

**PORT ORFORD PLANNING COMMISSION
CITY COUNCIL CHAMBERS, PORT ORFORD CITY HALL
REGULAR MEETING, PUBLIC HEARING and WORKSHOP
Tuesday, April 6, 2021
3:30 PM**

Planning Commission 4/6/2021

Tue, April 6, 2021 3:30 PM

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Agenda

1. Call to Order
2. Planning Chair Comments
3. Additions to the Agenda
3. Approval of Agenda
4. Approval of Minutes: March 9, 2021 (pages 1-7)
5. Comments from the Public
6. Public Hearing
 - None
7. Planning Matters
 - Dark Sky Review (pages 8-22)
 - Review on Building Heights and Exemptions in zones (pages 23-25)

Other Business

- A. Announcements and Communications:
 - City Planner Comments
 - Planning Commission Comments
- B. Old and Continuing Business
9. Public Considerations
10. Adjourn

CITY OF PORT ORFORD PLANNING COMMISSION
MINUTES OF MEETING
March 9, 2021, 3:30 p.m.
Regular Meeting, Virtually Held
555 W. 20th Street
Port Orford, Oregon

Date Draft:

Date Corrected:

Date Final:

1. Call to Order.

The regular meeting of the City of Port Orford Planning Commission was called to order Tuesday, March 9, 2021 at 3:30 p.m.

Those members present were: Chair Nieraeth, Comm. Jezuit, Comm. Stetson, Comm. Berndt, Comm. Schofield, Comm. Thelen.

City staff present were Planner Crystal Shoji, Legal Counsel Kudlac and Assistant Planner Clark.

2. Planning Chair Comments.

Chair Nieraeth updates commissioners on their roles and rules. She spoke on misinformation on social media and the necessity for commissioners to know facts of information. Planning commissioners were provided an email, which listed responsibilities of the commission, outlined the City Council's authority and directions to Planning Commission. Chair Nieraeth reminded commissioners of the expenses involved in Planning Commission pursuits. Planning Commission has a tight budget. She reminded commissioners that the appropriate time to bring up topics is during the Planning Commission comments. Chair Nieraeth explained how the agenda is created. The agenda and minutes are always available on paper at City Hall. Posting on the website is a courtesy only, but in the future, they should be on the Planning Commission website page.

Chair Nieraeth spoke of timing of topics from Planning Commission meetings to City Council meetings. Since the meetings are only a week apart, it can take 5 weeks for topics to get to the City Council. She asked commissioners to move the Planning Commission meetings to the first Tuesday of the month rather than the second Tuesday to possibly cut the 5-week time to a 2-week time.

3. Additions to the Agenda.

- a. Elect a Planning Commission vice chair.

Comm. Berndt suggested deferring vice chair election until the empty commissioner seat is filled. Comm. Stetson volunteered for the vice chair position. Comm. Berndt moved for Comm. Stetson to fill the vice chair position with Comm. Jezuit as second. ***Motion carried 6-0.***

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

- b. Time of meeting change.

Commissioner Berndt moved to change the Planning Commission meetings to the first Tuesday of the month to provide better efficiency communicating with City Council with Commissioner Stetson as second. ***Motion carried 6-0.***

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

4. Approval of Agenda for March 9, 2021: Comm. Jezuit moved to approve the March 9 agenda with Comm. Berndt as second. ***Motion carried 6-0.***

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

Approval of Minutes February 9, 2021: Spelling correction of Ann Valeis to Vileisis.

Comm. Berndt moved to approve minutes of the February 9, 2021 meeting as amended with Comm. Stetson as second. ***Motion carried 6-0.***

Discussion: None.

Comm. Thelen	<u>Abstain</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

5. Comments from the Public:

Ann Vileisis expressed appreciation for Chair Nieraeth for finding ways for the Planning Commission to be more effective and efficient. She commented on the dark sky ordinance. She reviewed her extensive notes and offered to share them with commissioners. Notes will be scanned and shared with Planning Assistant Clark.

Rowland Willis, resident of Port Orford, reported this is the 5th winter he has lived with severe light trespass in his backyard. As an astronomer, he is pleased to see the lighting code back on the Planning Commission's agenda. He would like to see the lighting code be sent back for a public hearing. Mr. Willis will share a list of his concerns with Planning Assistant Clark. Mr. Willis volunteered his assistance with light measurements.

Steve Lawton expressed appreciation to commissioners for moving their meeting schedule. He reiterated that they are working with Coos-Curry Electric and Terry Richards to get new lower kelvin lights adjusted at different heights as a demo for the public.

6. Public Hearing:

Minor Partition POP-20-02

Applicant/owner: Michael Graybill, Janet Hodder and Matthew Kay.

Subject property: 15 Hamlet Road, T33S, R15W. Sec. 05BA, Tax Lot 2600.

Chair Nieraeth disclosed that she had visited the site.

Comm. Berndt disclosed a personal relationship with the owners of the property in that Ms. Hodder is on the board of the land trust where she is employed. Comm. Berndt disclosed that she lives in the neighborhood and is familiar with the property; however, she has not been on the property. She feels she can vote in the best interest of the law within the city and does not feel she has a conflict.

Comm. Jesuit disclosed she drove by the lot to familiarize herself with the property. She inquired that, as a commissioner, does this need disclosed. Planner Shoji answered it is good to look at the property and good to state that was done. If a commissioner spoke with somebody at the property, that needs disclosed. She reminded commissioners to inform the people they talk with at the property that they do not want to talk about the property as a planning commissioner in order to preserve an open mind.

Comm. Thelen disclosed he drove by the property to familiarize himself with the property.

Comm. Stetson asked for clarification of the rules on driving by applicant locations, because previously she was told it was not appropriate. Legal Counsel Kudlac advised commissioners are allowed to drive by and look at the property, but they are not allowed to step foot on the property. The goal is for all commissioners to come to the meeting with the same information.

Planner Shoji summarized the staff report. She clarified the lot location and reviewed the attachments. She clarified that there is a proposal for two lots. They have two houses on one lot currently, which is a non-conforming use. The proposal to split the lot and have the houses on two separate lots as requested will be in conformance for an R1 residential zone. It is outlined that each resident will have a hookup to city standards for water, sewer and electricity.

The first finding speaks on the sewer main and water line. Planner Shoji confirms that there are three accesses to the two buildings. Setbacks are reviewed. A 5-foot setback requirement falls short at 4 feet between the existing houses' proposed property line. This is a special case, as the buildings were in place prior to City of Port Orford zoning codes. Ms. Shoji advised that this is a situation that already exists and should not affect further requests with setback noncompliance. It would not be efficient to do a variance for something that already exists and cannot be amended.

Planner Shoji reviewed definitions. Criteria for tentative approval of partitions and subdivisions is reviewed. Required information for minor partitions has been provided. Planner Shoji advised commissioners that today they can approve a tentative plat map if so inclined. The final plat will be filed with the county surveyor once the tentative plat is approved. Planner Shoji reviewed the surveyor statement stating they are not aware of any unusual topographic or geologic features existing on the subject property.

Planner Shoji reviewed conclusions and recommendations. The recommendation is for approval with conditions.

Conditions:

1. Applicants need to have separate connections for sewer, water and electrical to city standards at each house.
2. Final plat approval will require conformity with the approval of the tentative plan, which will have to comply with the code.
3. The final plat will have to be filed with the Curry County Surveyor with a copy of the final plat also provided to the City of Port Orford.
4. Time limits to be met. The tentative approval must be filed within a year or an extension approved. If not met, the right and approval will be lost.

Attachments are reviewed including the public notice. State law dictates what is included in the public notice. One comment from a neighbor, Jennifer Wilson, was received, which is entered as exhibit B.

Public Testimony: No opponent testimony in attendance. Applicants, Mike Graybill and Janet Hodder are in attendance. Mr. Graybill confirms the staff report is a very thorough characterization of the situation.

Public testimony is closed by Chair Nieraeth.

Commissioner Thelen inquired if a duplex would be allowed on the applicant property. It is confirmed by Planner Shoji that a duplex would be allowed. The buildings would have to be joined to be a duplex, owned by one person and could not have a lot partition.

Commissioner Stetson is concerned about the resale value when separated. Commissioner Jezuit feels that is the buyer's concern. She questions the intended use for the houses.

Commissioner Berndt moved to approve the application for Minor Partition POP-20-02 based on the findings presented with Commissioner Jezuit as second. *Motion carried 6-0.*

Discussion: None.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

7. Planning Matters

- CUP-1901 Cell Tower at 698 Coast Guard Hill Rd.
Planner Shoji referred to the document presented to commissioners. The current cell tower is under a conditional use permit approved in 2006 followed by another in 2008. They want to do modifications to the facility. It is an eligible facility. There are federal regulations dictating what modifications can be done. The city does not have a say in that. The tower is in a geohazard area. A Planning Clearance is simply to say this fits the zoning and then conditions are listed. In this case, the applicant has a geohazard report updated in 2019. The city has a copy. This report requires them to follow the requirements of the geohazard study they have. Copies of findings and regulations are available to commissioners.
- Dark Sky Review.
Chair Nieraeth reviewed the discussion September 17, 2020 that ultimately went to a first reading. The motion carried 5-0 and the second reading occurred September 24, 2020. In review, the motion for the second reading was not located. Chair Nieraeth suggested sending this back to council asking for written instructions. Commissioner Thelen advised that City Council requested review and decisions be made to improve the enforcement and height of the lighting at the crosswalks. He advised commissioners that City Council passed the first reading and then decided to send it back to the Planning Commission to address these issues.

Legal Counsel Kudlac suggested asking for a letter from the city manager, as that should be their job. She hopes the new city manager will attend planning and council meetings.

Commissioner Jezuit would like to see a more formalized process of communication between planning and council to avoid lost information and delays.

Commissioner Stetson suggested workshops to include Planning Commission and City Council together. Chair Nieraeth suggested a workshop prior to the next planning meeting. She advised there are council members assigned as liaison to other commissions. Council liaisons are not assigned to planning since they are the appeal body to Planning Commission decisions.

Commissioner Thelen moved to ask the City Council to provide information in writing on what they want done with the dark sky ordinance with Commissioner Stetson as second. **Motion carried 6-0.**

Discussion: Commissioner Stetson will attend the March council meeting and ask for recommendations.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

8. Other Business:

a. Announcements and Communications:

- City Planner Comments: Planner Shoji advised of state law ORS 227 that lays out the planning commission duties. This ordinance does not address all of the duties of the Planning Commission.
- Planning Commission Comments: Comm. Berndt feels positive about today's meeting and direction the commission is taking to be more organized and efficient.

Planning Commissioner Thelen wanted direct communication with the person preparing the minutes. Legal Council Kudlac advised that the person preparing minutes is a contract position. Assistant Planner Clark reported the minutes have been accurate. The recordings are available for review via public request involving a fee; however, Assistant Planner Clark will have to download it to an external source. Commissioner Thelen asked if the mayor could be approached and asked to present more consensus votes in the city council meetings to clarify what they want.

b. Old and Continuing Business: None.

9. Public Considerations:

Ann Vileisis followed up on process. As another matter of clarity, she would like to know the deadline for public comments, are public comments accepted in writing outside of a hearing, how can the public best participate. Assistant Planner Clark advised that written testimony, by law, is accepted for public hearings up to the time of the meeting, so not all will be available to the public. Packets will have already been sent out. Planner Shoji reminded that there is state law that applies to hearings. There are no state laws that apply to virtual meetings. The website gives instruction for notices from the public.

Steve Lawton complimented commissioners for reorganizing and improving communication between City Council and Parks Commission.

10. **Commissioner Jezuit moved to adjourn the meeting with Commissioner Leland as second. Motion carried 6-0.**

Discussion: Commissioner Stetson advised no motion is necessary.

Comm. Thelen	<u>Yes</u>	Comm. Berndt	<u>Yes</u>	Comm. Jezuit	<u>Yes</u>
Comm. Stetson	<u>Yes</u>	Comm. Schofield	<u>Yes</u>	Comm. Nieraeth	<u>Yes</u>

Chair Nieraeth adjourned the March 9, 2021 meeting at 5:21 p.m. The next meeting will be April 6 at 3:30 p.m.

Recommendations from the City Council to Planning

Dark Sky Ordinance

- Work with Coos Curry Electric and ODOT for Highway Lighting
- Penalty – Determine the process and the fines that other Cities are using for their Dark Sky Ordinance and what rules they are using for Lit signs in their Communities
- Keep lighting within your own property (take out wording about requiring lighting on edge of property)

Building Height

- Look at other Communities on their height regulations
- Look at 35ft height limits in Commercial and Industrial Zones
- Look at which zones should have exemptions and which should not

Patty Clark

From: Ann Vileisis <annvil@earthlink.net>
Sent: Wednesday, March 17, 2021 2:11 PM
To: pcox@portorford.org; gburns@portorford.org; Lkessler@portorford.org; gtidey@portorford.org; jgarratt@portorford.org; tpogwizd@portorford.org; claroche@portorford.org
Cc: Patty Clark; djohnson@portorford.org
Subject: Port Orford Outdoor Lighting Ordinance, Mar 18, 2021 Meeting, Agenda Item 7C

Dear Mayor Cox and Port Orford City Council members:

I am writing to you about the Port Orford outdoor lighting ordinance—on your agenda (Item 7C) for this week’s meeting—to provide background that I hope will be helpful and pertinent to your discussion. At the end of this letter, there is a synopsis that outlines the primary concerns and fixes you discussed during your September 17, 2020 discussion. I am also including a proposed motion that could be used to give clear and specific direction to the Planning Commission.

Background

A couple of years ago, City Council asked the Planning Commission to upgrade our dark sky lighting ordinance to reflect new lighting technology and also to make it more enforceable. For more than a year, the Planning Commission has been working to refine a new and updated ordinance.

In September you had a “first reading” of the new outdoor lighting ordinance as recommended by the Planning Commission (PC), in which you unanimously supported the ordinance; then in the second meeting, you discussed the ordinance and decided to send it back to the PC for some fixes. However, because no motions were made or adopted at your meeting, there are no minutes that document your intentions as a full board. Also, owing to turnover at the PC, there is now lack of clarity on how to proceed, which is why you have been asked for further direction.

Because I have been working on this issue, attending all meetings at the PC and City Council level for more than a year, I took careful notes about what you discussed. I am attaching a synopsis below for your reference. To be clear, these notes are NOT my recommendations; they are a record of what I heard you discuss and recommend at your Sept. 17, 2020 meeting, when you sent the ordinance back to the PC.

ODOT and Highway 101 lighting

There has remained the unresolved issue of how to deal with the Highway 101 street lighting in our ordinance, given the upcoming ODOT reconfiguration of the highway through our city, including adding 6 crosswalks with brand new street lights. Former Mayor Pogwizd directed former Planning Commission Chair Kevin McHugh, who had to step down owing to health reasons but who had done considerable and impressive research through his tenure on lighting issues (he was an electrical engineer!), to work out a resolution with ODOT about this matter. Mr. McHugh apparently made a final recommendation to the City before he stepped down. However, ODOT had problems with some few aspects of that recommendation and so it’s been somewhat stuck, given all the recent turnover (mayor, manager and planning commission chair).

This week I reached out to our ODOT project manager with the aim of finding language that will be amenable to ODOT while also meeting the aim of our Outdoor Lighting Ordinance. As a result of a productive dialogue, I have included recommended language for the street lighting/highway 101 part of our ordinance at the end.

Lighted signs

Finally, I want to point out a closely related matter that I am concerned will fall through the cracks with so much recent turnover. During the development of the outdoor lighting ordinance, the Planning Commission had decided to NOT deal with lighted signs in that context because they stated an intent to deal with our sign ordinance next.

However, at the recent PC meeting, the new PC chair and planning staff said there was no reason to deal with the sign ordinance. I am bringing this to you now because the PC now has adopted a position of working only on matters that the City Council specifically directs them to address.

I think there is a need to either 1) review the sign ordinance afresh, or 2) to make sure the lighting ordinance will address lighted signs.

For now, I urge you to give direction to the Planning Commission to add a simple provision to the lighting ordinance—that all lighted signs must comply with lighting standards.

In the future, I encourage you to ask the Planning Commission to review our current sign ordinance. It now allows for flashing lights and video signs anywhere within our large commercial district. A few years back, you will recall there was quite a community kerfuffle after Rogue Credit Union (RFCU) installed its large video sign and had it running through the night, which was a nuisance to many local neighbors (eventually they agreed to turn it off after a certain time) and was also considered an eyesore by many. To be clear, other RFCU branches have fine, attractive, and effective signs that are not video signs because other neighboring communities, such as Bandon and Gold Beach, have thoughtful ordinances that do not allow such distracting bill-board, advertising signs. It makes sense to me that our town thoughtfully consider whether we want a lot more of these kinds of heavily illuminated, commercial signs in our town. If not, we need to adjust our ordinance accordingly.

To be clear, amending the lighting ordinance with the simple sentence as I have suggested will be a good first step to avoid glare and light trespass by signs, but it not address concerns about video signs and flashing signs.

Thank you for considering these comments. Again, please see the synopsis of your conversation below and also a recommended motion that can help everyone move toward completion on this ordinance. It is my understanding that a final version will come back to you again for final approval.

Sincerely,

Ann Vileisis

608 Oregon St.

Re: Synopsis of unresolved issues in Port Orford's

Outdoor Lighting Ordinance

Here is a synopsis of the 3 main issues that Port Orford City Council members asked to be reviewed and amended, based on my notes of your special meeting on 9/24/20. There were no official minutes because no formal motions were made, but I think these notes capture the major concerns discussed.

1) Penalty language (15.17.130)

- a) Concern about using Class C “misdemeanor” as a reference: makes it sound like a crime;
- b) Concern about the penalty being too high: (Under Oregon law, a Class C misdemeanor is punishable by up to 30 days in jail, a fine of up to \$1,250, or both) Consensus of Council members seemed to be about a \$200-\$300 fine)
- c) Concern about penalty accruing daily: there needs to be a time to allow for remedy. Ideas discussed included assessing the fine once a month, or increasing fine through time if matter is not fixed. There was no specific direction from the Council –this is a matter that they want input on

2) Security Lights (15.17.070 D2)

Concern that requirement for lighting fixtures to be directed form the property boundary inward would require undue expense. Suggested remedy—remove that language/ other requirements for shielding should cover the aim.

3) Street and Highway Lighting Standards (15.17.090)

The Councilors recommended adding a requirement that any changes to Highway 101 lighting would need to be approved the City Council.

There was a wide-ranging discussion about this portion of the ordinance, but uncertainty remained because of outstanding questions about lighting fixtures and their heights. Council members wanted to see demo lights (as did citizens) to help inform their decision since this is so important for our main street. (At this time, owing to supply chain issues, CCEC has still not received the demo lights so they have not yet been installed.)

To follow up, former Mayor Pogwizd directed the former planning commission chair Mr. Kevin McHugh, who had done extensive research on this issue, to work out final language of this part of the ordinance with ODOT staff. Mr. McHugh worked with ODOT and made a final recommendation to the city before he stepped down, but ODOT did not agree to all elements in his recommendation.

It is my understanding that Mayor Cox did not want to pass an ordinance that ODOT opposed so I reached out to ODOT again (cc'ing Mayor Cox and interim City Administrator Johnson) with the aim of finding language that could be workable to both the city and to ODOT.

As a result of that correspondence, here is a recommended language for this section:

15.17.090 - Street and Highway Lighting Standards:

- A. All lighting fixtures shall be level mounted and eighty-five degrees (85°) full cutoff type fixtures.
- B. Maximum color temperature shall not exceed 2700K.
- C. Luminaires shall be mounted at a height of 30 feet or less.
- D. All street and highway lights shall meet the following standards for average illuminance:

ZONES	Average illuminance in foot candles (fc)
Residential Zones	0.2-1.2 fc
Hwy 101, including intersections and cross walks	0.9-1.2 fc

Recommended Motion

___ make a motion to ask the PC to address the issues discussed by City Council on September 17, 2020 to address penalty language, the section about security lights, the section about street lights as outlined in the Synopsis presented to us today, and also to address lighted signs.

Synopsis of adjustments requested

1) Penalty language (15.17.130)

- a) Concern about using Class C “misdemeanor” as a reference: makes it sound like a crime;

- b) Concern about the penalty being too high: (Under Oregon law, a Class C misdemeanor is punishable by up to 30 days in jail, a fine of up to \$1,250, or both) Consensus of Council members seemed to be about a \$200-\$300 fine)
- c) Concern about penalty accruing daily: there needs to be a time to allow for remedy. Ideas discussed included assessing the fine once a month, or increasing fine through time if matter is not fixed. There was no specific direction from the Council –this is a matter that they want input on from the Planning Commission

2) Security Lights (15.17.070 D2)

a) Concern that requirement for lighting fixtures to be directed form the property boundary inward would require undue expense. Suggested remedy—remove that language/ other requirements for shielding should cover the aim.

3) Street and Highway Lighting Standards (15.17.090)

a) Add a requirement that any changes to Highway 101 lighting would need to be approved the City Council.

b) Replace current language with this language:

15.17.090 - Street and Highway Lighting Standards:

- A. All lighting fixtures shall be level mounted and eighty-five degrees (85°) full cutoff type fixtures.
- B. Maximum color temperature shall not exceed 2700K.
- C. Luminaires shall be mounted at a height of 30 feet or less.
- D. All street and highway lights shall meet the following standards for average horizontal illuminance:

ZONES	Average horizontal illuminance in foot candles (fc)
Residential Zones	0.2-1.2 fc
Hwy 101, including intersections and cross walks	0.9-1.2 fc

4) Lighted Signs

a) Add a statement that all outdoor lighted signs must meet the standards of the outdoor lighting ordinance.

CHAPTER 15.17 OUTDOOR LIGHTING CODE

SECTIONS:

15.17.010	Title
15.17.020	Purpose
15.17.030	Definitions
15.17.040	Authority
15.17.050	Applicability
15.17.060	General Requirements
15.17.070	Non-Residential Lighting Requirements
15.17.080	Public Lighting Standards
15.17.090	Street and Highway Lighting Standards
15.17.100	Prohibitions
15.17.110	Exemptions
15.17.120	Notice
15.17.130	Enforcement, Abatement, and Penalties

15.17.010 - Title:

This chapter, together with the amendments codified in this chapter, shall be known and may be cited as the City of Port Orford Outdoor Lighting Code and will be referred to herein as "this code".

15.17.020 - Purpose:

The purposes of these lighting standards are: conserving energy to the greatest extent possible; promoting traffic and pedestrian safety; minimizing glare, light trespass, obtrusive lighting, light pollution, and sky glow; and preserving Dark Sky of the natural nighttime environment.

It is the intent of this code to control the obtrusive aspects of excessive and careless outdoor lighting while preserving, protecting, and enhancing the lawful nighttime use and enjoyment of any and all property; to preserve the quality of life for residents of the City and enhance the tourist experience for visitors; and to provide assistance to property owners and occupants in bringing nonconforming lighting into compliance with this code.

15.17.030 - Definitions:

In the case where a definition of a term is found to be in conflict with a definition or term in any other City ordinance or regulation, the more restrictive definition shall apply.

Bulb: means the component of the fixture that produces light.

Canopy: means a covered structure open to the elements, with at least one side open for pedestrian and/or vehicular access.

City: means the City of Port Orford, Curry County, Oregon, USA.

Development Project: for the purposes of Chapter 15.17 means any residential, commercial, industrial, or mixed use land use plan which is submitted to the Jurisdiction for approval or for permit.

Direct Illumination: means illumination resulting from light emitted directly from a lamp or fixture, not light diffused through translucent materials or reflected from other surfaces such as the ground or building faces.

Eave: means an area of a roof which overhangs the walls.

Excessive Lighting: means lighting that exceeds the amount that is needed to perform a visual task at night or required for public safety.

Fixture: means the complete lighting assembly that houses the lamp or lamps together with everything required to control and distribute the light output. The terms "fixture" and "luminaire" may be used interchangeably in this code.

Foot Candle: means the imperial unit of measurement used to quantify the amount of light falling on a surface. One foot-candle is the illuminance produced by a candle on a surface one foot square from a distance of one foot. See also "lux".

Flood or Spotlight: means any light fixture or lamp that incorporates a reflector, a refractor, or a prismatic lens to concentrate the light output into a directed beam in a particular direction.

Full Cutoff: means zero radiation of light above the horizontal plane or a lighting fixture designed, constructed, or installed, so that the lighting elements (i.e. lamps or bulbs) are not exposed to normal view by motorists or pedestrians, or from adjacent or nearby properties.

Fully Shielded: means a fixture that allows no emission of light above the horizontal plane. For the purpose of this Chapter, full cutoff fixtures are considered fully shielded.

Glare: means stray unshielded light in the field of view that is brighter than the level to which the eyes are adapted, and may result in (a) nuisance or annoyance such as light shining into a window; (b) discomfort causing squinting of the eyes; (c) disabling vision by reducing the ability of the eyes to see into shadows; (d) reduced visual acuity.

Installed: means set up or put in place.

Kelvin (K): means the color temperature scale used to describe the visual characteristics of various light sources. It is measured in degrees on a Kelvin scale (K) and typically ranges from 2000K (warm) to 5000K (cool).

Lamp: See "bulb".

Light Pollution: means any deleterious effect of artificial light including, but not limited to, glare, light trespass, sky glow, excessive or unnecessary lighting, or any artificial light that might be disruptive to the natural environment.

Light Trespass: means light falling from one property onto an adjacent or nearby property, or onto the public right-of-way.

Lumen: means the international unit of measurement used to quantify the amount of light produced by a lamp or emitted from a fixture. For the purposes of this code, measurements in lumens shall refer to "initial lamp lumens" as rated by the manufacturer when the lamp is new, as listed on the packaging.

Luminaire: see "fixture".

Lux: means the international unit used to measure the amount of light striking a surface. If this unit is used, please divide by 10.76 to convert to Foot Candles.

Motion Sensor: means a device that detects physical movement within the sensors local environment and activates a light that is extinguished by a timer.

Nonessential Lighting: means lighting which is unnecessary for pedestrian passage or other visual tasks and therefore is not generally useful (i.e., decorative, architectural, and landscape lighting). This includes lighting intended for a specific task or purpose when that task or purpose is not being actively performed, such as parking lot illumination

Opaque: means any material that prevents light from passing through (i.e. impenetrable to light).

Outdoor Lighting: means temporary or permanent lighting equipment installed outside the building envelope, whether attached to poles, building structures, the earth, or any other location. For the purpose and intent of this code, fixtures that are installed indoors and are intended to light something outdoors are considered outdoor lighting.

Replacement: means the installation of a new lighting fixture or luminaire in place of a pre-existing fixture. Replacement does not mean the changing of light bulbs or lamps with same or lower output. All replacements must comply or continue to comply with this Chapter.

Seasonal Lighting: means temporary lighting installed and operated in connection with holidays, traditions, or local festivals.

Shield or Shielding: means an opaque material or device that is attached to a lighting fixture to prevent light from being emitted in certain directions.

Sky Glow: means the brightening of the nighttime sky by defuse, scattered light from artificial light sources reducing the ability to view features of the night sky.

Street Lighting: means permanent outdoor lighting that is owned and maintained by a municipality or other public agency or private enterprise and is specifically intended to illuminate streets and highways for automotive vehicles and may also incidentally light sidewalks and adjacent private property.

Temporary Lighting: means lighting which is intended for uses which by their nature are of limited duration, such as civic events or construction projects, and will not be used for more than one thirty (30) day period within a calendar year, with one thirty (30) day extension.

Unshielded: means lighting fixtures capable of emitting light in any direction.

Up lighted: means a lighting fixture usually installed on the ground or permanently mounted to an architectural element, tree, or other structure that has the light from the fixture directed in a contained pattern above the horizontal plane to illuminate an adjacent or nearby building element, shrub, tree, or other landscaping.

15.17.040 - Authority:

The City of Port Orford and such designees as shall be appointed by City Council shall have the authority to require new lighting and existing lighting meet the provisions of this code.

15.17.050 - Applicability:

- A. General. The provisions of this code apply to the construction, alteration, movement, enlargement, replacement, and installation of outdoor lighting throughout the City of Port Orford.
- B. Application of Code. The standards and requirements of this code are applied in all zones of the City of Port Orford as follows:
 - 1. All existing lighting that fails to comply with this code at the time of its enactment shall mitigate the nonconformance through shielding or capping of the offending light within one hundred and eighty (180) days of the effective date of this chapter.
 - 2. If mitigation cannot bring the offending lights into complete compliance with this chapter, the lights must be moved, relocated, or replaced resulting in compliance within five (5) years of the effective date of this chapter.
 - 3. Any construction or development which requires permitting of any kind, must be in compliance with this chapter at the time the application for the permit is filed. The City of Port Orford will not sign, nor administer, any permitting process without proof of compliance.
- C. Other Laws. Where any provision of federal, state, county, or city statutes, codes or laws conflicts with any provision of this code, the most restrictive shall govern. Where there is a conflict between the general requirements and a specific requirement, the specific requirement shall apply unless otherwise regulated by law.

15.17.060 - Lighting Standards:

- A. The maximum lumens of any lamp shall not exceed 1,700 lumens.
- B. The color temperature of all lamps shall not exceed 2,700K.
- C. Lighting fixtures shall be fully shielded or full cutoff fixtures.
- D. Direct or indirect illumination shall not exceed 0.2 foot candles upon abutting lots in residential use as measured at the property line.

- E. For the purposes of this Chapter, the mounting height of a lighting fixture shall be defined as the vertical distance from the existing grade or average elevation of the finished grade of the surface being illuminated to the lowest light emitting point of the fixture.

15.17.070- Non-Residential Lighting Requirements:

- A. Canopy and Eave Lighting. Lighting levels under eaves and canopies shall be adequate to facilitate the activities taking place in such locations.
 - 1. Lighting fixtures mounted on canopies and/or eaves shall be designed, constructed, or installed so the lens cover is recessed from the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy/eave. Light shall be constrained to no more than 85° from vertical.
 - 2. Lights shall not be mounted on the top or sides (fascia's) of the canopy/eave and the sides (fascia's) of the canopy/eave shall not be illuminated.
- B. Exterior Display and Sales Areas. Lighting levels on exterior display and/or sales areas shall be adequate to facilitate the activities taking place in these locations. The site plan shall designate areas to be considered display/sales areas and areas to be used as parking. These designations must be approved by the City.
 - 1. Each area designated as an exterior display and/or sales area shall be considered separately.
 - 2. Lighting fixtures shall be full cut-off fixtures.
 - 3. Fixtures shall be mounted no more than twenty (20) feet above grade.
 - 4. Fixtures shall not create glare on adjacent streets, highways, or properties, and shall not create light trespass on nearby and abutting properties.
 - 5. Exterior display/sales areas shall be illuminated only when the establishment is open for business unless motion sensing devices are installed.
- C. Parking areas. Parking area lighting shall provide the minimum lighting necessary to ensure adequate vision in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.
 - 1. All lighting fixtures serving parking areas shall be full cut-off fixtures.
 - 2. As an alternative in the 10MU zone, the design for a site may adopt the use of parking area lighting fixtures of a particular "period" or "vintage" architectural style.
 - a) Mounting heights of such alternative fixtures shall not exceed 15 feet above the elevation of the surface to be illuminated, or the existing grade, or the average elevation of the finished grade, whichever is lower.

- b) Such alternative fixtures shall not be located closer than three (3) times the mounting height as measured from existing grade or the average elevation of the finished grade to the lowest light emitting part of the fixture.

D. Security lighting. The purpose of and need for security lighting (i.e. lighting for safety of property) must be demonstrated as part of an overall security plan which includes illumination, surveillance, and response plans; and which delineates the area to be illuminated for security purposes. To the extent that the designated areas is illuminated for other purposes (i.e. parking or display), independent security lighting is prohibited.

1. In addition to the application materials required as part of the lighting plan, applications for security lighting installations shall include a written description of the need for and purposes of the security lighting, a site plan showing the area to be secured and the location of all security lighting fixtures, specifications of all fixtures, the horizontal and vertical angles in which light will be directed, and an adequate cross-sections showing how light will be directed only onto the area to be secured.
2. All security lighting fixtures shall be fully shielded and aimed so that illumination is directed inward from the setback at the property boundaries, directed only onto the designated area, and not illuminate other areas. In no case shall lighting be directed above a horizontal plane, and the fixture shall include opaque shields that prevent the light source from being visible from adjacent properties and roadways. The use of general floodlight fixtures is prohibited.
3. Security lighting may illuminate vertical surfaces (e.g. building facades and walls) up to a level 10 feet above grade or 10 feet above the bottoms of doorways or entries, whichever is greater.
4. Security lighting fixtures may be mounted on poles located no more than 10 feet from the perimeter of the designated secure area.
5. Security lights intended to illuminate a perimeter (such as a fence line) shall include motion sensors and be designed to be off unless triggered by an intruder located with 5 feet of the perimeter. Sensor activated lights shall be automatically turned off within five (5) minutes after being activated if no additional motion, light, or infrared radiation is detected.
6. Residential security lights shall not be installed or attached to public utility or streetlight poles.

15.17.080 - Public Lighting Standards:

The following additional standards shall apply to all public and semi-public uses.

- A. All lighting fixtures shall be full cut-off fixtures.
- B. Where illumination is provided, lighting of parks or open space shall have a maximum mounting height of 20 feet, minimum illumination level of 0.3 foot-candles, maximum illumination level of
 1. 1.3 foot-candles, and color temperature not to exceed 2,000K.

2. The decision authority, in consultation with the Parks and Recreation Commission and the Public Works Director, shall determine whether off-street walking and bike trails built in accordance with the Parks and Recreation Master Plan, are required to be illuminated in accordance with the standards above.
- C. Rustic trails built in accordance with the Parks and Recreation Master Plan shall not be illuminated.
 - D. The following shall apply to lighting of pedestrian walkways in non-residential zones and multifamily developments:
 1. If pedestrian walkways are adjacent to illuminated parking areas, public rights-of-way or common open space this standard shall be met without the need for additional lighting if the ambient lighting meets the illumination levels specified in 15.17.080.B, above.
 2. Pedestrian walkways between parking areas and buildings or adjacent to dwellings and off street multi-purpose pathways shall use bollard lights with a minimum illumination level of 0.3 foot-candles, a maximum illumination level of 1.2 foot-candles, and a maximum color temperature of 2,700K.
 3. The decision authority, in consultation with the Parks and Recreation Commission and the Public Works Director, may require off-street walk and bike trails built within or adjacent to a multifamily development in accordance with the Parks and Recreation Master Plan to be illuminated in accordance with the standards of Section 15.17.080.B, above.
 4. Rustic trails built within or adjacent to a multifamily development in accordance with the Parks and Recreation Master Plan shall not be illuminated.

15.17.090 - Street and Highway Lighting Standards:

- A. All lighting fixtures shall be level mounted and eighty five degrees (85°) full cutoff type fixtures.
- B. Maximum mounting height shall not exceed 20 feet measured from the surface to be illuminated to the lowest light-emitting point of the fixture.
- C. Streetlights in residential zones shall be limited to one thousand one hundred (1,100) lumens unless otherwise recommended by the Public Works Department.
- D. Non-residential streetlights shall be limited to one thousand six hundred (1,600) lumens, unless otherwise recommended by the Public Works Department.
- E. Lights on major intersections on State highways shall be limited to two thousand six hundred (2,600) lumens.
- F. Maximum color temperature shall not exceed 2700K.

15.17.100 - Prohibitions:

Any light source that does not meet the standards and requirements of this Chapter is prohibited. In addition to nonconforming lighting, the following lighting is specifically prohibited:

- A. Laser Light Source. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.
- B. Searchlights and Strobe Lights. The use of searchlights or strobe lights for purposes other than public safety or emergencies is prohibited.
- C. Blinking and Flashing Lights. Any lighting that is flashing, blinking, rotating, chasing, or rapidly changing in color or intensity is prohibited, except for traffic control fixtures, those used for public safety or emergencies, and seasonal holiday lights.
- D. Externally Affixed Neon Lighting. Externally affixed neon lighting is prohibited except as a trim element that surrounds windows, doors, or building edges when located on building facades that face street frontages. Such lighting must not be located more than 15 feet from finished grade and must not be used to define a building roof-line or to attract business; and such lighting must not include flashing, intermittent or rotating lights. Notwithstanding the provisions of this subsection, all neon lighting associated with signs must meet the requirements of the City of Port Orford Sign Code.
- E. Bottom Mounted Sign Lighting. Sign lighting attached to the sign structure is prohibited.
- F. High Intensity Lamps and Fixtures. The use, installation, sale, offer for sale, lease, or purchase of any high intensity lamp for use as outdoor lighting is prohibited.
- G. Lighting within the public right of way or easement when the purpose of the fixture is to illuminate areas outside the public right of way or easement

15.17.110 - Exemptions:

The following are not regulated by this Chapter:

- A. Lighting for public monuments and statuary. No exemption shall apply to light directed upward.
- B. Temporary lighting for theatrical, television, performance areas, and construction sites.
- C. Holiday lighting during the months of November, December, and January provided such lighting does not create glare on adjacent streets or adjacent or nearby properties.
- D. Lighting that is only used under emergency conditions.
- E. Low voltage landscape lighting not exceeding 200 lumens per fixture and aimed so that glare is not visible from adjacent properties.
- F. Lighting specified or identified in a temporary use permit.

G. Lighting required by federal or state laws or regulations.

15.17.120 - Acceptance:

The applicant shall, by signing the permit application, agree to comply with the provisions of this Chapter, a copy of which shall be provided with the application packet.

15.17.130 - Enforcement, Abatement, and Penalties:

Lighting disputes should be settled between the parties whenever possible. Education and voluntary compliance are encouraged, however, whenever such disputes cannot be resolved between parties, any peace officer, as defined by ORS 161.015, the Director of the Public Works Department, or any other individual who may be designated by City Council shall enforce this Chapter.

Unlawful acts. It shall be unlawful to erect, construct, alter, extend, repair, move, remove, install, use, or demolish any outdoor lighting in violation of this Chapter, or in violation of a detail statement or a plan approved hereunder, or in violation of a permit issued under the provisions of this chapter.

Notification and Order. The City Council, the Director of the Public Works Department, or any other individual who may be designated by City Council shall issue a Notice of Violation and Order for Abatement. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation. The property owner or authorized agent of the owner shall comply with the requirements of the notice of violation within the time period given.

Penalty. Any violation of this Chapter, or any portion of this Chapter, shall be considered a civil infraction and is subject to penalties not to exceed the amount of the maximum fine for a Class C misdemeanor. Each day the violation continues shall constitute a separate violation.

ORDINANCE NUMBER 2021-02

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF PORT ORFORD AMENDING BUILDING HEIGHTS WITHIN USE ZONES

The Common Council of the City of Port Orford hereby ordains that the Port Orford Municipal Code, Title 17 Zoning, Chapter 17.04 General Provisions and Chapter 17.12 Use Zones, be amended by the following:

Port Orford Municipal Code Chapter 17.04

17.04.030 *Definitions*

“Height of buildings” means the vertical distance from the “**average finished grade**” to the highest point of the **building, including the roof beams on a flat or shed roof, the deck level on a mansard roof and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs.** ~~copied of a flat roof, or to the deck line of a mansard roof or to the average height of the highest gable of a pitch- or hip roof;~~ **Average finished grade includes and encompasses any fill above the natural grade.**

“**Observation tower**” means a public structure used to view events from a long distance and to create a 360-degree range of vision.

Port Orford Municipal Code Chapter 17.12

17.12.010 *Residential zone (1-R)*

G. Height of Buildings. Except as provided in Section 17.20.050 in a 1-R zone no building shall exceed ~~thirty-five (35)~~ **thirty feet (30) feet and two stories** in height.

17.12.020 *Residential zone (2-R)*

G. Height of Buildings. Except as provided in Section 17.20.050 in a 2-R zone no building shall exceed ~~thirty-five (35)~~ **thirty feet (30) and two stories** in height.

17.12.030 *Commercial zone ((4-C)*

No change

17.12.040 *Industrial zone (5-I)*

F. Height of Buildings. Except as provided in Section 17.20.050 in a 5-I zone no building shall exceed **forty-five (45) feet** in height.

17.12.50 **Controlled development zone (6-CD)**

D. Height of Buildings. Except as provided in Section 17.20.050 in a 6-CD zone no building shall exceed thirty (30) feet in height.

17.12.060 **Marine activity zone (7-MA)**

No change

17.12.070 **Public facilities and park zone (8-PF)**

No change

17.12.080 **Shoreland overlay zone (9-SO)**

G. Height of Buildings. Except as provided in Section 17.20.050 in an 9-SO zone no building shall exceed thirty (30) feet in height.

17.12.090 **Battle Rock Mixed Use zone (10-MU)**

B. Uses Permitted Outright

~~15. Any permitted use where building height exceeds 35 feet shall be subject to site plan review to comply with the provisions set forth in Chapter 17.33, Site Plan Review.~~

H. Height of Buildings. Except as provided in Section 17.20.050 in a 10-MU zone, no building shall exceed ~~forty-five (45)~~ **thirty-five (35)** feet in height.

Chapter 17.33 **Site Plan Review**

No change

17.20.050 **General exception to building height limitations.**

The following type of structure or structural parts are not subject to the building height limitations of this title: **stationery boat hoist in the Port Facility**, chimney, tank, church spire, belfry, dome, monument, fire and hose towers, **public** observation tower mast, aerial cooling tower, elevator shaft, transmission tower, smokestack, flagpole, radio or television towers and other similar projections.

17.32.050 **Additional standards governing conditional uses.**

No change

17.46.080 Evacuation Route Improvement Requirements.

No change

In all other respect, the Port Orford Municipal Code, Title 17 Zoning shall remain the same and in full force and effect.

The foregoing ordinance was enacted by the Common Council of the City of Port Orford this 18th day of February 2021 and effective the 20th day of March, 2021 by the following vote:

Passed or Failed by the following Roll Call Vote

Yes: Kessler, Pogwizd, Aurns, LaRoche, Tidey

No: _____

Passed X Failed _____

Garrett Absent

Pat Cox
Mayor Pat Cox

ATTEST:

David Johnson
David Johnson, City Recorder, pro tem