenic beauty and aesthetic character of the community, block views, and reduce property values; and

**WHEREAS**, on March 20, 2001, the City Council adopted Ordinance No. 1271 imposing a six month moratorium on the siting of wireless facilities within the City; and

**WHEREAS**, the aforementioned moratorium expires on September 16, 2001; and

**WHEREAS**, the existing regulations of the City pertaining to wireless telecommunications facilities do not adequately regulate the visual, aesthetic, noise impacts of wireless facilities within the City; and

**WHEREAS**, the benefit to the public safety, health and welfare is sufficient to warrant this action NOW THEREFORE;

**The City Council of the City of South Bend do ordain as follows:**

**SECTION 1. Wireless communication siting.**

16.57 Wireless Communications Facilities siting regulations is added to the Municipal Code:

**16.57.010 Intent.**

The purpose of this ordinance is to establish appropriate locations, site development standards, and permit requirements to allow for wireless communication services to the residents of the city in a manner which will facilitate the location of various types of wireless communication facilities in permitted locations so they are consistent with the character of the city. Minimizing the adverse visual impact of these facilities is one of the primary objectives of this ordinance. The ordinance is intended to allow wireless communication facilities, which are sufficient to allow adequate service to citizens, the traveling public and others within the city and to accommodate the need for connection of such services to wireless facilities in adjacent and surrounding communities.

**16.57.020 Definitions.**

- A. "Antenna" means the specific device, the surface of which is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas include the following types:

1. Omni-Directional (or 'whip') Antenna. Receives and transmits signals in a three hundred-sixty degree pattern, and which is up to fifteen feet in height and up to four inches in diameter.
  2. Directional (or 'panel') Antenna. Receives and transmits signals in a directional pattern typically encompassing an arc of one hundred-twenty degrees.
  3. Parabolic (or 'dish') Antenna. A bowl shaped device that receives and transmits signals in a specific directional pattern.
  4. Ancillary Antenna. An antenna that is less than twelve inches in its largest dimension and that is not directly used to provide personal wireless communications services. An example would be a global positioning satellite (GPS) antenna.
  5. Other. All other transmitting or received equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein, which most closely resembles such equipment.
- B. "Co-location" means the use of a single support structure and/or site by more than one wireless communications provider.
- C. "Equipment enclosure" means a small structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communications signals. Associated equipment may include air conditioning and emergency generators.
- D. "Stealth technology" means those strategies and technological innovations designed to resemble other features in the surrounding environment to better blend or integrate the technology into an area. Strategies include, but are not limited to, hiding, masking or screening the feature or mimicking other surrounding features.
- E. "Support structure" means the structure to which antenna and other necessary associated hardware is mounted. Support structures include but are not limited to the following:
1. Lattice tower. A support structure, which consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross-section.
  2. Monopole. A support structure, which consists of, a single pole sunk into the ground and/or attached to a foundation.
  3. Existing non-residential structure. Existing structures as specified in Section 16.57.05.B to which antennas may be attached which conform to the requirements of Section 16.57.05.B.
- F. "Wireless Communications Facility (WCF)" means an unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. WCF's are composed of two or more of the following components:
1. antenna
  2. support structure
  3. equipment enclosure
  4. security fencing

**16.57.030 Review process.**

- A. All requests to locate wireless communication facilities in South Bend shall be reviewed through the conditional use permit process of Section 28 of Ordinance #932. (Municipal Code 16.75)
- B. Wireless communication facilities proposed for co-location or location on existing commercial buildings or public structures or public property shall require approval through the site plan review process of Chapter 15.50 of the Unified Development Ordinance.
- C. Wireless communication facilities proposed, as freestanding support structures shall require approval through the conditional use permit process of Section 28 or Ordinance #932. (Municipal Code 16.75)
- D. Third party review of submittal requirements. Because of the complexity of technical data and analysis required for adequate review of proposals, a third party may be contacted for review and analysis of such applications, particularly where disputes arise regarding the capability of meeting city goals, standards or policies in citing these facilities. The third party analysis will be at the discretion of the planning commission and will be at the expense of the applicant. The cost of such analysis will be agreed to and paid prior to processing or any action on the permit application.

**16.57.040 Submittal requirements.**

- A. In addition to the information requested in the conditional use application the following items shall be required for a WCF application:
  - 1. A diagram or map showing the viewshed of the proposed facility.
  - 2. Photosimulations of the proposed facility from affected residential properties and public rights-of-way at varying distances.
  - 3. A map showing the service area of the proposed WCF and an explanation of the need for that facility
  - 4. A map showing the locations and service areas of other WCF sites operated by the applicant and those that are proposed by the applicant which are close enough to impact service within the city.
  - 5. A site/landscaping plan showing the specific placement of the WCF on the site; showing the location of existing structures, trees, and other significant site features; and indicating type and locations of plant materials used to screen WCF components and the proposed color(s) of the WCF.
  - 6. A signed statement indicating:
    - a. The applicant agrees to allow for the potential co-location of additional WCF requirement by other providers on the applicant's structure or within the same site location; and

- b. That the applicant agrees to remove the facility within eighteen months after that site's use is discontinued.
7. A lease agreement with the landholder or letter of authorization from the owner allowing the provider to act as an agent for the landowner in a land use application.
8. Prior to issuance of the building permit, the applicant shall provide a lease agreement that:
  - a. Allows the landholder to enter into leases with other providers; and,
  - b. Specifies that if the provider fails to remove the facility upon eighteen months of its discontinued use, the responsibility for removal falls upon the landholder.
9. Evaluation of reasonable stealth technology that could be proposed to lessen the visual land use impacts from the facility.
10. Justification must be provided that the structure is necessary and essential, that other methods are not possible, such as use of existing structures (other towers, buildings, etc.) or use of other technological methods such as microcell technology where systems are built as part of cable systems and no towers are needed.
11. Documentation that the ancillary facilities will not produce sound levels in excess of those standards specified in Section 31.09.1.c.

**16.57.050 Permitted locations.**

- A. Zoning and land use compatibility shall be a primary consideration in location of WCF's. Industrial, commercial and public properties and existing commercial and industrial buildings with the exception of neighborhood commercial zones shall be encouraged for such use. Residential areas shall normally not be considered except on city property preferably in conjunction with city improvements such as water towers or public buildings.
- B. WCF's may be mounted on all currently existing nonresidential buildings in nonresidential zones except as follows:
  1. Any building, which is an accessory structure to a residence.
  2. Buildings, which due to their small size, would be dominated by the facility.
- C. Building mounted WCF's must meet the following conditions and criteria:
  1. A building mounted WCF may consist of the following
    - a. Nonreflective panel antenna(s);
    - b. Whip antenna(s);

- c. Nonreflective parabolic dish;
    - d. The number of antennas shall be reasonable to accommodate the technology and maintenance compatible with the constraints of the building and prevailing land use.
  2. In addition to the overall height limitations in Section 16.57.060, the antennas shall conform to the following general height restrictions relating to the existing building provided the site plan review committee may approve any height it feels is reasonably necessary to meet the requirements of the technology that is also compatible with surrounding land uses so as not to significantly impact the aesthetic character of the area.
    - a. Fifteen feet measured to the top of a panel antenna above the roof proper of the existing building at the point of attachment.
    - b. Twenty feet measured to the tip of a whip antenna above the roof proper of the existing building at the point of attachment.
    - c. Five feet measured to the top of a parabolic dish above the roof proper of the existing building at the point of attachment.
  3. Whip antennas shall be camouflaged and located to minimize views from residential structures and rights-of-way.
  4. Panel and parabolic antennas shall be adequately screened from residential views and public rights-of-way in a manner that is architecturally compatible with the building on which it is located.
  5. Equipment enclosures shall be located within the building in which the facility is placed or located underground if site conditions permit. Otherwise, equipment enclosures shall be screened from view by compatible wall, fences or landscaping.
- D. WCF's requiring construction of a support structure may be located on the site of existing nonresidential uses in nonresidential zones except the following:
  1. Areas where support structures may not be effectively screened from view by existing structures.
  2. Areas where support structures cannot be adequately set back from the nearest residential use property line or the nearest vacant property zones for residential use (usually a minimum of fifty feet), measured from the property line.
- E. WCF's requiring construction of a support structure must be located on a portion of the site that is effectively isolated from view of residential areas or public rights-of-way by structures or terrain features unless they are integrated or act as an architectural element of the structure, such as a flagpole.
- F. WCF's are not allowed on properties zoned for residential use except on public facilities or properties that can accommodate the use with stealth technology or screening designed

to avoid aesthetic impacts; an example could be a water tower with a camouflaged antenna attached.

**16.57.060 Permitted height.**

- A. WCF's utilizing a freestanding support structure and omni-directional antennas and supporting structures shall be limited to the following heights:
1. Shorelines management district – thirty-five (35) feet
  2. Industrial and commercial zones – eighty (80) feet
  3. Public lands (forested) – one hundred (100) feet.
  4. Unzoned Areas of the “Hewitt Addition” – varies as the Future Land Use Map of the Comprehensive Plan indicates proposed zones.
  5. No structure shall be so located or of a height to require aerial warning or beacon lights.
  6. Monopole, rather than lattice or guyed towers are the preferred support technology. Justification for lattice or guyed towers will be required.

**16.57.070 Site development standards.**

- A. Free-standing WCF's shall conform to the following site development standards:
1. Support structures shall be set back from all residential property lines a distance equal to the height of the support structure plus the height of any antennas, and shall comply with all required setbacks of the zoning district in which it is located.
  2. Support structures shall be designed and placed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures so as to:
    - a. Use existing site features to screen as much of the total WCF as possible from prevalent views; and/or,
    - b. Use existing site features as a background so that the total WCF blends into the background with increasing sight distances.
  3. Relocation of a proposed facility on the site and infill landscaping of mature plant materials consistent with landscaping of the city may be required by the city to make the best use of or to supplement existing trees and vegetation to more effectively screen the facility.
  4. Support structures, panel and parabolic antennas, and any associated hardware shall be painted a nonreflective color or color scheme appropriate to the background against which the WCF would be viewed from a majority of points within its viewshed. Natural colors only may be employed and the final colors and color scheme must meet the approval of the city.
  5. Equipment enclosures shall conform to the following:

- a. Equipment enclosures will be placed underground if site conditions permit and if technically feasible.
  - b. Equipment enclosures shall be screened from view except as provided in Section 7 A5C
  - c. Walk-in equipment enclosures:
    - (1) May not be constructed with exposed metal surfaces.
    - (2) May not be required to be totally screened from view provided the city finds that the walk-in equipment enclosure has been designed using materials, colors, and detailing that produces a structure which emulates the desired character of the zone in which it is located.
6. Security fencing, if used, shall be effectively screened from view through the use of appropriate landscaping materials.
- a. Chain-link fences shall be painted or coated with a nonreflective color.
7. Noise. Noise levels shall not exceed 5 dBA above ambient levels or 55 dBA Sound Pressure Level (SPL); whichever is greater, on adjacent properties. Operation of a back-up generator in the event of power failure or the testing of a back-up generator between 8 am and 8 pm are exempt from this standard. No testing of back-up power generators shall occur between the hours of 8 pm and 8 am.
- B. The city shall consider the cumulative visual effects of WCF's mounted on existing structures and/or located on a given permitted site in determining whether additional permits can be granted so as to not adversely affect the character of the city.

**16.57.080 Co-location.**

- A. A permittee shall cooperate with other WCF providers in co-locating additional antennas on support structures and/or on existing buildings provided said proposed co-locators have received an appropriate permit for such use at said site from the city. A permittee shall exercise good faith in co-locating with other providers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Such good faith shall include sharing technical information to evaluate the feasibility of co-location. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the city may require a third party technical study at the expense of either or both the applicant and permittee.
- B. All applicants shall demonstrate reasonable efforts in developing a co-location alternative for their proposal.

- C. Failure to comply with the co-location requirements of this section may result in the denial of a permit request or revocation of an existing permit.

**16.57.090 Radio frequency standards.**

- A. The applicant shall comply with federal standards for radio frequency emissions. Within six months after the issuance of its operational permit, the applicant shall submit a project implementation report, which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site and compares the results with established federal standards. Said report shall be subject to review and approval of the city for consistency with federal standards. If on review, the city finds that the WCF does not meet federal standards, the city may revoke or modify this special use permit.
- B. The applicant shall ensure that the WCF will not cause localized interference with the reception of area television or radio broadcasts. If on review the city finds that the WCF interferes with such reception, and if such interference is not cured within sixty days, the city may revoke or modify the permit.

**16.57.100 Technological change and periodic review.**

- A. The city recognizes that WCF's and communication technologies in general are currently subject to rapid change. Innovations in such things as switching hardware and software, transmission/receiving equipment, communications protocols, and development of hybrid cable/ wireless systems may result in reducing the impacts of individual facilities and to render specific portions of Ordinance 1272 obsolete. The city recognizes the fast pace of this technology and shall have the flexibility to accommodate it where there is a conflict with provisions of Ordinance 1272 where the city considers it reasonable to do so where the purposes of Ordinance 1272 and visions of the city can still be accomplished.

**16.57.110 Permit limitations.**

- A. A permit for a freestanding support structure WCF shall expire ten years after the effective date of the permit approval. A permittee wishing to continue the use of a specific WCF at the end of the ten-year period must apply for a new permit to continue that use at least six months prior to this expiration. In ruling on said renewal, the city shall apply all then-existing regulations affecting the application and shall consider new technology that may reduce aesthetic and land use impacts.
- B. A permit shall become null, void and non-renewable if the permitted facility is not constructed and placed into use within eighteen months of the date of the city approval, provided that the permit may be extended one time for six months if construction has commenced before expiration of the original time period.
- C. The permit shall expire and the applicant must remove the facility if the facility is not put into use within ninety days after construction or if use is discontinued for a period in excess of six months. If the facility is not so removed, the city may cause the facility to

be removed and all expenses of removal shall be paid by the owner of the land where the facility is located.

- D. The applicant shall maintain the WCF to standards that may be imposed by the city at the time of the granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the applicant fails to maintain the facility; the city may undertake the maintenance at the expense of the applicant or terminate the permit, at the city's sole option.
- E. The applicant shall notify the city of all changes in ownership or operation of the facility within sixty days of the change.

**16.57.120 Applicability.**

- A. The requirements of this ordinance apply to all new WCF's and the expansion and/or alteration of any existing WCF's; provided that any in-kind or smaller replacement of transmission equipment will only require a written notification to the city.

**SECTION 2. Severability.**

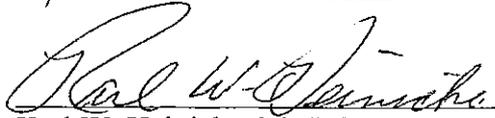
- A. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

**SECTION 3. Effective date/emergency.**

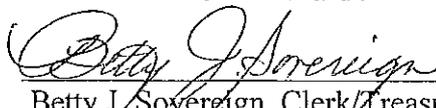
- A. This ordinance, passed by a majority, plus one of the whole membership of the City Council as an emerging ordinance, is necessary for the protection of the public health, safety, and welfare. The City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by the City Council, and prior to expiration of the existing moratorium on application for wireless communication facilities. This Ordinance is not subject to a referendum. Without an immediate effective date, applications received for WCF facilities during the next five days would be processed under the City's existing Building and Zoning Codes and said codes do not adequately protect adjacent properties and citizens of the City from visual, aesthetic, and noise impacts associated with WCF facilities. Therefore, this Ordinance must take effect immediately to prevent any WCF facility applications from vesting without necessary regulations and to preserve the City's ability to process applications under the development regulations adopted herein. Publication requirements may be satisfied by publication of an approved summary hereof, consisting of the title. Within 60 days a public hearing will be held to determine whether this Ordinance shall be made final as written or amended.

INTRODUCED AND PASSED on the 14th day of SEPTEMBER 2001 by the following vote:

4 AYES 0 NOES 1 ABSENT

  
Karl W. Heinicke, MAYOR

AUTHENTICATED BY:

  
Betty J. Sovereign, Clerk/Treasurer

APPROVED AS TO FORM:

  
Harold Karlsvik, City Attorney

Publish: September 26, 2001