

## Recommended Code Updates - December 2018

The following are the suggested changes to the Rockaway Beach Zoning Ordinance, as approved by the Rockaway Beach Planning Commission. They are organized by subject, discussion, and suggested code language

### Document Key

#### **1) Requested Change**

##### **Discussion**

Section Location X.XXX.

Replacement Language or Removal

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#### **1) Change PUD procedures so final plan is approval is final at the PC, unless appealed.**

**Discussion** – as the preliminary plan approval is completely a Planning Commission decision, it makes sense that the Final Plan decision also be the Planning Commission's. The final Plan approval is more ministerial, in that the task is to compare the final plan to the preliminary plan to ensure that the PUD's concepts are being implemented. In addition, the language about modifying the zoning map is unnecessary, and has not been implemented in Rockaway Beach. Deleting these phrases leaves the decision at the Planning Commission. Any Planning commission decision can be appealed to the City Council under section 11.070 (2).

##### **Section 10.060. Procedure - Final Approval.**

Delete the following:

~~(3) After final concept approval by the Planning Commission, the PUD application will be sent to the City Council for consideration for final approval.~~

~~Section 10.070. Mapping. An approved PUD shall be identified on the zoning map with the letters 'PUD' in addition to the abbreviated designation of the parent zone.~~

#### **2) Section 11.040(2)(a) remove "certified return receipt mail"**

**Discussion:** This section is obsolete. Return Receipt mail is not required by Oregon law and is rarely used for standard notices in other Oregon cities. Standard mail is sufficient for public hearing notices.

**Section 11.040. Notice of Public Hearing.**

Delete the following:

**(2) Mailed Notice.**

- (a) Mailed notice shall be sent by ~~certified return receipt~~ mail to property owners with the following distances from the exterior boundary of the subject property:

**3) *Remove the placement of RVs except for 6 months during construction***

**Discussion:** Recreational vehicles are permitted to be inhabited only in RV Parks and by permit for 6 months when a dwelling is being constructed. The RMD zone is the exception, that permits (without standards) RV's as a permitted use. Repealing this one section would make the RMD zone the same as the rest of Rockaway Beach.

**Section 3.091. Residential Manufactured Dwelling Zone - RMD Zone.**

**(1) Uses Permitted Outright.**

Delete ~~(f) Recreational vehicle.~~

Add to RV definition cannot be stored in R zones without primary residence

**4) *Make sure all residential zones on the east side of Highway 101 have a height limit of 29'***

**Discussion:** Only the R-3 and the RMD zone have a different height east of Highway 101. This modification would standardize the height in all the zones in Rockaway Beach.

**R-3 zone, section 3.090, 3(g) (Standards) replace with the following:**

The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere, except east of Highway 101 it shall be 29 feet.

**RMD Zone, section 3.091 (3) (h) Standards replace with the following:**

The maximum building height shall be 20 feet on the oceanfront and 24 feet elsewhere, except east of Highway 101 it shall be 29 feet.

**5) Regulate and permit food carts in the C-1 Zone, conditional use in the R/R zone**

**Discussion:** Food Carts (officially called Mobile Units) have become very popular in Oregon cities recently and offer a way to encourage local entrepreneurship at a low cost of entry. Rockaway Beach has a couple of examples in town now. Tillamook County has a well-organized regulatory scheme, and will ensure that all the State regulations for Food Carts be followed (see their website at <http://tillamookchc.org/environmental-health/opening-a-mobile-unit/>). They are not mentioned in our Zoning Ordinance, so this is a basic set of regulations defining Mobile Food Units and making them a permitted use in the C-1 Zone, and a conditional use in the R-R Zone.

**Add definition of Food Cart (Mobile Food unit)**

- **Mobile Food Unit (Food Cart).** Any vehicle that is self-propelled, or which can be pushed or pulled down a sidewalk, street or highway, on which food is prepared, processed or converted, or which is used in selling and dispensing food to the ultimate consumer. All Mobile Food Units must have access to a restroom by written agreement. Restroom must contain hand washing facilities and paper towels to permit double washing of food handlers. All Mobile Food Units must be licensed by Tillamook County Department of Environmental Health.

**Add to Section 3.030 Residential/Resort Zone (R-R)**

**(2): Conditional uses**

**(h) Mobile Food Unit**

**Add to Section 3.050 Commercial Zone (C-1)**

**(1) Uses Permitted Outright**

**(o) Mobile Food Unit**

**Add SEC. 4.180 – Mobile Food Unit Pods**

**(A) Purpose.** The purpose of this section is to facilitate and control the ability of mobile food unit pods to operate while ensuring such use is compatible with nearby properties, fosters an aesthetically appealing streetscape, and does not create a dangerous traffic condition.

**(B) Definitions.**

**(1) Mobile Food Unit Pod.** An outdoor commercial center with two (2) or more mobile Food Units in a shared location.

**(C) Mobile Food Unit Pods.** Mobile food unit pods may be permitted administratively in appropriate zoning districts. A property owner may request a permit from the Planning Department to develop a mobile food unit pod subject to the following standards:

**(1) Site Plan.** The property owner has provided the Planning Department with a detailed site plan of the mobile food unit pod showing the location and dimensional relationships of the property lines, all proposed mobile vendor locations, building setbacks, vehicle parking (if required/provided), sidewalk location, and proposed dining or sitting areas.

**(2) Site Improvement Requirements.**

**(a) Site Design.** Where parking is required, sites shall be improved with a barrier between vehicular and customer service areas, including ordering and dining areas. The barrier may be implied or physical and constructed with landscaping elements; gated fencing; changes in ground surface texture, material or color; or similar treatments. Sites which are not already paved with gravel or another hard surface shall improve their parking areas with gravel or other pavement designed in accordance with the Off-Street Parking and Off-Street Loading requirements. With respect to landscaping requirements, the entire Mobile Food Unit Pod shall be considered a parking lot and perimeter landscaping will be required in accordance with Parking Lot Landscape Standards.

**(b) Sanitation.** Adequate restroom facilities shall be provided either on-site or through a shared use agreement with a neighboring business. Portable toilets are encouraged to be screened from view of the public.

**(c) Utilities.** Above ground utility connections shall not interfere with pedestrian or vehicular safety and shall not be located in customer service areas or customer parking areas.

**(d) Mobile Food Unit Pods** shall not have continuous curb cuts or exacerbate a dangerous pedestrian condition. New pods may close continuous curb cuts or improve pedestrian conditions with temporary materials subject to approval of the City Planning Department. Acceptable materials include planters, plinths, benches, pavers, and other furniture. Temporary improvements installed by mobile vendor courts shall not reduce access for pedestrians with disabilities.

**(E) Exemptions.** The provisions of the Mobile Food Unit Pod ordinance do not apply to:

(1) The placing and maintenance of unattended stands or sales devices for the sale or display of newspapers, magazines, periodicals and paperbound books.

(2) The distribution of free samples of goods, wares and merchandise by any individual from his person.

(3) Special events authorized by a special event permit from the City of Rockaway Beach, OR.

(4) Fireworks sales.

(5) Children's lemonade stands.

(6) Temporary tent sales that operate for less than three (3) days. A tent permit from the Planning Department and Fire Marshal inspection is required.

(7) Temporary sales for non-profit entities that operate for less than five (5) consecutive days.

(8) Non-profit organizations that prepare and donate or give away food for free.

**(F) Prohibited Conduct.** The following conduct is prohibited for Mobile Food Units:

(1) Obstruct pedestrian or vehicular traffic flow.

(2) Obstruct traffic signals or regulatory signs

(3) Use of any device that produces a loud and raucous noise or operate any loudspeaker, light or light system, public address system, radio, sound amplifier, or similar device to attract public attention.

(4) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, create a nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to emergency and sanitation vehicles.

**(G) Suspension and Revocation of Mobile Food Unit Pod Permit.** Any permit issued under these regulations may be suspended or revoked by the Planning Department for any of the following reasons:

(1) Fraud, misrepresentation or knowingly false statement contained in the application for the permit or during presentations to the Planning Department.

(2) Conducting the business of mobile vending in a manner contrary to the conditions of the permit.

(3) Conducting the business of vending in such a manner as to create a public nuisance, cause a breach of the peace, constitute a danger to the public health, safety, welfare or interfere with the rights of abutting property owners.

(4) Cancellation of health department authorization for a food or beverage vending unit due to uncorrected health or sanitation violations.

## **6) Remove residential use as an outright use in the C-1 Zone**

**Discussion:** Currently a residential dwelling is permitted outright in Rockaway's limited C-1 zoning. Given the small amount of land that is zoned C-1, and the lack of vacant parcels thereof, and the relatively high density of development permitted in this zone, it would be advisable to exclude single family homes and duplexes from competing with true commercial uses. This amendment allows residential uses, but only if 50% of the ground floor is in a commercial use (retail, office, restaurant, commerce). The upper floors of a mixed-use building may be residential. Residential dwellings may be allowed in C-1 as a conditional use.

For mixed-use development within these areas, parking requirements should be reduced to 1 space per unit, as additional spaces may affect the feasibility of building residential units. Commercial parking requirements in these areas will remain the same.

### **Modify Section 3.050 Commercial Zone (C-1)**

#### **(1) Uses Permitted Outright**

~~Delete (f) Single family dwellings including modular housing and manufactured homes, duplexes and multiple family dwellings. Manufactured homes shall be subject to the standards of section 4.091~~

Modify (q) Residential Use, limited to the second story or above, and no more than 50% of the ground floor, on the condition that a commercial use be located on at least 50% of the area of the ground floor.

#### **(2) Conditional Uses Permitted**

(f) Single family dwellings including modular housing and manufactured homes, duplexes and multiple family dwellings. Manufactured homes shall be subject to the standards of section 4.091

## **7) Make schools a conditional use in the R-1 zone**

**Discussion:** Currently, schools are a conditional use in R-2 and other R zones, but not in the R-1 zone. Neah-Kah-Nie High School, for example is located in an R-1 zone, technically making it a non-conforming use. This amendment modifies the code to make schools a conditional use.

**Modify Section 3.010. Single Family (R-1) Zone (2) Conditional Uses to add:**

(h) public or private school

## **8) Allow accessory dwelling units for permanent residents**

**Discussion:** Accessory Dwelling Units have become a very popular option over the last two decades. Many cities have added these small accessory dwellings to their zoning code as permitted uses. They help provide additional housing, and in many cases provide additional income to the home owner, easing the burden of home ownership expense. This proposal adds a section called Accessory Dwelling Units to the Rockaway Beach Zoning Code. The maximum size is 800 square feet, or 75 percent of the main home on the site, whichever is smaller. We have proposed targeting these for permanent residents only, by limiting them to at least a 90-day lease, with a month-to-month option thereafter.

### **Section 4.170 Accessory Dwelling Units**

**Sections:**

**4.170.010 Purpose**

**4.170.020 Where These Regulations Apply**

**4.170.030 General Requirements**

**4.170.040 Development Standards**

**4.170.050 Density**

**4.170.010 Purpose:** Accessory dwelling units are allowed in certain situations to:

- Create new housing units while respecting the look and scale of single-dwelling development;
- Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- Increase the stock of affordable units for permanent residents.
- Provide for occupation of second and vacation homes by allowing for a permanent resident on site for security and maintenance.
- Allow more efficient use of existing housing stock and infrastructure;
- Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- Provide a broader range of accessible and more affordable housing.

**4.170.020 Where These Regulations Apply**

An accessory dwelling unit may be added to a house or attached house in an R-1, R-2, R-3, R-R, or RMD zone.

**4.170.030 General Requirements**

A. Number of residents. The total number of individuals that reside in both units may not exceed the number that is allowed for a household.

B. Other uses.

1. Home occupation. An accessory dwelling unit is prohibited on a site with a home occupation.

2. Type A accessory short-term rental. An accessory dwelling unit is not allowed to be a short term rental unit (less than 90 days lease) or a travelers accommodation or vacation rental unit,

#### **4.170.040 Development Standards**

A. Purpose. Standards for creating accessory dwelling units address the following purposes:

- Ensure that accessory dwelling units are compatible with the desired character and livability of Rockaway Beach's residential zones;
- Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
- Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
- Provide adequate flexibility to site buildings so that they fit the topography of sites.

B. Generally. The development standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zone development standards apply.

C. Requirements for all accessory dwelling units. All accessory dwelling units must meet the following:

1. Location of entrances. Only one entrance may be located on the facade of the house, attached house, or manufactured home facing the street, unless the house, attached house, or manufactured home contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks. Detached accessory dwelling units are exempt from this standard.

2. Parking. One additional parking space is required for the accessory dwelling unit. Existing required parking for the house, attached house, or manufactured home must be maintained or replaced on-site. Tandem parking is permitted.

3. Maximum size. The size of the accessory dwelling unit may be no more than 75 percent of the living area of the primary dwelling unit or 800 square feet of living area, whichever is less. The measurements are based on what the square footage of the primary dwelling unit and accessory dwelling unit will be after the accessory dwelling unit is created.

4. Setbacks. Detached accessory dwelling units must be:

- a. Set back 40 feet from the front lot line; or
- b. Located behind the rear wall of the existing house, attached house, or manufactured home. For the purpose of this regulation, the



rear wall of the house is the wall furthest from the wall with the main entrance to the street.

5. Detached accessory dwelling units must meet the development standards for the base zone. Height is limited to 20 feet. Attached accessory dwelling units have the same height limit as the base zone.

**4.170.050 Density** In the residential zones, accessory dwelling units are not included in the minimum or maximum density calculations for a site.

See new definition of structure below

**9) Add sandwich board regulations to sign code:**

**Discussion:** City staff has received numerous complaints about sandwich board signs, including businesses having an excessive amount of signs and signs being placed in locations outside of the business' immediate proximity. Planning Commission has discussed the issue, and has instructed staff to propose the following regulations for the use of sandwich board signs.

**Add section 4.050(6)**

**(6) Sandwich board signs**

For the purposes of this section, "Sandwich board sign" means a sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.

- (a) One nonilluminated sandwich board sign, with each face not exceeding eight square feet in area, shall be allowed per business.
- (b) Sandwich board signs must be placed directly in front of the associated establishment.
- (c) The sandwich board sign shall not be located within a street or street right-of-way, except that where sidewalks exist, such a sign may be located on a public sidewalk. The sign shall not obstruct pedestrian traffic. If located on a public or private sidewalk, it shall be placed either adjacent to the curb or adjacent to the building so as to allow a 36-inch minimum walkway.
- (d) Sandwich board sign area shall not be deducted from the aggregate sign area allowed in Section 4.050(3)

**10) Add several new definitions:**

**Discussion:** In administering the code as Rockaway Beach's planning staff, it has become clear that our Zoning Ordinance would be strengthened by adding several definitions, clarifying exactly what is meant by the zoning code where it is unclear now.

**Residential, or Residential Use** is a land use in which housing predominates, as opposed to industrial and commercial uses. Housing may vary significantly between, and through, residential areas. These include single-family housing, multi-family residential, or mobile homes. Nonresidential uses may be included in some areas such as home occupations or offices, or travelers accommodations

**Residential or Residential Use.** Long-term occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods (i.e., less than 30 days) of time is considered an overnight accommodation for transient individuals. See also, definitions of Accessory Travelers' Accommodation, Hotel/Motel, and Travelers' Accommodation.

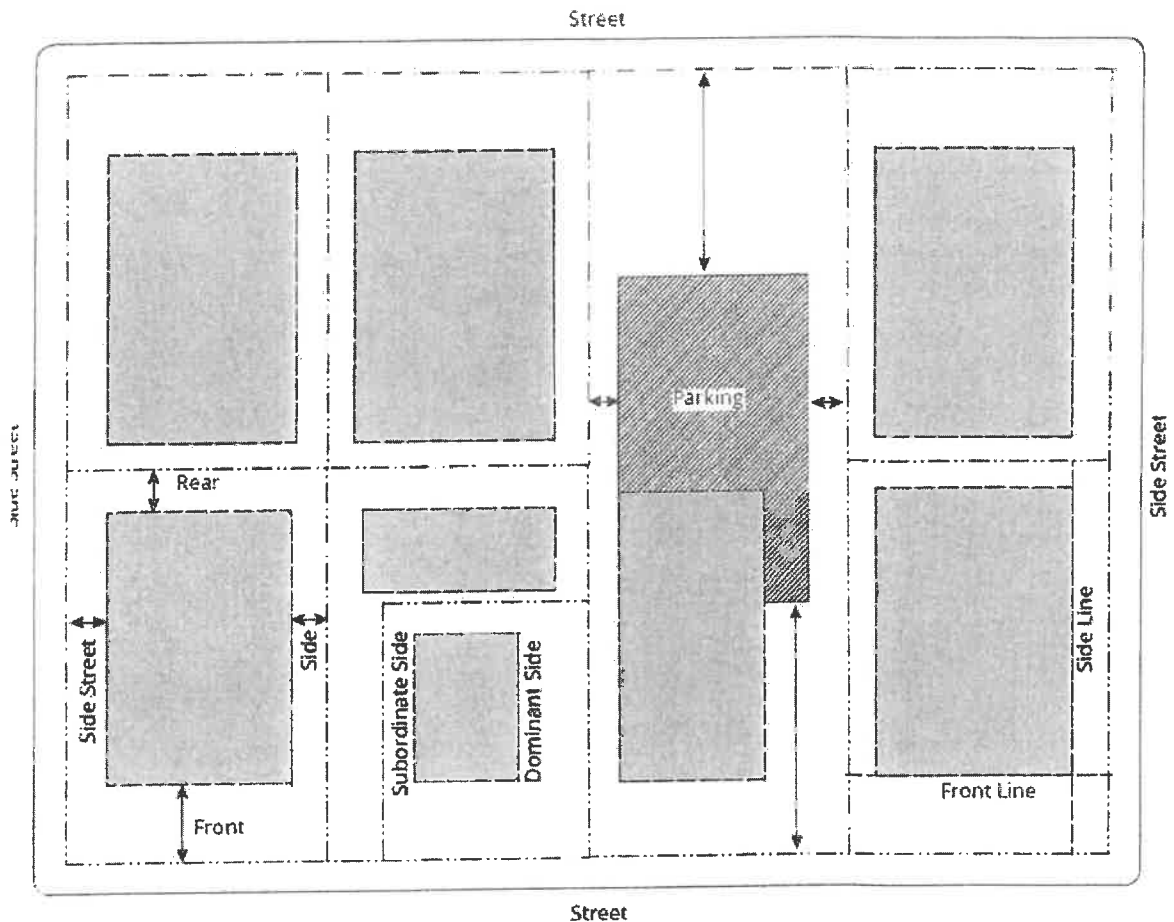
**Travelers' Accommodations.** Transient lodging in a residential zone having a room, rooms, or dwellings rented or kept for rent to travelers or transients for a charge or fee paid or to be paid for rental or use of such facilities on one or more occasions for a period of less than 30 consecutive days. See also, definition of Accessory Travelers' Accommodation.

**Hotel/Motel.** A building or portion thereof designed and used for transient lodging in a non-residential zone for a period of less than 30 days, lodged with or without meals and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

**Setback** is the distance which a building or other structure is set back from property lines, including the street right of way, or from a stream, a shoreline vegetation line, wetland boundary, or flood plain, or any other place which is deemed to need protection. Setbacks are measured perpendicular to the line or boundary. The setback area must be maintained clear of permanent structures with the exception of specifically permitted encroachments. Setbacks include the following modifiers:

- i. **DEPTH.** The dimension of a setback measured at a right angle and horizontally from an abutting property line.
- ii. **FRONT.** An area extending the full width of a lot between the front lot line and the front setback line.
- iii. **LINE.** A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a setback and governing the placement of structures and uses on the lot.
- iv. **REAR.** An area extending the full width of a lot between the rear lot line and the rear setback line, excluding any area located within the street side setback of a corner lot.

- v. **SIDE.** The area extending the depth of a lot from the front setback to the rear lot line between the interior side lot line and the interior side setback line.
- vi. **STREET SIDE.** A setback adjacent to a street and determined on the basis of a street lot line. For a corner lot, a street side setback is the area that extends from the front setback to the rear lot line.



(note below that decks less than 18" above grade are exempted, so that they may extend into setback areas)

**STRUCTURE.** An improvement attached to real property. A deck or patio of less than 18" above grade is not considered a structure for the purposes of zoning or setbacks.

- b. **ACCESSORY.** A subordinate structure physically detached from, secondary and incidental to, and commonly associated with a principal building or principal use on the same site. Accessory structures normally associated with a residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles (including incidental restoration and repair), personal recreational vehicles and other personal property; studios; workshops; greenhouses (noncommercial); enclosed cabanas and pool houses; and storage

sheds. Accessory structures normally associated with a non-residential use property include, but are not limited to garages (unenclosed or enclosed) for the storage of automobiles and work related vehicles and equipment (including incidental restoration and repair); storage structures; workshops; and studios. "Accessory structure" does not include an Accessory Dwelling Unit.

- c. **EXISTING.** A structure legally erected prior to the effective date of this Title, or one for which a valid legal Building Permit has been issued prior to this effective date of this Title.