

ORDINANCE #1532

AN ORDINANCE FOR THE CITY OF SOUTH BEND, WASHINGTON, AMENDING, REPEALING, AND ADDING PORTIONS OF TITLE 15 UNIFIED DEVELOPMENT CODE AND TITLE 16 ZONING OF THE CITY OF SOUTH BEND MUNICIPAL CODE

WHEREAS, RCW 36.70A.130 under the Growth Management Act requires periodic updates to the City of South Bend's comprehensive plan and development regulations, and

WHEREAS, WAC 365-196-500 requires development regulations must be internally consistent and be consistent with and implement the comprehensive plan, and

WHEREAS, the South Bend Planning Commission prepared amendments to Title 15, Unified Development Code, and Title 16, Zoning, to ensure consistency with the comprehensive plan, and

WHEREAS, the South Bend Planning Commission held public meetings and a public hearing to provide the opportunity for public review and comment on the draft amendments, and

WHEREAS, the South Bend Planning Commission recommends consolidating Title 16, Zoning, into Title 15, Unified Development Code, and

WHEREAS, the South Bend Planning Commission recommended to the City of South Bend City Council to adopt the said amendments;

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

Section 1. South Bend Municipal Code Division I, Chapter 15.04, Definitions, is **REPEALED** and **REPLACED** as follows:

15.04.010, Explanation

A. This chapter defines technical and procedural terms used throughout this title in order to simplify wording, give meaning of a technical term, or to eliminate ambiguity. Some definitions differ from definitions of the same words in standard dictionaries. Where this occurs, the definitions in this title will prevail. Words not defined will be presumed to have common and universally-accepted dictionary meanings.

B. Each document that is adopted by reference as part of this title contains a definition section of its own.

15.04.020, Definitions

“Accessory” means 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.

“Accessory building” means a subordinate building detached from but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building. A detached garage, shed, greenhouse, or office for a home occupation are examples of an accessory building.

“Accessory dwelling unit” means a second dwelling unit in an existing single-family detached dwelling for use as a complete, independent living facility with provisions within the accessory apartment for cooking, eating, sanitation, and sleeping. Such a dwelling is an accessory use to the principal one.

“Adjacent” means immediately next to and on the same side of the street.

“Administrative appeal” means an appeal to the board of adjustment of a decision made by the city supervisor.

“Adult family home” means the regular family dwelling unit of a person or persons who provide personal care, room, and board to no more than four adults not related by blood or marriage to the person or persons providing the services. An adult family home may have a maximum of six adults if licensed pursuant to Chapter 70.128 RCW by the Washington State Department of Social and Health Services.

“Affordable housing.” For renter-occupied housing, affordable housing is when monthly housing costs are 33% or less of a low- and moderate-income household’s total monthly income. For owner-occupied housing, the cost of an affordable home is 3 times the annual income of a low- or moderate-income household. The US Department of Housing and Urban Development (HUD) annually establishes “low- and moderate-income” levels for households in Pacific County.

“Agriculture” means the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing produce.

“Agricultural produce stand” means the display and retail sales of agricultural products produced on the property they are grown and less than 200 square feet in area.

“Alley” means a public thoroughfare or way which affords only a secondary means of access to abutting property.

“Alteration” means any change, addition or modification in construction or occupancy or any change, addition or modification to a site, building, or occupancy.

“Amendment” means a change in the wording, context, or substance of this code, or a change in the zone boundaries on the zoning map.

“Applicant” means a person or persons submitting an application to the city of South Bend for any type of permit or approval covered in this title.

“Automobile service station” means a use that provides for the servicing of passenger automobiles and trucks not exceeding one and one-half tons capacity and operations incidental thereto, but not including body repair, painting, or automobile wrecking.

“Automobile heavy maintenance and repair shop” means any premise for conducting heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work.

“Average finish grade” means a reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished grade slopes away from the exterior walls, average finish grade shall be established by the lowest points within three feet of the building foundation. Where the finish grade does not slope uniformly along the length of an exterior wall, average finish grade shall be established by averaging the corner elevation of each exterior wall, then averaging the four subtotals.

“Bars and/or cocktail lounges” means any premises selling alcoholic beverages for consumption on the premises. It shall not mean a premise that sells beverages in conjunction with the sale of food for consumption on the premises.

“Bed & breakfast inn” means a dwelling unit that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation.

“Binding site plan” means drawing(s) made and approved in accordance with the provisions in Chapter 15.62, which contains inscriptions and attachments setting forth such appropriate limitations and conditions for the use

of the land as are established by the city, and which contains provisions requiring any development to be in conformance with the site plan.

“Block” means all property abutting upon one side of a street between intersection and intercepting streets, or between a street and a railroad line right-of-way, waterway, or dead-end street.

Board of adjustment” means that body which hears and decides on applications for variances and appeals from administrative decisions.

“Bond” means a form of insurance or financial security provided to guarantee completion of required improvements or maintenance.

“Buffer strip” means an area of land or a structure used or created for the purpose of insulating, separating, or screening a structure or land use from other land uses or structures, in such a manner as to reduce or mitigate any adverse impacts of one or the other.

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

“Building area” means the total allowable ground coverage of a building or structure that provides shelter.

“Building height” means the vertical distance from the average ground level of the site to the highest point of the structure.

“Building inspector” means the building inspector for the city of South Bend, Washington.

“Building line” means that line beyond which a building shall not extend into any required yard.

“Building site” means a parcel of land assigned to a use or to a building including all yard and open spaces required by this title, whether the area so devoted is comprised of one lot, a combination of lots, or a fraction of lots.

“Building permit” means the permit required for new construction and additions to buildings. Building permits are issued by Pacific County.

“Business” means the purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management, occupancy, or maintenance of recreational or amusement enterprises, office buildings, offices, structures or premises by professions and trades or persons rendering services.

“Caretaker’s residence” means a single-family dwelling unit accessory to a manufacturing facility, mini-warehouse, park, cemetery, golf course, or camping facility use for occupancy by the owner/caretaker.

“Cemeteries” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium’s, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

“City” means the city of South Bend, Washington.

“City attorney” means the city attorney of the city of South Bend, Washington.

“City council” means the city council of the city of South Bend, Washington.

“City of South Bend Standard Plans and Specifications for Public Works Construction” means the city’s document that outlines required construction standards.

“City supervisor” as used in this title means the city supervisor, or the mayor’s designee, of the city of South Bend, Washington.

“Classification” means 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 title, includes provisions, conditions, and requirements related to the permissible location of permitted uses.

“Clear vision triangle” means an area maintained for vision safety purposes lying between the front lot line and the side lot line adjacent to a street and a line connecting points of these lot lines thirty (30) feet from their intersection.

“Closed record appeal” means an administrative appeal on the record to the city council, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. [RCW 36.70B.020 (1)]

“Cluster development” mean a development design technique that concentrates buildings in specific areas on a site to allow the remaining land for use as recreation, common open space, and protected critical areas.

“Collective garden” means those gardens authorized under Section 403 of ESSSB 5073, which means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

“Commercial recreation areas/facilities” means an area operated for profit and devoted to facilities and equipment for recreational purposes, including swimming pools, tennis courts, playgrounds, and similar uses whether the use of such area is limited to private membership or whether open to the public upon payment of a fee.

“Commercial use” means an occupation, employment, or enterprise carried on for profit by an owner, lessee, or licensee.

“Community facilities” means any use of land, water, or building by the city for providing services to the public, including, but not limited to, administrative offices, police stations, fire stations, community centers, parks, libraries, and the like.

“Completion security” means a bond or other acceptable surety deposited by an applicant with the city to ensure completion within one year of improvements required to obtain a permit or approval.

“Comprehensive general sewer plan” means the most recent edition of the comprehensive general sewer plan of the city of South Bend.

“Comprehensive plan” means the most recent edition of the city of South Bend comprehensive plan.

“Comprehensive water plan” means the most recent edition of the city of South Bend comprehensive water plan.

“Conditional use” means a use allowed in one or more zones but which, because of characteristics peculiar to such use, the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special permit in order to provide a particular degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone(s).

“Condominium” means the division of a building or land pursuant to the Horizontal Property Regimes Act, Chapter 64.32 RCW, or to the Condominium Act, Chapter 64.32 RCW.

“Contractor yards” means a service establishment primarily engaged in general contracting or subcontracting in the building construction trades. These include administrative offices, workshops, and the indoor or outdoor storage of tools, equipment, materials, and vehicles.

“County assessor” means the assessor of Pacific County, Washington.

“County auditor” means the auditor of Pacific County, Washington.

“Critical areas” includes the following areas and ecosystems as defined in RCW 36.70A.030 and WAC 365-195-200:

Wetlands;

1. Areas with a critical recharging effect on aquifers used for potable water;
2. Fish and wildlife habitat conservation areas;
3. Frequently flooded areas; and,
4. Geologically hazardous areas.

“Day” means calendar day.

“Day care center” means an agency that regularly provides care for a group of children for periods of less than twenty-four hours (RCW 74.15.020).

“Decision” means a final determination by the city council, planning commission, board of adjustment, or city supervisor on applications for permits or approvals or on appeals.

“Decision making body” means the body with final approval authority for any given application.

“Dedication” means the transfer of property interests from private to public ownership for a public purpose. The transfer may be a fee-simple interest or of a less than fee interest, including an easement.

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate will be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication; and, the acceptance by the public will be evidenced by the approval of such plat for filing by the city council.

“Density” means the intensity of activity occurring per unit of land area, ordinarily expressed as the number of families per acre.

“Density, gross” means the number of dwelling units per acre computed by using all land within the project boundaries.

“Density, net” means all land within the project boundaries minus environmentally constrained areas, public roads and other land uses not intended for construction of dwellings as stated on the plat maps or development drawings.

“Determination of completeness” means the determination made by the city supervisor as to whether a project permit application is complete or incomplete. [RCW 36.70B.070]

“Developer” means a person who is responsible for any undertaking that requires a permit or approval from the city of South Bend.

“Development” or “development activity” means any human-made change to improved or unimproved real estate, including but not limited to:

1. Construction, clearing, grading, filling, excavating, paving, dredging, mining, drilling, or otherwise significantly disturbing the soil of a site;
2. Building, installing, enlarging, replacing, or substantially restoring a structure, impervious surface, or water management system;
3. Subdividing land into two or more parcels;
4. Construction of a permanent sign unless expressly exempted by this title;
5. Alteration of a historic property for which authorization is required by this title; or
6. Changing the use of a site so that the need for parking is increased.

“Development fees ordinance” means the most current list, adopted by the city council, of the fees required for submitting applications to the city under this title.

“Development permit” or “development approval” means any written authorization from the city that authorizes the commencement of a development activity.

“Drive through” means a building element that allows a customer to obtain goods and services through a building opening, other than a door, while seated in an automobile.

“Duplex” means a detached building containing two dwelling units.

“Dwelling” means any building or portion thereof which is designed or used for residential purposes.

“Dwelling, multiple-family” means a building or portion thereof containing three or more dwelling units.

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

“Dwelling unit” means a room or rooms located within a building designed, arranged, occupied or intended to be occupied by not more than one family as living accommodations independent of any other family. The existence of a food preparation area within such room or rooms shall be evidence of the existence of a dwelling unit.

"Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters. Children include both the provider's children, close relatives and other children irrespective of whether the provider gets paid to care for them. They provide their services in the family living quarters of the day care provider's home.

“Easement” means the authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

“Emergency repair” means work necessary to prevent destruction or dilapidation to real property or its structures immediately threatened or damaged by fire, flood, earthquake, or other disaster.

“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.

“Essential public facilities” means public facilities and privately-owned or operated facilities serving a public purpose that are typically difficult to site. They include:

1. Type One. These are multicounty facilities on the OFM list of future projects. These are major facilities serving or potentially affecting more than one county. These facilities include, but are not limited to,

regional transportation facilities, such as regional airports; state correction facilities; and state education facilities.

2. Type Two. These are local or interlocal facilities serving or potentially affecting residents or property in more than one jurisdiction. They could include, but are not limited to, county jails, county landfills, community colleges, sewage treatment facilities, communication towers, and inpatient facilities (e.g., substance abuse facilities and mental health facilities). [Note: Facilities that would not have impacts beyond the jurisdiction in which they are proposed to be located would be Type Three facilities.]
3. Type Three. These are facilities serving or potentially affecting only the jurisdiction in which they are proposed to be located.

“Expansion” means enlargement of building floor area or parking area of a permitted land use.

“Externally illuminated sign” is a sign illuminated by an exterior light source that is primarily designed to illuminate the sign.

“Family” means one or more related persons living together, or one or more disabled persons protected by the Fair Housing Amendments Act (42 U.S.C. Section 3601 et seq.) living together. Except for disabled persons as described above, in no case shall a family include more than six persons who are not related by genetics, adoption, or marriage.

“Family day care center” means a child day care provider who regularly provides child day care for not more than 12 children in the provider’s home in the family living quarters, as defined by RCW 74.15.020(1)(e).

“Fence” means a linear structure or linear plant growth that encloses, divides, or screens.

“Final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this title.

“Forest practices” means any activity conducted on or directly pertaining to forest land and relating to growing or harvesting timber, or the processing of timber on a harvest site for less than 30 days per calendar year, including but not limited to, road and trail construction and maintenance; harvest, final and intermediate; pre-commercial thinning; reforestation; fertilization; prevention and suppression of diseases and insects; salvage of trees; and brush control. Chapter 76.09 RCW, the Washington State Forest Practices Act, and Chapter 222 WAC, regulate forest practices.

“Garage, private” means a sheltered or enclosed space designed and used for the storage of motor vehicles or boats of the residents of the premises.

“Grade” means the surface of the ground at the point of measurement. Height shall be measured from the lowest point of the grade immediately below the sign or any sidewalk or street within five feet of the sign and the top of the sign.

“Gross floor area ratio” means the gross floor area of all structures, excluding parking and mechanical areas, divided by the total site area.

“Hazardous waste” means any dangerous and extremely hazardous waste, as those terms are defined by RCW 70.105.010(5) and (6), respectively, including substances composed of radioactive and hazardous components. A moderate risk waste as described by RCW 70.105.010(17) is not a hazardous waste.

“Hazardous waste generator” means any person or site whose act first causes a dangerous waste to become subject to regulation under the Dangerous Waste Regulations, Chapter 173-303 WAC.

“Hazardous waste storage” means the holding of dangerous waste for a temporary period. Accumulation of dangerous waste by the generator on the site of generation is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

“Hazardous waste treatment” means the physical, chemical, or biological processing of dangerous waste to make such wastes non-dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

“Height” (of a structure) means the vertical distance between the average finished grade within three feet of the building foundation and the highest point of the structure’s roof, walls, or other principle elements, excluding such accessory building elements as skylights, flagpoles, chimneys, church steeples, and roof structures housing building equipment.

“Home occupations” means any commercial use conducted as an accessory use within a dwelling unit or accessory structure and which does not alter the exterior of the property or affect the residential character of the neighborhood.

“Hospital” means an institution specialized in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by state law to provide facilities in surgery, obstetrics, and general medical practice.

“Hotel or motel” means an establishment offering transient lodging accommodations to the public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

“Household” means a number of individuals living together in a dwelling unit not exceeding the maximum occupant load permitted by the building code.

“Housing for the elderly” means a building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 60 years of age or older or couples where either spouse is 60 years of age or older. This does not include a development that contains convalescent or nursing facilities.

“Impervious surface” means a surface which does not absorb water, including buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt.

“Indoors” means within a completely enclosed and secure structure that complies with the International Building Codes, as adopted by the city of South Bend, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through lockable doors, have bars over window entrances to prevent human access, an alarm system, and constructed of solid materials that cannot easily be broken through, using materials at a minimum of two-inch by four-inch or thicker studs overlain with three-eighths-inch or thicker plywood, or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

“JARPA” means the joint aquatic resource permits application, which must be completed whenever work is proposed in or near water.

“Judicial appeal” means an appeal to the Pacific County superior court of a decision made by the city council or board of adjustment.

“Kennel” means any outdoor or indoor facility, which houses four or more small domestic animals (that number not including one un-weaned litter) for periods longer than 24 hours as a commercial venture, as a nonprofit organization, or for a governmental purpose. The facility may be either a primary or an accessory use. A kennel is to be distinguished from a veterinary clinic, which houses animals for periods that may exceed 24 hours as a commercial venture that is accessory to the primary medical activity performed in a veterinary clinic.

“Land use district” means an area accurately defined as to boundaries and location on the zoning 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 SBMC Title 15 16, Division III, Zoning. Such area is subject to all the regulations applicable to the district (and combining district) that are contained in this title and SBMC Title 16, Zoning. The word “zone” may also be used in place of district.

“Livestock” means horses, bovine animals, sheep, goats, swine, donkeys, or sheep.

“Lot” means land held as a unit regardless of whether platted or unplatted, and regardless of whether described on plats or in documents of title.

“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

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

“Lot, corner” means a platted lot abutting two road rights-of-way at their intersection.

“Lot, interior” means an interior lot is a lot other than a corner lot.

“Lot of record” means a parcel that was in compliance with both the platting, if applicable, and zoning laws in existence when the parcel was originally created. Where contiguous legal lots are under common ownership or control, which for purposes of this code shall also include lots or parcels organized as a condominium, such legal lots shall be counted as a single parcel.

“Lot, interior” means an interior lot is a lot other than a corner lot.

“Lot line” means the boundary line of a lot.

“Lot line, front” means on an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a right-of-way.

“Lot of record” means a lot whose existence, location, and dimensions have been legally recorded or registered in a deed or plat.

“Lot width” means the horizontal distance between side lot lines abutting a street.

“Manufactured home, designated” means a single-family dwelling constructed after June 15, 1976, and installed in accordance with the U.S. Department of Housing and Urban Development (HUD) requirements for manufactured housing, which:

1. Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;
2. Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and
3. Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences.

“Manufactured home park” means a lot, parcel, or tract of land having as its principal use the rental of space for occupancy by two or more manufactured homes, including any accessory buildings, structures or uses customarily incidental thereto.

“Manufacturing, heavy” means the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or

explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

“Manufacturing, light” means a use engaged in the basic processing and manufacturing of materials or products predominantly from previously prepared materials or finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials, except for food products. This also includes maintenance and service facilities for motor vehicle passenger transportation, such as for taxi fleets, public transit fleets, or school bus fleets.

“Maintenance security” means a bond or other acceptable surety deposited with the city by an applicant to:

1. Cover the cost of replacing or repairing any or all required site improvements; and
2. To warrant against defects in labor and material, and against any damage or defects caused by construction activity on the site, for a period of two years from acceptance of improvements by the city.

“Marijuana processor” means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers (as defined in RCW 69.50.101 and provided herein for reference).

“Marijuana producer” means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers (as defined in RCW 69.50.101 and provided herein for reference).

“Marijuana retailer” means a person licensed by the State Liquor Control Board to sell useable marijuana and marijuana-infused products in a retail outlet (as defined in RCW 69.50.101 and provided herein for reference).

“Mini-warehouse” means an enclosed single-story building(s) designed and constructed to provide individual compartmentalized controlled access stalls or lockers that shall be used only for the storage of personal property. Ministorage is synonymous with mini-warehouse.

“Mixed-use building” refers to a building that includes both residential and nonresidential uses and/or business or professional office uses with other nonresidential uses. Such uses may be mixed vertically or horizontally in one building. Examples include a restaurant with apartments and/or professional offices upstairs or professional offices on one end of the building with retail and/or residential uses on another end.

“Mobile food vendor” means a self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle, use to store, prepare, display, or serve food intended for individual portion service.

“Monument sign” means a freestanding sign in which the sign structure is at least as wide as the sign.

“Multiple business property” means a property used for business or commercial purposes under a single ownership or control and containing less than 40,000 square feet of land area and on which three or more separate businesses or commercial enterprises are located.

“Nonconformance” or a “nonconformity” or “nonconforming” means any lawfully established use, lot, improvement, or structure that does not conform to the current development standards of the zoning codes.

“Nursing home” means any facility licensed by the Washington State Department of Social and Health Services or other appropriate state agencies, providing convalescent, chronic or domiciliary care for a period in excess of 24 consecutive hours, for three or more patients or residents not related by blood or marriage to the licensee.

“Nursery and greenhouses” or “garden center” means an enterprise that conducts the retail and wholesale sale of plants generally grown on-site, as well as accessory items (excluding farm equipment) directly related to plant care and maintenance.

“Obstruction” means 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.

“Occupancy” means the purpose for which a building is used or intended to be used. For purposes of this code, a change of occupancy is not intended to include change of tenants or proprietors but intended to indicate a change in the type of use.

“Off-site hazardous waste treatment and storage” means hazardous waste treatment and storage facilities that treat and store waste from generators on properties other than those on which the off-site facility is located.

“Office, Business or Professional” means an office wherein business, technical or scientific services are rendered involving labor, skill, education and special knowledge for certain compensation or profit, but such labor, skill, education and special knowledge being predominantly mental or intellectual, rather than physical, manual or mercantile in nature. Examples of such uses would include, but not be limited to, the offices of lawyers, accountants, dentists, physicians, brokers, insurance agents, and optometrists.

“Office, Medical” means an office or clinic used exclusively by physicians, dentists, and similar personnel for the treatment and examination of patients solely on an outpatient basis; provided, that no overnight patients shall be kept on the premises. The term also includes veterinary clinics and such veterinary clinics may keep domestic animals overnight inside the clinics for short periods of time in association with and accessory to the treatment of such domestic animals.

“Off-site” means separate and/or geographically separated noncontiguous property located within the city corporate boundaries.

“On-site” means the same, geographically contiguous, or bordering property.

“Open-air vending” means any commercial activity which is conducted without the shelter of a building on the premises.

“Open record hearing” means a hearing that creates the city’s record through testimony and submission of evidence and information, under procedures prescribed by the city by ordinance or resolution. An open record hearing may be held prior to a local government’s decision on a project permit to be known as an “open record predecision hearing.” An open record hearing may be held on an appeal, to be known as an “open record appeal hearing,” if no open record predecision hearing has been held on the project permit. [RCW 36.70B.020(3)]

“Open space” means any area which is preserved and/or improved to serve as active or passive recreational areas or for resource protection in an essentially undeveloped state.

“Ordinary repair and maintenance” means work for which a permit is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.

“Outdoor lighting fixture” means a luminaire outside of an enclosed building or structure or any luminaire directed such that it primarily illuminates outdoor areas.

“Outdoors” means any location that is not “indoors” within a fully enclosed and secure structure as defined herein.

“Outdoor sales” means any table, stand, tent, vehicle, or other structure from which any item is sold to, or exchanged with consumers; provided, that an outdoor sales shall not include mobile food vendors, outdoor agricultural sales, or sales that are accessory to a permanent building on the same lot.

“Outdoor storage” means the storage of fuel, raw materials, products, and equipment outside of an enclosed building. Mechanical equipment necessary for the operation of the building shall be excluded from the definition.

“Owner” means 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.

“Owner occupancy” or “owner occupied” means occupancy by a property owner, as reflected in property title records, who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than nine months out of any given year.

“Owner of property” means the fee simple owner of record as exists in the Pacific County assessor’s records.

“Pacific County Road Standards” means the most current edition of the Pacific County Roads Standards.

“Parking lot” means a tract of land used for the temporary parking of motor vehicles when such use is not accessory to any other use.

“Parking, RV, and Boat” means a tract of land used for the short- or long-term parking of recreational vehicles and boats, including with or without covered stalls or garages.

“Parking, shared” means the development and use of parking areas on separate properties for joint use by two or more businesses.

“Parking space” means an unobstructed space or area other than a street or alley permanently reserved and maintained for the parking of one motor vehicle.

“Pedestrian sign” means a small sign designated to identify a business to a pedestrian and indicate the location of the entrance.

“Permit-issuing authority” means the person or body that has the authority, according to this title, to issue the permit or approval in question.

“Permeable pavement” is a paving system which allows rainfall to percolate through it into the underlying soil or an aggregate reservoir. Examples include porous asphalt, porous concrete, interlocking concrete pavers, and open cell paving grids.

“Permitted use” means a use by right that is specifically authorized in a particular land use district.

“Person” means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized. “Person” includes a trustee, a receiver, an assignee, or a similar representative.

“Personal services” means establishments that may include beauty parlors, shops or salons; barbershops; health clubs; martial arts studios; electrolysis services; manicurists; and the like.

“Places of religious worship” means institutions that people regularly attend to participate in or hold religious services, meetings, and other activities.

“Planning commission” means the planning commission of the city of South Bend, Washington.

“Plat” means a map or representation of a subdivision, showing the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

“Portable sign” means a sign that is not attached to the ground or any structure and is movable from place to place. “Portable sign” does not include any sign carried or held by an individual.

“Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat is the basis for the approval or disapproval of the general layout of a subdivision.

“Premises” means a lot, parcel, or tract of land.

“Principal building” means a building that serves the principal use of the lot on which it is located.

“Principal use” means the primary or predominant use of any lot.

“Professional offices” means establishments engaged in providing services in accounting, advertising, architecture, art, banking, dentistry, engineering, finance and securities investments, interior design, insurance, landscape architecture, law, medicine, music, planning, real estate, and any similar type of business.

“Project permit” or “project permit application” means any land use or environmental permit or license required from the city for a project action, including, but not limited to building permits, subdivisions, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, and site-specific rezones authorized by a comprehensive plan. [RCW 36.70B.020(4)]

“Public uses” shall mean civic buildings, including City Hall, police department, fire department, community center, library, transit center and museum.

“Public utilities” means facilities that serve the public including streets, roads, sidewalks, street lighting systems, traffic signals, water systems, stormwater systems, sewer systems, natural gas delivery systems, and electrical systems.

“RCW” means the Revised Code of Washington.

“Recreation, indoor” means an establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment relate to the enclosed uses. Included in this definition include bowling, roller-skating or ice-skating, pool, and related amusement.

“Recreation, outdoor” means an area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

“Recreational vehicle” means a vehicle or portable unit that is self-propelled, towed, or carried by a motor vehicle and intended for temporary human occupancy and designed for recreational use. This definition includes vehicles such as travel trailers, truck campers, commercial coaches, fifth wheels, and motor homes. A recreational vehicle is not a manufactured home.

“Recreational vehicle park” means a lot, parcel or tract of land, or a portion of a manufactured home park, having as its principal use the rental of space for temporary, short-term, transient occupancy by two or more travel trailers, including any accessory buildings, structures and uses customarily incidental thereto.

“Residential care facilities” means a facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services for at least five, but not more than 15, functionally disabled people and which is not licensed under Chapter 70.128 RCW. A residential care facility shall not provide the degree of care and treatment that a hospital or long-term care facility provides.

“Residential treatment facility” means, for the purposes of Chapter 15.370 ECC, a facility providing for treatment of drug and alcohol dependency.

“Restaurant” means an establishment that serves food and beverages primarily to people seated within a building.

“Retail sales” means any establishment or use that involves the display and sale of consumer goods.

“Right-of-way” means a general term denoting land, property, or interest therein meant for public use, usually for transportation purposes. Rights-of-way are distinguished from easements in that they are separate and distinct from the lots adjoining such rights-of-way and are not included in any private ownership.

“Schools” means public or private facilities that provide a curriculum of elementary and secondary academic instruction, including kindergarten, elementary schools, junior high schools, and high schools.

“Senior citizen assisted housing” means housing in a building consisting of two or more dwelling units restricted to occupancy by at least one occupant 62 years of age or older per unit, and must include at least two of the following support services:

1. Common dining facilities or food preparation service;
2. Group activity areas separate from dining facilities;
3. A vehicle exclusively dedicated to providing transportation services to housing occupants;
4. Have a boarding home (assisting living) license from Washington State Department of Social and Health Services.

“Setback” means the shortest distance between a lot line and any structure for which a building permit is required; provided, that eaves, noncombustible chimneys and fireplaces, and similar protrusions may extend up to an additional 24 inches from the vertical wall of the building.

“Short term vacation rentals” mean the provision of temporary guest housing to non-residents, for compensation, by the person or persons maintaining the primary dwelling unit use as their primary residence. The length of stay per guest visit is less than 30 days. Short-term Rental (STR) does not include rental of a dwelling unit for meetings such as luncheons, banquets, parties, weddings, fund raisers or other similar gatherings for direct or indirect compensation.”

“Shopping center” means a grouping of retail business and service uses on a single site with common parking facilities.

“Shoreline master program” means the most recent edition of the shoreline master program adopted by the city of South Bend.

“Short plat” means the map or representation of a short subdivision.

“Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

“Site plan” means a drawing of a proposed project drawn to scale.

“Slope” means the horizontal distance divided into the average vertical rise over that distance.

“South Bend unified development ordinance” or “this ordinance” means this title.

“Standard Plans for Roads, Bridges, and Municipal Construction” means the document jointly developed by the Washington Department of Transportation and the Washington State Chapter of the APWA.

“Story” means the portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams for finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

“Street” means a public or recorded private thoroughfare which affords primary means of access to abutting property.

“Street frontage” means the side of a building facing the street.

“Street line” means the boundary line between a street and the abutting property otherwise referred to as the street right-of-way line.

Street, private: a privately-owned thoroughfare open to vehicular ingress and egress established as a separate tract for the benefit of certain adjacent properties. This definition shall not apply to driveways.

“Structural alteration” means any change, addition, or modification in the supporting members of a building or structure such as bearing walls, columns, beams or girders, floor joists or roof joists.

“Structure” means 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.

“Studio apartment” means a dwelling unit no larger than 500 square feet with one habitable room together with a kitchen or kitchenette and bathroom facilities.

“Subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership, except as provided under “short subdivision.”

“Tavern” means any establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where sandwiches and snacks are available for consumption on the premises.

“Temporary use” means a use which will operate less than 60 days.

“Townhouse” means a building designed exclusively for occupancy by one family and containing one dwelling unit, occupying space from the ground to the roof and not lying vertically under or over adjacent units, and attached to one or more other dwelling units by common walls which may be located on lot lines.

“Urban growth area” means that area designated by the city’s comprehensive plan as the city’s urban growth area.

“Use” means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.

“Use, temporary” means a use needed for a limited duration of time with the intent to discontinue the use upon the expiration of the time period, not to exceed one year. Temporary uses do not involve the construction or alteration of any permanent building or structure, although the authorization of the temporary use does not necessarily preclude such construction.

“Variance” means relaxation of the requirements of this title with respect to building, lot or other restriction (but not with respect to use) because of special circumstances applicable to the building, lot, or property that deprive it of privileges commonly enjoyed by other properties in the same vicinity and district.

“WAC” means Washington Administrative Code.

“Warehouse/distribution” means a building or land use in which goods, merchandise or equipment are stored for eventual distribution.

“Week” means a seven-day period, starting Monday and ending Sunday.

“Weekday” means Monday, Tuesday, Wednesday, Thursday, or Friday.

“Yard” means an open space that lies between the principal building or buildings and the nearest property line. The minimum required yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in this code.

“Yard, required” means an open space between a property line and a structure within which no structure shall be located except as allowed by this code.

“Yard, front” means a space extending the full width of the lot between any building and the front property line and measured perpendicular from the front property line to the closest point of any building.

“Yard, rear” means a space extending the full width of the lot between the principal building and the rear property line and measured perpendicular from the rear property line to the closest point of the principal building.

“Yard, side” means a space extending from the front yard to the rear yard between the principal building and the side property line and measured perpendicular from the side property line to the closest point of the principal building.

“Yard sale” means the sale or offering for sale of new, used, or secondhand items of personal property at a residence.

“Zero lot line” means a single-family dwelling unit constructed in a group of attached units in which:

1. Each attached unit extends from foundation to roof with open space on two sides; and
2. Each dwelling unit is separated by a property line

“Zone.” See “district.”

Section 2. The following South Bend Municipal Code Chapters from Title 16 are **REPEALED**:

1. Chapter 16.05, Title and Purpose
2. Chapter 16.10, Definitions
3. Chapter 16.15, Classifications, Maps, Boundaries and Conformance
4. Chapter 16.20, Agricultural Use Districts
5. Chapter 16.25 Restricted Residential Use District (R-1)
6. Chapter 16.30 General Residential Use District (R-2)
7. Chapter 16.35 Commercial Use District (C)
8. Chapter 16.40 Neighborhood Commercial Use District (C-N)
9. Chapter 16.45 Industrial Use District (I-1)
10. Chapter 16.50 Shoreline Management Combining District (SM)
11. Chapter 16.52 Townhouse (Zero Lot Line) Development

12. Chapter 16.55 Manufactured Housing and Trailer Parks
13. Chapter 16.60 General Provisions and Special Exceptions
14. Chapter 16.70 Nonconforming Buildings and Uses
15. Chapter 16.75 Variances, Conditional Use Permits and Appeals from Administrative Decisions
16. Chapter 16.80 Amendments and Appeals
17. Chapter 16.85 Procedures, Fees, Hearings and Notices
18. Chapter 16.90 Administration Enforcement
19. Chapter 16.95 Penalty Provisions

Section 3. South Bend Municipal Code Chapter 15.08, Administration of Development Regulations, is **REPEALED** and **REPLACED** as follows:

Section 15.08.010, Purpose and scope

This chapter establishes standard procedures for project permit decisions made by the city under Title 15. The procedures are designed to be consistent with Chapter 36.70B RCW and to promote timely and informed public participation, streamline review and decision-making processes, and set appeal processes for decisions. These procedures allow for consolidated project permit applications and the integration of environmental review with permit review processes.

Section 15.08.020, Administration

The city supervisor is responsible for ensuring the administration of this title.

Section 15.08.030, Administrative interpretations

- A. Any person may request an interpretation of the meaning or application of Title 15 SBMC to a project permit application.
- B. A request for interpretation shall be submitted to the city supervisor in writing specifying each provision of this title for which an interpretation is requested, why an interpretation of each provision is necessary, and any reasons or material in support of a proposed interpretation.
- C. The city supervisor shall provide a written interpretation that considers the following:
 1. The applicable provisions of the code including their purpose and context;
 2. The impact of the interpretation on other provisions of the code;
 3. The implications of the interpretation for development within the city as a whole; and
 4. The applicable provisions of the comprehensive plan and other relevant codes and policies.
- D. The city council may establish an application fee for interpretation requests.

Section 15.08.040, Types of project permit applications and review process

- A. Type 1 project permit applications:

1. Type 1 decisions are minor administrative decisions by the city supervisor based on compliance with specific, nondiscretionary and/or technical standards adopted in the city's development codes. Type 1 project permit applications include:
 - a. Permitted uses with no required review under SEPA;
 - b. Boundary line adjustments;
 - c. Minor alterations to preliminary plats; and
 - d. Shoreline exemptions.
2. Type 1 project permit review steps:
 - a. Optional preapplication meeting;
 - b. Type I decisions are not subject to environmental review under the State Environmental Policy Act (SEPA), codified at Chapter 43.21C RCW and Chapter 15.270 SBMC;
 - c. Determination of completeness notice to applicant; and
 - d. Notice of decision.
3. Type 1 project permit appeal process:
 - a. The board of adjustment hears open record appeals on Type 1 decisions. The decision of the board is final.
 - b. Appeals heard before the board of adjustment must be filed with city within 14 days of the notice of decision.

B. Type 2 project permit applications:

1. Type 2 decisions are major administrative decisions made by the city supervisor based on standards and clearly identified specific standards adopted in the city's development codes. Type 2 project permit applications include:
 - a. Permitted uses requiring review under SEPA;
 - b. Temporary use permits;
 - c. Home occupation permits;
 - d. Final short subdivisions;
 - e. Final subdivision approval; and
 - f. Shoreline substantial development permits.
2. Type 2 project permit review steps:
 - a. Optional preapplication meeting;
 - b. Type 2 project permit applications not exempt under WAC 197-11-800 require a threshold determination under the State Environmental Policy Act;
 - c. Determination of completeness notice to applicant;
 - d. Notice of application;
 - e. Written report on findings and conclusions on decision by city supervisor; and

f. Notice of decision.

3. Type 2 project permit appeal process:

- a. The Board of Adjustment hears open record appeals on Type 2 decisions, except for shoreline substantial development permits; the decision of the board is final.
- b. Appeals for shoreline substantial development permits are heard by the State Shoreline Hearings Board.
- c. Appeals heard before the board of adjustment must be filed with the city within 14 days of the notice of decision.

C. Type 3 project permit applications:

1. Type 3 decisions are quasi-judicial decisions made by the board of adjustment and involve the use of discretionary judgment in the review of each specific application. Type 3 project permit applications include:

- a. Variances;
- b. Conditional use permits;
- c. Shoreline conditional use permits; and
- d. Shoreline variance permits.

2. Type 3 project permit review steps:

- a. Optional preapplication meeting;
- b. Type 3 project permit applications not exempt under WAC 197-11-800 require a threshold determination under the State Environmental Policy Act;
- c. Determination of completeness notice to applicant;
- d. Notice of application;
- e. Open record public hearing before board of adjustment;
- f. Written report on findings and conclusions;
- g. Decision by board of adjustment; and
- h. Notice of decision.

3. Type 3 project permit appeal process:

- a. There is no local government appeal on Type 3 decisions except shoreline conditional use permits and shoreline variances as provided in subsection b below.
- b. Appeals for shoreline conditional use permits and shoreline variances are heard by the state Shoreline Hearings Board.

D. Type 4 project permit applications

1. Type 4 decisions require the planning commission to hold an open record public hearing and prepare findings, conclusions, and recommendations for a decision by the city council. Type 4 project permit applications include:

- a. Consolidated review of Type 2, 3, and/or 4 project permit applications;

- b. Preliminary short subdivisions;
 - c. Preliminary subdivisions;
 - d. Plat vacations;
 - e. Major preliminary subdivisions
 - f. Binding site plans;
 - g. Comprehensive plan amendments; and
 - h. Title 15 SBMC amendments.
2. Type 4 project permit review steps:
- a. Required preapplication meeting;
 - b. Type 4 project permit applications not exempt under WAC 197-11-800 require a threshold determination under the State Environmental Policy Act;
 - c. Determination of completeness notice to applicant;
 - d. Notice of application;
 - e. Open record public hearing before the planning commission;
 - f. Written report on findings, conclusions, and recommendation by the planning commission;
 - g. Decision by the city council; and
 - h. Notice of decision.
3. Type 4 project permit appeal process:
- a. The city council will hear one closed record appeal for Type 4 decisions; provided, however, that appeals for shoreline substantial development permits, shoreline conditional use permits, and shoreline variances within a consolidated review are heard by the state Shoreline Hearings Board; and
 - b. Appeals heard before the city council must be filed with the city within 14 days of the notice of decision.

Section 15.08.050, Preapplication meeting

- A. A preapplication meeting is required for all Type 4 project permit applications. Applicants for all other project permit applications are encouraged to request a preapplication meeting.
- B. Preapplication meetings with staff provide an opportunity to discuss project permit applications the proposal in general terms, identify applicable city requirements, and the permit review process.
- C. The city supervisor shall specify submittal requirements for preapplication meetings. Plans presented at the preapplication meeting are nonbinding and do not vest an application or a proposed project unless such plans have been submitted as part of a project permit application that the city previously issued a notice of completion.
- D. The city supervisor shall prepare a summary of the preapplication meeting that includes any documentation provided by the project permit applicant to the city.

Section 15.08.060, Project permit applications

- A. A property owner, or any agent of the property owner with written authorization of agency, may submit a Type 1, 2, 3, or 4 project permit application.
- B. The city council, planning commission, or city staff may initiate a Type 4 project permit application for comprehensive plan or Title 15 SBMC amendments.
- C. Each project permit applicant shall designate on forms provided by the city a single person or entity to receive determinations and notices under this title. The project permit applicant shall be responsible for notifying the city of any change of the designated person or entity.
- D. The city supervisor shall prepare written submittal requirements for each type of permit application, including detail, and number of copies to be submitted to be deemed complete. The city supervisor may waive specific submittal requirements determined to be unnecessary for review of an application. The city supervisor may require additional material such as maps or studies when such material is necessary to adequately assess the project permit application. Applicants may obtain application materials through the city.

Section 15.08.070, Determination of Completeness

- A. A project permit application is complete for the purposes of this section when it meets the submittal requirements established by the city supervisor in Section 2, even though additional information may be required or subsequent project modifications may occur. The determination of completeness shall not preclude the city supervisor from requesting additional information or studies either at the time of the determination of completeness or later, if new information is required to complete review of the application or substantial changes in the permit application are proposed.
- B. Within 28 calendar days after receiving a project permit application, the city supervisor shall provide to the project permit applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete. If the city supervisor does not provide a written determination within the 28 calendar days, the application shall be deemed complete.
- C. If additional information requested by the city supervisor is not fully submitted within 90 calendar days from the date it was requested, the application shall be considered withdrawn. The project permit applicant may submit a written request for extension of this deadline. The city supervisor may grant a single extension if there is a demonstration that the applicant is actively working on obtaining the requested information, and such extension is in the interests of the city.
- D. Within 14 calendar days after receiving any additional information needed to make the application complete, the city supervisor shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

Section 15.08.080, Notice of Application

- A. Within 14 calendar days of the determination of completeness, the city shall issue a notice of application for Type 2 through 4 project permit applications. Notice of any SEPA threshold determination comment opportunities shall be combined with the notice of application.
- B. The notice of application shall include the following information:
 - 1. Dates of application, determination of completeness, and notice of application;
 - 2. Name and address of the applicant or the applicant's designated representative;

3. Location and description of the project;
4. Date, time, and place of any open record hearing, if one is scheduled;
5. Identification of any environmental or critical area documents related to the project, if any, and where they are located for review;
6. Public comment period, which begins on the date of the notice of application and concludes 21 days later; provided, however, that the comment period for a shoreline substantial development permit, a shoreline conditional use permit, or a shoreline variance permits shall conclude 30 days later.
7. A statement of the right for any person to:
 - a. Comment on the application,
 - b. Receive notice of and participate in any hearings;
 - c. Request a copy of the notice of decision when made; and
 - d. Appeal the decision, if applicable.
8. Name, phone number, and email address of city supervisor for sending comments;
9. Any other information the city determines to be appropriate.

C. The city shall make available to the public the notice of application for site specific Type 2 through 4 project permit applications through the following methods:

1. Mailing the notice to owners of real property located within 300 of the subject property and any agencies with jurisdiction under SEPA;
2. Posting a notice board at the site; and
3. Publishing the notice in the local newspaper.

Section 15.08.090, Notice of Decision

- A. Notices of decision are required for Type 2 through 4 project permit applications.
- B. The city supervisor shall mail a notice of decision to the project permit applicant and to any person who, prior to rendering a decision, requested notice of the decision or submitted substantive comments on the application. The notice shall be mailed within 10 days after the decision.
- C. The notice of decision shall include a statement of any threshold determination made under SEPA, Chapter 43.21C RCW and Chapter 15.270 SBMC, and the procedures for appeal.
- D. The city shall provide notice of decision to the county assessor's office.

Section 15.08.100 Time Frame for Project Permit Application Review after Determination of Completeness

- A. Decisions on project permit applications shall be made within 120 days from the date an application is deemed complete under Section 5. Exceptions to this time frame are:
 1. The applicant and the city mutually agree to an extension of time;
 2. Applications that require an amendment to the comprehensive plan or Title 15 SBMC;
 3. Applications requiring approval for siting of essential public facilities;

4. Applications that the city issues written findings that a specified amount of additional time is necessary to process specific complete project permit applications for any project permit type.

B. The time limit does not include:

1. The time frame required to prepare and issue a draft and final environment impact statement (EIS) in accordance with Chapter 43.21C RCW and Chapter 15.270 SBMC; and
2. The time frame for appeals of decisions relating to project permit applications. The time frame for the consideration and decision on appeals shall not exceed:
 - a. Ninety days for an open record appeal hearing; and
 - b. Sixty days for a closed record appeal.

Section 15.08.110, Optional consolidated project permit review

Applicants for a project involving more than one project permit type may request to have the review and decision consolidated into one process. Consolidated Type 1, 2, and 3 project permits shall be reviewed under the process required for the permit with the highest process type number. If any permit requires a review by the board of adjustment or planning commission, that body shall conduct a public meeting and provide a recommendation to the decision maker. If the time frames for permit review differ among consolidated permits, the applicant must agree to the longest period.

Section 15.08.120, Procedures for open record public hearings

Open record public hearings shall be conducted in accordance with the hearing body's rules of procedure and shall serve to create or supplement an evidentiary record upon which the body will base its decision. The open record hearing will observe the following sequence:

- A. Staff presentation, including submittal of any additional materials. Members of the hearing body may ask questions of the staff.
- B. Applicant presentation, including submittal of any additional materials. Members of the hearing body may ask questions of the applicant.
- C. Testimony or comments by the public germane to the matter before the hearing body. Questions directed to the staff or the applicant shall be posed by the chair of the hearing body at their discretion.
- D. Rebuttal, response, or clarifying statements by the staff or applicant.
- E. The evidentiary portion of the public hearing shall be closed and the hearing body shall deliberate on the matter before it.

Section 15.08.130, Procedures for closed record appeals

A. Closed record appeals shall be conducted in accordance with the city council's rules of procedure and shall serve to provide argument and guidance for the council's decision. The Mayor shall open the appeal hearing and observe the following sequence of events:

1. Staff presentation, including submittal of any additional materials. Members of the council may ask questions of the staff.
2. Appellant presentation, after which the members of the city council may ask questions of the appellant.

3. Rebuttal, response, or clarifying statements by the staff and appellant.
4. The presentation portion of the appeal hearing shall be closed and the council shall deliberate on the matter before it.

B. No new evidence or testimony shall be given or received. Written findings and conclusions shall be prepared and adopted setting forth the facts and the reasoning for the decision. The decision appealed may be affirmed, reversed, remanded, or modified.

Section 15.08.140, Conditional use permits

A. Certain uses possess unique and special characteristics with respect to the location, design, size, method of operation, circulation, and/or demand on public facilities. The land use table in Section 9 lists such uses as conditional uses. The conditional use permit process reviews these uses to assure their compatibility with neighboring properties as well as to prevent or control:

1. Environmental hazards and pollution;
2. Traffic hazards and congestion;
3. Street and road capacities in the surrounding area;
4. Location and amount of off-street parking;
5. Visual and auditory impacts;
6. Obtrusive visual blight; and/or,
7. Any other unusual impact associated with the proposed conditional use.

B. Conditional use permits are subject to the Type 3 project permit review process as set forth in Chapter 15.08 SBMC.

C. The city may approve or approve with conditions a conditional use project permit application only if the applicant demonstrates that:

1. The conditional use is consistent with the purpose of the zoning district;
2. The use will not cause or allow conditions that create general nuisances or hazards to life or property;
3. The use conforms to the comprehensive plan; and,
4. The use meets all conditions and requirements of the zone that it proposes to locate in, the code in general, and the comprehensive plan.

D. A conditional use permit shall become invalid if not exercised within the time prescribed in such permit, or, if the date is not specified, within one (1) year of the effective date of approval. Conditional use permits shall become invalid if the approved use is abandoned or discontinued for any continuous period of one (1) year or more. Any conditional use permit issued for a specific time frame shall become null and void after the expiration date stated in the notice of decision.

E. The original applicant of an approved conditional use permit may transfer it to any successors in interest and all special requirements shall continue in effect as long as the use continues; provided, however, that the city may limit the right of transfer of the conditional use permit as a condition of approval.

Section 15.08.130, Variances

- A. A variance permit provides a property owner relief when a strict interpretation of Title 15 SMBC would impose unusual, practical difficulties or unnecessary hardships on the applicant. Unusual, practical difficulties or unnecessary hardships may result from special circumstances relating to the size, shape, topography, critical areas, location of existing structures, or surroundings of the property that preclude reasonable use and are not the result of the applicant's actions.
- B. Variances are subject to the Type 3 project permit review process as set forth in Chapter 15.08 SBMC.
- C. The variance permit application shall meet the following conditions for approval:
1. The variance permit is necessary because unusual, practical difficulties or unnecessary hardships exist for the applicant;
 2. The variance permit will be in harmony with the intent of the code and the Comprehensive Land Use Plan;
 3. The variance permit is for the minimum necessary adjustment to allow reasonable use of the property; and,
 4. The variance permit will not confer a special privilege to the applicant not available to other properties in the same zoning district.
- D. A variance permit shall become invalid if not exercised within the time prescribed in the notice of decision, or, if the date is not specified, within one (1) year of the effective date of approval. Any variance permit issued for a specific time frame shall become null and void after the expiration date stated in the notice of decision.

Section 4. South Bend Municipal Code Chapter 15.20, Zoning Ordinance, is **REPEALED** and **REPLACED** as follows:

Section 15.20.010, Title

This ordinance shall be known as the zoning code of the city of South Bend, Washington.

Section 15.20.020, Purpose and authority

- A. The general purpose of the zoning code is to promote the health, safety, and general welfare of the citizens of South Bend by coordinating both public and private development of land consistent with the implementation of the comprehensive plan and the protection of private property rights.
- B. The zoning code is enacted under the authority granted to the city of South Bend by the Constitution of the State of Washington, the Optional Municipal Code (RCW Title 35A), the Growth Management Act (Chapter 36.70A RCW), Local Project Review (Chapter 36.70B RCW), and other sections of the Revised Code of Washington.

Section 15.20.030 Scope

- A. No use shall be conducted, and no building, structure, and appurtenance shall be erected, relocated, remodeled, reconstructed, demolished or enlarged unless in compliance with the provisions of the zoning code, and then only after securing all permits and approvals required hereby. It shall be unlawful to build or use any

building or structure or to use premises in the city for any purpose or use other than the uses listed as being permitted in the zoning district that such building, land, or premises is located.

B. Creation of or changes to lot lines shall conform to the use provisions, dimensional, and other standards, and other applicable provision of the zoning code.

C. Any building, structure, or use lawfully existing at the time of passage of this code, although not in compliance herewith, may continue as provided in this title.

Section 15.20.040, Establishment of zoning districts

A. The city is divided into land use zoning districts to:

1. Provide for the geographic distribution of land uses that reflect the goals and policies of the comprehensive plan;
2. Maintain a stability in land use within the city that share similar characteristics and level of activities; and
3. Provide an efficient and compatible relationship between land uses.

B. The zoning districts established in this code include the:

1. Neighborhood District (N)
2. Downtown and Commercial District (DC)
3. Environmental Protection District (EP)

C. Purpose of zoning districts

1. The purpose of the Neighborhood District is to continue the existing pattern of single-family dwellings, open space, and community amenities, such as parks, schools, and places of religious worship. The district also allows for a variety of housing types, home occupations, and other uses meeting specific standards or at appropriate locations upon review.
2. The purpose of the Downtown and Commercial District is to accommodate a blend of commercial, manufacturing, residential, and public uses that contribute to the economic vitality of the city. The district extends to the city's working waterfront, downtown, and isolated commercial properties.
3. The Environmental Protection District consists of lands that have extensive critical areas constraints to development that include frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas. The intent of the district is to limit development to low impact uses and activities to protect their functions and values.

Section 15.20.050, Official zoning map

A. The zoning map adopted by this ordinance shall show the location and boundaries of the zoning districts defined by this code.

B. The official zoning map shall bear the signature of the mayor and shall be attested and notarized by the city clerk-treasurer. The office of the city clerk-treasurer shall retain the original copy of the official zoning map.

C. The boundaries between zoning districts of the official zoning map shall be interpreted specifically as shown on the maps and associated ordinances. Should uncertainty remain regarding the location or meaning of a boundary, the location or meaning shall be determined utilizing the following rules:

1. Where zoning district boundaries are indicated as approximately following the centerline of streets, alleys, highways, waterways, or railroad tracks, the actual centerline shall be construed to be the boundary.
2. Where zoning district boundaries are indicated on such map as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundary of such use district.
3. Where a zoning district boundary on the official zoning map divides a tract in unsubdivided property, the location of the zoning district boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the official zoning map.
4. Where a public street or alley is officially vacated, the regulations applying to the abutting property to which the vacated portion reverts shall apply to such vacated street or alley.
5. In case uncertainty exists, which cannot be determined by application of the foregoing rules, the board of adjustment shall determine the location of such zoning district boundaries pursuant to the provisions for code interpretations.

Section 15.20.060, Annexed property

All lands annexed to the city shall automatically and immediately upon annexation be classified consistent with the comprehensive plan designation for the applicable site(s). If the comprehensive plan does not assign a zoning district designation for a proposed annexation, the city council shall classify the land to the zoning district that best suits the site based on the purpose of the zoning district and the context of the site. Annexations shall be governed by the requirements of Chapter 35A.14 RCW.

Section 15.20.070, Establishment of uses

- A. This chapter identifies those uses generally allowed in each zoning district that are compatible with the purpose of the district and other uses allowed in the.
- B. The use of property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained.
- C. The use is considered permanently established when that use will be or has been legally established in continuous operation for a period exceeding 60 days. A use that will operate for less than 90 days is considered a temporary use and is subject to the requirements of a temporary use permit.

Section 15.20.080, Interpretation of land use table

- A. The Land Use Table in Section 9 determines whether a use is allowed in a zoning district. The zoning district is located on the vertical column and the use is located on the horizontal row of the table.
- B. If no symbol appears in the box at the intersection of the column and the row, the use is not allowed in that zoning district, except as a temporary use.
- C. If the letter "P" appears in the box at the intersection of the column and the row, the use is allowed in that zoning district subject to the Type 1 or 2 review procedures set forth in Chapter 15.08 SBMC in addition to other applicable requirements in this chapter.
- D. If the letter "C" appears in the box at the intersection of the column and the row, the use is allowed subject to the conditional use review procedures specified in Chapter 15.08 SBMC and the general requirements of the code.

E. If the letter “A” appears in the box at the intersection of the column and the row, the use is allowed as an accessory use to the primary permitted use on the property and is allowed in the district.

F. If the letter “T” appears in the box at the intersection of the column and the row, the use is allowed as temporary use and is allowed in the district subject to the Type 2 review procedures set forth in Chapter 15.08 SBMC plus other applicable requirements in this title.

Section 15.20.090, Land use table

Land Use	Zoning Districts		
	Neighborhood District	Downtown & Commercial District	Environmental Protection District
Accessory building	P	P	P
Accessory dwelling unit	A	A	A
Adult family home	P		P
Agriculture	P		P
Agricultural stand		P	P
Automobile service station		P	
Automobile heavy maintenance and repair shop		C	
Bar, taverns, or cocktail lounge		P	
Bed and breakfast inn	C	P	
Caretaker’s residence		P	C
Cemetery	C		
Cluster development	P	P	
Commercial recreation areas and facilities	C	P	C
Condominium	C	C	
Contractor yard		C	
Day care center	C	P	
Dwelling, duplex	P		P
Dwelling, multiple-family	C	C ¹	
Dwelling, single-family-	P	P	P
Family day care provider	P	P	
Food and beverage establishments		P	
Forestry	P		P
Hazardous waste generation, storage, treatment		C	
Home occupations	A	A	A
Hospital or medical clinic	C	P	
Hotel or motel		P	
Kennel	C	C	C
Manufactured home, designated	P	P	P

Land Use	Zoning Districts		
	Neighborhood District	Downtown & Commercial District	Environmental Protection District
Manufactured home park	C		
Manufacturing, heavy		C	
Manufacturing, light		C	
Marijuana processor		C	
Marijuana producer		C	C
Marijuana retailer		P	
Mini-warehouse	C	P	
Medical office	C	P	
Nursing home	C	C	
Nursery or commercial greenhouse	C	C	C
Parking lot as a primary use		P	
Parking for recreational vehicle and boats storage	C	C	
Personal services	C	P	
Places of religious worship	C	P	
Private clubs and fraternal organizations	C	P	
Professional offices	C	P	
Public uses	C	P	C
Public utilities	P	P	C
Recreation, indoor		P	
Recreation, outdoor	C	P	C
Recreational vehicle park		P	C
Residential care facilities	C	C	
Residential treatment facilities	C	C	
Retail sales		P	
Schools	C	C	
Senior citizen assisted housing	C	C	
Temporary uses	T	T	T
Townhouse	C	C	
Warehouse/distribution		C	
Wholesale sales		P	
Wireless communication facility	C	C	C

¹ Multiple family dwellings may locate in existing structures only; new structures are prohibited

Section 15.20.100, Purpose of density and dimensional requirements

The purpose for establishing density and dimensional requirements for lots, structures, and other uses is to:

- A. Promote forms of development that reinforce and/or enhance the desired characteristics of the zoning district;
- B. Promote compatibility between uses and public safety;
- C. Minimize environmental impacts of development.

Section 15.20.110, Interpretation of table

- A. Section 12 contains the maximum density and minimum dimensional requirements by zoning district.
- B. The table is arranged as a matrix format showing the required standard by zoning district. Development standards are listed down the left side of the table and the zoning district is delineated across the top. The matrix cells contain the maximum density or minimum dimensional requirements for each zoning district. An “NA” means the use is not allowed in that zoning district. A blank box indicates that there are no specific requirements or the provisions of the Uniform Building Code apply. The presence of a letter accompanying a number means there are special development limitations or conditions. The development limitation with the corresponding letter immediately follows the table.

Section 15.20.120, Table of Density and Dimensional Requirements

Requirement	Zoning Districts		
	Neighborhood District	Downtown & Commercial District	Environmental Protection District
Maximum density (dwelling units per gross acre)			
• Single-family and designated manufactured homes	5	5	5
• Duplex	7.5		
• Multiple-family and townhouses	18		
• Condominiums	18	10	
Minimum lot area (square feet)			
• Single-family & designated manufactured homes	8,700	8,700	10,000
• Duplex	11,600		
• Multiple-family and townhouses	20,000		
• Condominiums	20,000	20,000	
Minimum lot width at building line (linear feet) ¹	50	25	50
Yard requirements (linear feet)			
• Front yard ²	20	20 ³	20
• Side yard located along an interior lot	5	15 ³	5
• Side yard located adjacent to right-of-way	10	15 ³	10
• Rear yard	10	10 ³ & ⁴	10 ⁴
Maximum building height (linear feet)	35	35	35
Maximum lot coverage			

Requirement	Zoning Districts		
	Neighborhood District	Downtown & Commercial District	Environmental Protection District
• Single-family and manufactured homes	40%	65%	40%
• Multiple-family and townhouses	65%		
• Condominiums	65%	65%	

¹ Lots existing before June 1, 1980 may be 40 feet in width at building line

² The city supervisor may approve a front yard reduction for new structures located in an area where existing construction exhibits nonconforming yard standards. The city supervisor shall calculate the average front yard setback using the front yard setbacks of the of the two principle residential structures built closest to, and on the same side of the block, as the subject property requesting the reduction; provided, however, that in no case should the new construction be placed closer than 10 feet from the street or road right-of-way line.

³ Applies to single-family residences, designated manufactured homes only, and condominium only located west of Reed Street to city limits and north of US 101. All other structures shall meet the requirements of Chapter 15.84 SBMC, Buildings and Construction.

⁴ Rear yard distances may increase due to critical area or shoreline buffer requirements.

Section 15.20.130, Density calculation

All site areas may be used in calculating the maximum allowed residential density except submerged lands.

Section 15.20.140, General provisions

The development standards in this title are specific requirements that apply to land uses in one or more zoning districts. All land uses with the scope of Title 15 shall comply with these development standards to ensure their conformity with the intent of the City of South Bend Comprehensive Plan.

Section 15.20.150, Accessory dwelling units

Any single-family dwelling or manufactured home may have one accessory dwelling unit in the primary dwelling unit. A primary dwelling unit with an accessory dwelling unit shall meet the following requirements:

- A. The accessory unit shall be no larger than 25% or up to 500 square feet, whichever is the greater, of the total square footage of the primary dwelling unit;
- B. The presence of the accessory must be clearly identified at its entrance with proper street numbering;
- C. The owner of the primary dwelling unit shall live in either the primary or accessory dwelling unit; and
- D. One additional parking space is required.

Section 15.20.160, Accessory structures

Accessory structures in the Neighborhood and Environmental Protection Districts shall meet the following provisions:

- A. Accessory structures may not locate within the front yard, the required side yard abutting a street, or the clear vision triangle;
- B. Accessory structures shall maintain a distance of at least 5 feet from a property line;
- C. The height of accessory structures shall be no greater than sixteen (16) feet; and
- D. The maximum floor area of all accessory buildings on a lot shall not exceed 400 square feet or 50% of the dwelling, whichever is the greater.

Section 15.20.170, Architectural features

- A. Chimneys, cornices, canopies, balconies, eaves, and similar architectural features may project no more than two feet into any required yard setback.
- B. Fire escapes and outside stairways, which are not roofed or otherwise enclosed, may project not more than six (6) feet into any required front yard, not more than three feet into any required side yard, and not more than ten feet into any required rear yard.

Section 15.20.180, Bed and breakfast inns & Short term rentals (STR)

Bed and breakfast inns permitted in accordance with Section 11 shall be consistent with the following provisions:

- A. The owner of the bed and breakfast inn must reside in and continue to reside in the dwelling as his or her principle residence;
- B. The exterior of the structure in the Neighborhood District shall be established, maintained, and operated so to preserve the residential character and integrity of the surrounding area;
- C. Meals available on premises shall be for guests and employees of the inn. Rooms may not be equipped with cooking facilities; and
- D. Parking for guests shall not be allowed in the front yard.

Short term rentals are permitted as specified for each of the different Land Use Districts, subject to the following regulations:

License Requirement: In addition to the underlying Land Use District permitting and process requirements, an owner shall obtain a revocable annual business license from the city whenever a dwelling unit is to be used for vacation rental purposes and shall comply with the following:

- A. A Business license shall be obtained from the city prior to using the dwelling unit as a short-term vacation rental;
- B. The business license shall be renewed annually;
- C. The business license is non-transferable. If the property is sold, the new owner will need to re-apply for the business license.

- D. At the time of initial business license application, the owner of record shall demonstrate that the vacation rental is registered as a business with the State of Washington and that a State Business License and Unified Business Identifier (UBI) number have been issued for the vacation rental. The owner shall also certify that all applicable lodging taxes will be paid and shall provide proof of general liability insurance for use of the residential structure as a vacation rental.
- E. Satisfactory completion of a life/safety inspection performed by the city's building inspector prior to the issuance of the initial license and/or permit;
- F. The city business license shall be prominently and permanently displayed inside the unit near the front entrance of the vacation rental and shall list the following:
 - 1. The name, address and phone numbers of the property owner or the designated local contact;
 - 2. The maximum occupancy of the vacation rental;
 - 3. Identification and location of parking spaces available;
 - 4. A statement regarding how the parking standards are to be met;
 - 5. A statement that occupants are to respect adjoining property owners by adhering to quiet hours from 10 p.m. to 8 a.m., and refrain from trespassing, littering or parking on adjoining properties;
 - 6. A statement regarding how garbage removal is to be conducted;
 - 7. A statement identifying emergency procedures the occupants are to follow in case of an emergency;
 - 8. A statement that occupants, owners and managers of this vacation rental are subject to civil penalties for violating this Ordinance; and
 - 9. A statement that the license to operate this vacation rental may be revoked for violations of these rules.
- G. If the terms of the business license are not met, the license may be revoked and the property owner may be subject to penalties per SBMC 16.95.010.

Occupancy Limits. No more than two overnight occupants per bedroom, plus two additional overnight occupants, shall be accommodated at any one time, e.g., a one bedroom cabin would be allowed four overnight occupants while a two bedroom cabin would be allowed six total overnight occupants. The total number of occupants temporarily residing in a vacation rental shall not exceed 10 at any one time and includes all occupants over the age of two (2).

Appearance. The exterior of the building(s) shall retain a residential appearance with house numbers maintained on the front of the building and visible from the street or road. No junk or garbage shall be allowed to accumulate in any yards and all vehicles shall park in designated parking areas.

The vacation rental shall be operated in a way that will prevent disturbances to neighboring properties not typical of a residential neighborhood, including, but not limited to, loud music, loud noises, excessive traffic, loud and uncontrolled parties, junk/debris/garbage accumulation in the yards, trespassing, barking dogs, or excess vehicles, boats or recreational vehicles parked in the streets in front of the unit.

Garbage. Provisions shall be made for garbage removal during rental periods and said provisions shall be documented in the property management plan. Any complaints regarding littering or garbage shall be resolved immediately.

Pets. Pets shall be secured at all times while on the property. Nuisance barking by pets is prohibited.

Phone Service. The vacation rental shall have a "land line" with local phone service. The phone number servicing the vacation rental shall be included in the property management plan.

Parking. The vacation rental shall have one off-street parking space per each bedroom unit with a minimum of two off-street parking spaces required.

Signage. One sign either attached to the dwelling or placed in front of the dwelling and containing no more than four square feet, is permitted. No off-premise signage or advertising is permitted.

On properties containing both a residential dwelling and an accessory residential dwelling, only one residential structure may be rented out as a vacation rental, but not both.

Access. The road access to the vacation rental shall be constructed to meet minimum city standards and shall be adequately maintained and remain clear of obstructions, including illegally parked cars, recreational vehicles, boats, trailers, junk, etc. to ensure the unimpeded passage of emergency vehicles and other vehicular traffic.

Property Management. A property management plan demonstrating how the vacation rental will be managed and how impacts to neighboring properties will be minimized shall be submitted for review and approval as part of the licensing process. The property management plan shall include local points of contact available to respond immediately to complaints, clean up garbage, manage unruly tenants, etc. shall be mailed to all adjoining property owners within 300' as a condition of license approval, and shall be posted in a visible location within the vacation rental.

The vacation rental shall meet all applicable State and local health, safety and building codes.

Complaints: All complaints shall proceed as follows:

- a. The complaining party shall first attempt to communicate with the local contact person designated on the business license and property management plan, describe the problem and leave a contact phone number for call back information;
- b. The contact person shall respond promptly to the complaint, regardless of time of day, and make reasonable efforts to remedy any situation that is out of compliance with the Section; and
- c. If the response is not satisfactory to the complaining party, then the complaining party may next provide a written complaint to the city, which complaint shall identify and be signed by the complaining party. The complaint shall include a description of the informal attempts to resolve the complaint. A copy of the written complaint shall be provided to the owner and contact person by the city. The city shall attempt to resolve the complaint. If so required, the owner or local contact person shall provide a written response to the complaint with the anticipated corrective action within 10 days. A copy of the complaint will be filed with the business license file.

Compliance and Revocation.

Owners of vacation rentals shall obey all applicable Laws and Ordinances of the city and shall be subject to license revocation procedures and appeals processes outlined in the Section and in SBMC 3.13.230, or any amendments thereto;

If there have been three (3) or more violations of this Ordinance related to the same vacation rental within one (1) calendar year, or if there have been three (3) or more violations of other City Ordinances related to the same vacation rental within one (1) calendar year, the City Clerk or designee shall revoke the business license and the property owner shall be prohibited from obtaining a new business license for at least one year from the revocation.

The property owner may appeal the revocation of the business license pursuant to the appeals procedures outlines in SBMC Chapter 3.13 or any amendment thereto.

The City may impose other conditions, such as additional parking, improved access, fencing, landscaping, or minimum screening to ensure the proposed use is compatible with the surrounding residential character.

Section 15.20.190, Clear vision triangle

Sight-obscuring fences, walls, and vegetation in the Neighborhood and Environmental Protection Districts shall not exceed three feet high in the clear vision triangle. Tree trunks, posts, or columns shall not be larger than eighteen (18) inches in width when measured three (3) feet or more above the established street grade. Tree branches shall be removed up to eight feet above the established grade of either street.

Section 15.20.200, Fences, walls, and hedges

Fences, walls, and hedges in the Neighborhood District shall meet the following provisions:

- A. Sight obscuring fences, walls, or hedges within a required front yard, or side yard, adjacent to a street, shall not exceed three feet in height. Open rail fences and non-sight obscuring fences, where solid members do not constitute more than one-third of the total surface area of such fence, located within a required front yard or side yard adjacent to a street, shall not exceed four feet in height.
- B. Fences, walls, and hedges located within a required interior side yard or required rear yard shall not exceed six feet in height. Fences, walls, and hedges located within the buildable portion of a lot shall not exceed six feet in height in residential districts. In commercial and industrial districts, fences and walls shall not exceed eight feet and shall not obstruct visibility at points of ingress and egress.
- C. There shall be no limitations on height for safety or security fences necessary for public playgrounds, public utilities, and other public institutions.

Section 15.20.210, Height exceptions

- A. Chimneys, mechanical appurtenances, gables, scenery lofts, cupolas, and similar structures, may be erected on a building to a height greater than 35 feet if no such exception shall cover more than 15 percent of the area of the building.
- B. Towers, water tanks, cell towers, civil defense sirens, flagpoles, monuments, radio or TV antennas, government or public utility structures, and similar freestanding structures may exceed a height greater than 35 feet provided it does not cover more than fifteen (15) percent of the site.

Section 15.20.220, Home occupations

Home occupations in the Neighborhood and Environmental Protection Districts shall obtain a home occupation permit and meet the following provisions:

- A. The home occupation is an incidental and accessory use totally enclosed within a dwelling or accessory structure;
- B. The area dedicated to the home occupation on a lot occupies equals no more than 25 percent of the total square footage of all structures on the property;

- C. The home occupation does not create traffic to and from the business that is disruptive to the residential area where it is located;
- D. There is one off-street parking space in addition to the required parking for the dwelling;
- E. No one other than a resident works in the dwelling unit or accessory structure(s);
- F. The home occupation does not use equipment that creates sound heard beyond the lot;
- G. There is no storage of materials or goods used in the home occupation visible from beyond the property;
- H. There is only one unlighted sign advertising the business on the lot that is no greater than six square feet in surface area and attached to the structure;
- I. The home occupation does not include automobile and heavy equipment repair services; and,
- J. The home occupation has a City of South Bend business license.

Section 15.20.230, Manufactured homes, designated

- A. A designated manufactured home may locate as a permitted use within any district allowing single-family dwelling units if it is:
 - 1. New and previously unoccupied;
 - 2. Comprised of at least two fully-enclosed parallel sections of not less than 12 feet wide by 36 feet long;
 - 3. Constructed with a composition or shake shingle, or coated metal roof having a minimum 3/12 roof pitch;
 - 4. Set on a permanent concrete or masonry block foundation;
- B. Manufactured homes not meeting subsection A of this section shall locate in a manufactured home park.
- C. Manufactured homes not in a manufactured home park may not construct a separate roof structure with an air space above the existing roof that is visible from the outside of the home.
- D. Remodeling or repair of manufactured homes shall meet Washington State Department of Labor and Industries codes and standards.

Section 15.20.240, Manufactured home parks

New or expanded manufactured home parks shall meet the following development standards when approved through a binding site plan:

- A. The minimum area required for a manufactured home park is two acres.
- B. The density of the manufactured home park shall not exceed 14 units per acre.
- C. Individual home sites for each manufactured home shall be not be less than 2,400 square feet.
- D. The minimum yard requirements are:
 - 1. Minimum front yard shall be five feet from internal private roads; otherwise, the minimum front yard shall be consistent with Section 14;
 - 2. Minimum separation between manufactured homes shall be 10 feet; and
 - 3. Minimum yard requirements adjacent to property lines shall be consistent with Section 14.

- E. The manufactured home park shall include common open space that is no less than 10 percent of its total area.
- F. Every manufactured home shall have a permanent connection to electric power, water supply, and sewage disposal in a manner consistent with applicable city codes.
- G. All manufactured homes supported by piers shall have skirting.
- H. Recreational vehicles used as primary residence are permitted within manufactured home parks per RCW 35A.21.312, provided they meet the subsection F of this section.
- I. A manufactured home park may include a storage area for recreational vehicles and boats owned by residents if the storage area contains no utility hook-ups and that recreational vehicles remain unoccupied as living quarters.

Section 15.20.250, Multiple-family dwellings

- A. Existing structures in the Downtown and Commercial District may convert to multifamily units under a conditional use permit.
- B. New multiple-family dwelling projects shall be sited on parcels adjacent to a designated arterial or major collector in the Neighborhood District. Access to and from a multiple-family project shall be restricted to a designated arterial or major collector.
- C. Existing multiple-family dwelling units may expand if city streets providing access to the project are adequate to accommodate an increase in traffic.
- D. Multiple-family dwellings shall provide open space at least equal to 10 percent of the building living space, not counting automobile storage. The required open space may be provided by one or more of the following ways:
 - 1. Useable private open space that is directly adjacent and accessible to the dwelling unit;
 - 2. Common open space; and/or
 - 3. Balconies, decks, and/or front porches.
- E. A six-foot, site obscuring fence shall be provided and maintained along the outside perimeter of a side and/or rear yard when adjacent to a single-family dwelling.
- F. When there are two or more multiple-family dwelling structures sited on the same parcel, the required front, side, and rear setback requirements shall apply to each structure.

Section 15.20.260, Noise, light, and glare restrictions

- A. The intensity of sounds emitted by any use to adjacent properties shall not exceed the levels stated in Chapters 173.60 and 173.62, Washington Administrative Code.
- C. All exterior lighting fixtures in parking areas and driveways shall utilize cutoff shields or other appropriate measures to conceal the light source from adjoining uses and rights-of-way. Other lights shall be designed to avoid spillover glare beyond the site boundaries.
- D. No use on a parcel shall generate vibrations or concussions that other parcels can detect without the aid of instruments except during periods of construction

Section 15.20.270, Off-street parking and loading

- A. The off-street and loading standards of this section shall apply only to new buildings constructed and new uses established.
- B. The off-street parking and loading standards of this section apply when an existing building or use expands. Additional off-street parking and loading spaces will be required only to serve the expanded area, not the entire building or use.
- C. The minimum required parking spaces for uses, computed to the nearest whole number, for each land use category are as follows:

Residential uses	Spaces Required
Single-family, duplex, and multiple-family dwellings	2 per dwelling unit
Accessory dwellings and studio apartments	1 per dwelling unit
Group living facilities	1 per 100 sq. ft. of sleeping area

Commercial uses	Spaces Required
Retail sales and service	1 per 250 sq. ft.
Offices and personal services	1 per 300 sq. ft.
Other commercial uses not listed	1 per 250 sq. ft.
Eating and drinking establishments	1 per 75 sq. ft. of customer service and dining area
Hotels, motels, and bed and breakfast inns	1 per guest room

Other uses	Spaces Required
Indoor storage, equipment service, and manufacturing	1 per 2,500 sq. ft.
Places of public assembly and religious worship	0.15 per person at maximum occupancy
Outdoor sales, service or display area	1 per 750 sq. ft.
Elementary and junior high school	1 per employee + 10
High school	1 per employee + 1 for every 5 students
Public and private utility stations	None

- D. The City supervisor may determine an appropriate parking standard for any new development not listed in subsection C. The standard must reflect the scale and location of the development.

Section 15.20.280, Recreational vehicle parks

- A. Each recreational vehicle parking pad shall be a minimum of 20 feet wide by 40 feet long with a minimum five-foot-wide setback on each side.
- B. Each recreational vehicle parking pad shall be constructed to support the weight of the recreational vehicle and associated vehicles.
- C. Recreational vehicle parks may provide areas for individual and group tent sites.
- D. Entrances and exits to all recreational vehicle parks shall be designed for safe and convenient movement of traffic into and out of the park. Entrances and exits are to be clearly marked with signage.

E. All internal park roads shall be privately owned and maintained. They shall be constructed to all weather standards as approved by the city. Park roads shall have a minimum improved width as follows:

1. One-way road: 12 feet
2. Two-way road: 24 feet
3. There shall be a continuous path of travel throughout recreational vehicle parks. No roadway shall dead end.
4. To maintain unobstructed vehicle travel through the interior of the park, no parking along the roadways shall be allowed.

F. All recreational vehicle park shall provide for adequate stormwater retention and drainage.

G. Recreational vehicle parks shall provide site obscuring fencing or landscaping along perimeter setbacks adjacent to developed parcels. Living perimeter landscaping shall be of such species and size as would normally fulfill a screening function within five years of being planted.

H. A minimum of fifty percent of all recreational vehicle rental spaces shall be equipped with a hookup to public sewer, water, and electricity.

I. Recreational vehicle parks shall provide the following facilities for park patrons:

1. For parks with 10 recreational vehicle pads and/or tent sites or less, there will be a minimum of one ADA-compliant, unisex restroom facility, available 24 hours per day and located on the same property as the recreational vehicle park. Portable toilet facilities will not be permitted in any case.
2. For parks with 11 to 50 recreational vehicle pads and/or tent sites, there will be separate men's and women's restroom facilities available for use of park patrons as follows: a minimum of one standard toilet stall and one ADA accessible stall, with hand washing sinks available, as appropriate. For additional increments of 50 RV parking pads, or portions thereof, restroom facilities are to be provided as noted above.
3. Showers and coin-operated laundry facilities are permitted.

J. Recreational vehicles staying longer than three-days shall be at pads equipped with a hookup to public sewer, water, and electricity.

Section 15.20.290, Temporary uses

A. The following uses shall require a temporary use permit:

1. Yard sales in the Neighborhood District that exceed more than 3 consecutive days within any given calendar month on the same property are subject to the following conditions:
 - a. No more than four off-premise signs, not exceeding two square feet each shall be located on the public right-of-way;
 - b. Signs shall be removed by 6 pm of the last day of the yard sale;
 - c. Hours of operation shall be limited from 8 am to 7 pm; and,
 - d. Temporary use permits for yard sales shall not exceed 10 days and may not be issued more than twice for the same property within a calendar year.

B. Outdoor sales as a commercial use on a lot in the Downtown and Commercial District are subject to the following conditions with an approved site plan:

- a. The use has an approved license issued by the city under Section 3.10.020 SBMC;
- b. The temporary use permit shall not exceed 45 days within a calendar year;
- c. Merchandise shall not be placed on or interfered with the public right-of-way; and
- d. The sales area is limited to 250 square feet.

Section 15.20.300, Townhouse design standards

A. The purpose of this section is to ensure townhouse developments blend with the character of the surrounding neighborhoods when approved through a binding site plan.

B. Townhouse developments shall include the following design requirements:

1. Townhouses fronting on a street must all have individual ground-related entries
2. No more than two abutting townhouses within a development shall have a common front building setback. Variations in setbacks shall be at least four feet.
3. No townhouse shall be located closer than 20 feet to any public right-of-way or within 15 feet of a private drive, access road, or common open parking area.
4. Townhouse units shall provide open space at least equal to 10 percent of the building living space, not counting automobile storage. The required open space may be provided by one or more of the following methods:
 - a. Usable open space that is directly adjacent and accessible to dwelling units;
 - b. Common open space; and
 - c. Balconies, decks, and/or porches.
5. Internal driveways shall meet minimum fire code standards.

Section 15.20.310, Vision clearance area

A. In the Neighborhood and Environmental Protection Districts, a vision clearance area shall be maintained at the corners of all property adjacent to the intersection of two streets, street, or a private street entering a public street. Driveways and alleys are excluded from the provisions of this section.

B. On all corner lots, no vehicle, fence, wall, hedge, or other obstructive structure or planting shall impede visibility between a height of forty-two inches and ten feet above the sidewalk or fourteen feet above the street.

C. The triangular area shall be formed by measuring fifteen feet along both street property lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the end points of the first two sides of the triangle.

Section 15.20.330, Nonconforming lots, uses, and structures

A. Purpose and applicability

1. The purpose of this section is to establish:

a. The legal status of a nonconforming use, structure, lot or other development by creating provisions that determine how a nonconformance may be maintained, altered, reconstructed, expanded, or terminated; and

b. Encourage the adaptive re-use of existing nonconforming lots and structures.

2. The provisions in this section shall apply to structures, land, or uses which become nonconforming because of a change of the zoning map, annexation, or changes made in the zoning ordinance.

B. Nonconforming lots of record

1. In any zoning district where single-family dwelling units are permitted, a single-family dwelling unit and customary accessory buildings may be erected or modified on any nonconforming lot of record, even though such lot fails to meet lot area and width requirements of the zone in which such lot is located; provided, that:

a. Such lot is in separate ownership; and

b. The proposed development meets other applicable development standards such as setbacks and building height.

C. Nonconforming uses

1. No existing building, structure, or land devoted to a nonconforming use shall be expanded, enlarged, extended, reconstructed, intensified, or structurally altered unless the use thereof is changed to a use permitted in the district in which such building, structure, or land is located except as follows:

a. When authorized by conditional use permit, a nonconforming use may be expanded, enlarged, extended, reconstructed, intensified, or structurally altered as long as the intensity of the nonconformity is not detrimental to health or safety of the public or does not increase the intensity of impacts on surrounding conforming uses.

2. When a nonconforming use of land or a nonconforming use of all or part of a structure is discontinued or abandoned for a period of 12 months, such use shall not be resumed, notwithstanding any reserved intent not to abandon such use. Normal seasonal cessation of use, or temporary discontinuance for purposes of maintenance or improvements, shall not be included in determination of the 12-month period of discontinuance. Evidence that such use has been actively available and marketed for sale or lease shall be considered by the city supervisor in determining if a nonconforming use has been discontinued.

3. If a nonconforming use is changed to a permitted use, the nonconforming use shall not be resumed.

4. Legally established residential uses located in any zoning district shall not be deemed nonconforming in terms of use and density provisions and shall be a legal use.

D. Nonconforming structures

1. No nonconforming structure may be expanded, enlarged, or extended where they increase an existing nonconformity. Nonconforming buildings may be repaired, maintained and rebuilt, provided, that such work does not increase an existing nonconformity.

Section 5. Move Chapter 16.65, Sign Regulations to a new Chapter 15.30, Sign Regulations.

Section 6. Move Chapter 16.57, Wireless Communications Facilities Siting Regulations to a new Chapter 15.40, Siting Wireless Communication Facilities.

Section 7. South Bend Municipal Code Chapter 15.14.020, Relation to Chapter 36.70B RCW, is **REPEALED** and **REPLACED** as follows:

Section 15.14.020, Shoreline Permits

Shoreline permits are subject to the administrative procedures established under Chapter 15.08.

Section 8. This Ordinance shall become effective five (5) days from the date of publication.

INTRODUCED this 23rd day of April, 2018 **AND PASSED** on the 14th day of May, 2018 by the following vote:

Ayes – 4

Noes – 1

Absent – 0

Mayor Julie K. Struck

Julie K Struck, Mayor

AUTHENTICATED BY:

Dee Roberts

Dee Roberts, Clerk/Treasurer

Publish: 5/23/18