

# BINGEN MUNICIPAL CODE

## Title 17

### ZONING

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# BINGEN MUNICIPAL CODE

## Chapter 17.04

### GENERAL PROVISIONS

#### Sections:

- 17.04.010 Title.
- 17.04.020 Intent.
- 17.04.030 Purpose.
- 17.04.040 Effect.
- 17.04.050 Standards generally.

#### **17.04.010 Title.**

This title shall be known and cited as the “Zoning Ordinance, City of Bingen.” (Ord. 440, Att. A (part) 1997).

#### **17.04.020 Intent.**

It is the intent of the city council to provide uniform, equitable and reasonable standards to govern the usage of the land and structures in the interest of public health, safety, and general welfare. (Ord. 440, Att. A (part) 1997).

#### **17.04.030 Purpose.**

Utilizing the broad concept of the police power, it is the objective of the municipality to provide for the highest and best use of lands consistent with the needs of most people and the comprehensive plan. Changing conditions and requirements dictate that a flexible policy be exercised within the framework of this title. (Ord. 440, Att. A (part) 1997).

#### **17.04.040 Effect.**

Zoning does not constitute a vested right. If some reasonable use of the property is allowed by this title, the effect is not confiscatory and is proper use of police power. (Ord. 440, Att. A (part) 1997).

#### **17.04.050 Standards generally.**

Standards provided by this title for particular districts and circumstances are determined to be the minimum requirements in the public interest of health, safety and general welfare to implement the comprehensive plan. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.08

### DEFINITIONS

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**17.08.010 Definitions generally.**

For the purpose of this title certain terms are defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular; the word “person” may be taken for persons, associations, firms, copartnerships or corporations; the word “structure” includes building; the word “occupied” includes premises designed or intended to be occupied; the word “used” includes designed or intended to be used; and the word “shall” is always mandatory and not merely directive. (Ord. 440, Att. A (part) 1997).

**17.08.015 Accessory use or structure.**

“Accessory use or structure” means one which is subordinate to the principal use of a building on the lot serving a purpose customarily incidental to the principal use of a building. (Ord. 440, Att. A (part) 1997).

**17.08.016 Administrator.**

“Administrator” means the person who is charged with the responsibility of administering this title. (Ord. 440, Att. A (part) 1997).

**17.08.020 Alley.**

“Alley” means a public right-of-way not over thirty feet wide which affords, generally, a secondary means of access to abutting lots, not intended for general use. (Ord. 440, Att. A (part) 1997).

**17.08.025 Apartment house.**

“Apartment house” means a building or portion thereof used or intended to be used as a home with three or more families or householders living independently of each other. (Ord. 440, Att. A (part) 1997).

**17.08.030 Basement.**

“Basement” means a portion of a building included between a floor with its level two feet or more below the level from which the height of the building is measured and the ceiling next above said floor. (Ord. 440, Att. A (part) 1997).

**17.08.035 Billboard.**

“Billboard” means an outdoor advertising sign, any structure or portion thereof, situated on private premises, upon which lettered or pictured material is displayed for advertising purposes, other than the name and occupation of the user, or the nature of the business conducted on such premises or the products primarily sold or manufactured thereon. (Ord. 440, Att. A (part) 1997).

**17.08.040 Building.**

“Building” means any structure, permanent, mobile, demountable or movable, built or used for the support, shelter, or enclosure of any person, animals, goods, equipment, or chattels and property of any kind. (Ord. 440, Att. A (part) 1997).

**17.08.045 Building line.**

“Building line” means a line established by this title to govern placement with respect to highways, streets and alleys. The front property line shall be the front line as shown upon official plats of the property in all subdivisions platted. In all other cases the front line shall be according to the comprehensive plan or the determination of the administrator. (Ord. 440, Att. A (part) 1997).

**17.08.050 Bulk plant.**

“Bulk plant” means an establishment where flammable liquids are received by tank vessel, pipeline, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle or container. (Ord. 440, Att. A (part) 1997).

**17.08.055 Clinic.**

“Clinic” means a building or portion of a building containing offices and facilities for providing medical, dental or psychiatric services for out patients only. (Ord. 440, Att. A (part) 1997).

**17.08.057 Cogeneration facility.**

“Cogeneration facility” means a facility used to produce electrical energy and to produce forms of thermal energy (such as heat or steam) for commercial or industrial purposes, but does not include such facilities or uses to which a cogeneration facility may be interconnected and that may receive energy from a cogeneration facility for commercial or industrial purposes. (Ord. 440, Att. A (part) 1997).

**17.08.060 Comprehensive Plan.**

“Comprehensive plan” means the Bingen Comprehensive Plan as adopted by the city council. (Ord. 440, Att. A (part) 1997).

**17.08.065 Council.**

“Council” means the city council. (Ord. 440, Att. A (part) 1997).

**17.08.070 Density provisions.**

“Density provisions” means requirements for each land use district to encourage, protect and preserve the health, safety and general welfare of the area, through standards which include yards, height bulk, lot area, lot coverage and occupancy limitations. (Ord. 440, Att. A (part) 1997).

**17.08.075 Director of planning.**

“Director of planning” means the person designated by the planning commission who is charged with the responsibility of administering this title in terms of the comprehensive plan and in accordance with the decisions of the planning commission, the board of adjustment and the city council; the “administrator” defined in Section 17.08.016. (Ord. 440, Att. A (part) 1997).

**17.08.080 District or zone.**

“District or zone” means a section or district of the city within which the standards governing the use of buildings or premises are uniform. (Ord. 440, Att. A (part) 1997).

**17.08.085 Dwelling group.**

A “dwelling group” shall consist of three or more detached dwelling structure located on the same lot. (Ord. 440, Att. A (part) 1997).

**17.08.090 Dwelling unit.**

“Dwelling unit” means a family combination with housekeeping and cooking facilities. A “bachelor unit” shall be computed as one-half the size requirement of a family or dwelling unit, providing such units are designed as separate apartments and not merely rooming accommodations and subject to specific limitations by district. Hotel, motel, room and boarding units shall not be considered as dwelling units. (Ord. 440, Att. A (part) 1997).

**17.08.095 Exception.**

“Exception” means a use permitted only after review of an application therefore by the board of adjustment, rather than administrative officials. (Ord. 440, Att. A (part) 1997).

**17.08.100 Family.**

“Family” means a person living alone, or two or more persons customarily living together as a single household or housekeeping unit and using common cooking facilities, as distinguished from a group occupying a hotel, club, board or lodginghouse. (Ord. 440, Att. A (part) 1997).

**17.08.105 Floor area ratio.**

“Floor area ratio” means the ratio of usable floor area of a structure to the total area of the lot or land area occupied by such structure. (Ord. 440, Att. A (part) 1997).

**17.08.110 Height of building.**

“Height of building” means the vertical distance at the center of a building’s principal front, measured from the level of the first floor above grade to the highest point of the roof beams in the case of flat roofs, the deck line of mansard roofs, or the center height between eaves and ridges for gable, hip or gambrel roofs. For buildings set back from the street line, the height may be measured from average elevation of the finished grade along the front of the building. (Ord. 440, Att. A (part) 1997).

**17.08.115 Home occupation.**

“Home occupation” means a use customarily carried on within a dwelling by the inhabitants thereof which use is incidental to the residential use, and not primarily considered as a business. (Ord. 440, Att. A (part) 1997).

**17.08.120 Hotel.**

“Hotel” means a building in which lodging is provided and offered to the public for compensation and which is opened to transient guests. (Ord. 440, Att. A (part) 1997).

**17.08.125 Junkyard.**

“Junkyard” means a place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including house wrecking yards, used lumber yards, and yards for use of salvaged house wrecking and structural steel materials and equipment. (Ord. 440, Att. A (part) 1997).

**17.08.130 Lot.**

“Lot” means a parcel of land, under one ownership, used or capable of being used under the regulation of this title, including both the building site and all required yards and other open spaces. (Ord. 440, Att. A (part) 1997).

**17.08.135 Lot coverage.**

“Lot coverage” means that portion of a lot that is occupied by the principal building and its accessory buildings, expressed as a percentage of the total lot area. It shall include all projections except eaves. (Ord. 440, Att. A (part) 1997).

**17.08.140 Lot depth.**

“Lot depth” means the horizontal distance between the front and rear lot lines. (Ord. 440, Att. A (part) 1997).

**17.08.145 Lot width.**

“Lot width” means the distance between side lot lines measured at the front yard building line; in case of irregularly shaped lots, the lot shall be measured at a point midway between the front and rear lot lines. (Ord. 440, Att. A (part) 1997).

**17.08.150 Major thoroughfares.**

“Major thoroughfares” means primary and secondary arterials and state highways as shown on the comprehensive plan. (Ord. 440, Att. A (part) 1997).

**17.08.155 Manufacture.**

“Manufacture” means the converting of raw unfinished materials or products, or any or either of them into an article or articles or substance of a different character or for use for a different character or for use as a different purpose. (Ord. 440, Att. A (part) 1997).

**17.08.056 Manufactured home.**

“Manufactured home” means a factory built home constructed after June 15, 1976, in accordance with United State Department of Housing and Urban Development requirements for manufactured housing, and bearing the appropriate insignia indicating such compliance, which dwelling unit: (1) is comprised of at least two fully enclosed parallel sections each 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. (Ord. 440, Att. A (part) 1997).

**17.08.057      Manufactured home accessory structure.**

“Manufactured home accessory structure” means any attached or detached addition to a manufactured home, such as an awning, carport, porch, or storage structure, which is ordinary appurtenant. (Ord. 440, Att. A (part) 1997).

**17.08.058      Manufactured home skirting.**

“Manufactured home skirting” means that weather-resistant material used to enclose the entire span underneath a manufactured home, having removal panels allowing access and securely anchored, all as approved by the building official. (Ord. 440, Att. A (part) 1997).

**17.08.059      Manufactured home stand.**

“Manufactured home stand” means an area of a manufactured home development improved as a pad to support a manufactured home, including its enclosed extensions and structural additions. (Ord. 440, Att. A (part) 1997).

**17.08.160      Mobile home.**

“Mobile home” means a single-family dwelling unit transportable in one or more sections that are eight feet or more in width and thirty-two feet or more in length, built on a permanent chassis, designed to be used as a permanent dwelling unit and constructed before June 14, 1976. (Ord. 440, Att. A (part) 1997).

**17.08.165      Mobile home park.**

“Mobile home park” means any property used for the accommodation of inhabited trailer or mobile home coaches. (Ord. 440, Att. A (part) 1997).

**17.08.170      Modular home.**

“Modular home” means a single-family dwelling constructed in a factory in accordance with the Uniform Building Code and bearing the appropriate gold insignia indicating such compliance. The term includes “factory-built,” “pre-fabricated,” and “panelized” units. (Ord. 440, Att. A (part) 1997).

**17.08.175 Multiple-family residence.**

“Multiple-family residence” means a building arranged to be occupied by more than two families. (Ord. 440, Att. A (part) 1997).

**17.08.180 Net area.**

“Net area” means the total usable area exclusive of space dedicated to such things as streets, easements, and uses out of character with the principal uses. (Ord. 440, Att. A (part) 1997).

**17.08.185 Nonconforming use.**

“Nonconforming use” means a principal use or an activity involving a building or land occupied or in existence at the effective date of this title or at the time of any amendments thereto which does not conform to the standards of the zoning district in which it is located. (Ord. 440, Att. A (part) 1997).

**17.08.190 Off-street parking space.**

“Off-street parking space” means a permanently surfaced area not situated within a public right-of-way for the parking of a motor vehicle. (Ord. 440, Att. A (part) 1997).

**17.08.194 Principal use.**

“Principal use” means the main use of land or structures as distinguished from a subordinate or accessory use. (Ord. 440, Att. A (part) 1997).

**17.08.195 Principal uses permitted outright.**

“Principal uses permitted out right” means uses allowed as a matter of right within certain land use districts without public hearing, zoning permit, conditional exception, or variance; provided, that such use is in accordance with requirements of a particular district and general conditions stated elsewhere in this title. (Ord. 440, Att. A (part) 1997).

**17.08.200 Prohibited uses.**

“Prohibited uses” means any which is not specifically enumerated or interpreted as allowable in that district. (Ord. 440, Att. A (part) 1997).

**17.08.202 Recreational Vehicle.**

“Recreation vehicle” means a vehicular-type portable structure without permanent foundation designed and manufactured for recreational use, which can be towed, hauled or driven. The term includes, but is not limited to, self-propelled motor home, travel trailer, truck camper, or camping trailer., “Permanent” for the purposes of this chapter is defined as occupancy for more than four weeks in one consecutive twelve-month period. (Ord. 440, Att. A (part) 1997).

**17.08.205 Service station.**

“Service station” means a retail establishment for the sale on the premises of motor vehicle fuel and other petroleum products and automobile accessories, and for the washing, lubrication, and minor repair of automotive vehicles. (Ord. 440, Att. A (part) 1997).

**17.08.210 Story.**

“Story” means that portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, then the space between such floor and the ceiling next above it. First story means any floor not over four and one-half feet above the established grade, or if set back, not over four and one-half feet above average ground level at the front line of the building. (Ord. 440, Att. A (part) 1997).

**17.08.215 Story, half.**

“Half story” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level. A half-story containing independent apartments or living quarters shall be counted as a full story. (Ord. 440, Att. A (part) 1997).

**17.08.220 Street.**

“Street” means a public way which affords a primary means of access to property. (Ord. 440, Att. A (part) 1997).

**17.08.225 Use.**

“Use” means an activity or purpose for which land or premises or a building is designed, arranged or intended, or for which it is occupied or maintained, let or leased. (Ord. 440, Att. A (part) 1997).

**17.08.230 Variance.**

“Variance” means a modification of the regulations of this title when authorized by the board of adjustment after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property. (Ord. 440, Att. A (part) 1997).

**17.08.235 Vicinity.**

“Vicinity” means the area surrounding a use in which such use produces a discernable influence by aesthetic appearances, traffic, noise, glare, smoke, or similar influences. (Ord. 440, Att. A (part) 1997).

**17.08.240 Yard.**

“Yard” means land unoccupied or unobstructed, from the ground upward, except for such encroachments as may be permitted by this title surrounding a building site. (Ord. 440, Att. A (part) 1997).

**17.08.245 Yard, front.**

“Front yard” means an open space, other than the court, on the same lot with the building, between the front line of the building (exclusive of steps) and the front property line. (Ord. 440, Att. A (part) 1997).

**17.08.250 Yard, rear.**

“Rear yard” means an open space on the same line with the building between the rear line of the building (exclusive of steps, porches and accessory buildings) and the rear line of the lot. (Ord. 440, Att. A (part) 1997).

**17.08.255 Yard, side.**

“Side yard” means an open space on the space on the same lot with the building between the side wall line of the building between the side wall line of the building on the side line of the lot. (Ord. 440, Att. A (part) 1997).

**17.08.260 Zone transition lot.**

“Zone transition lot” means a parcel of land abutting a district boundary where the district boundary is not a street upon which more restrictive or less restrictive standards are affixed. The width of such parcel shall be the width of the lot, if platted, but not exceed one hundred feet in any instance. (Ord. 440, Att. A (part) 1997).

**17.08.265 Zoning.**

“Zoning” means regulation of the use of lands or the manner of construction related thereto in the interest of achieving a comprehensive plan of development. (Ord. 440, Att. A (part) 1997).

**17.08.270 Zoning lot.**

“Zoning lot” means a tract of land occupied or to be occupied by a principal building and its accessory facilities, together with such open spaces and yards as are required under the provisions of this title, having not less than minimum area required by this title for a zoning purpose in the district in which such land is situated, and having its principal frontage on a public street of standard width. A zoning lot need not necessarily coincide with the record lot which refers to land designated as a separate and distinct parcel on a legally recorded subdivision plat or in a legally recorded deed filed in the records of the county. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.12

### ZONING MAPS AND DISTRICTS

#### Sections:

- 17.12.010 Text and official map.
- 17.12.020 Purpose.
- 17.12.030 Use classifications.
- 17.12.040 Boundaries of districts, streets and alleys, lot lines.
- 17.12.050 Divided ownership.

#### **17.12.010 Text and official map.**

This title consists of the text and the map or maps identified by the approving signature of the mayor, city clerk and city attorney, and marked and designated as “Zoning Map, Bingen, Washington,” which map is placed on file in the offices of the city clerk and county auditor. The map has been examined and duly considered in detail by the city council and is adopted as part of this title. This title and each and all of its terms and mapped details is to read and be interpreted in the light of the contents of the maps and their relationship to the comprehensive plan. If any conflict between the map and the text to this title arises, the text of this title shall prevail. (Ord. 440, Att. A (part) 1997).

#### **17.12.020 Purpose.**

The zoning map adopted for the city is an official map and land use policy to control and direct the use and development of property in the municipal territory by dividing it comprehensively into districts according to the present and potential use of the properties. (Ord. 440, Att. A (part) 1997).

#### **17.12.030 Use classifications.**

To effectuate the comprehensive plan adopted by the city council and amended from time to time, lands within the incorporated territory of the city are classified into the following categories on the zoning map:

- A. Single-Family Residential District (R1 is the map symbol);
- B. Two-Family Residential District (R2 is the map symbol);
- C. Multi-Family Residential District (R3 is the map symbol);
- D. Mobile Home Residential District (MHR is the map symbol);
- E. Local Commercial District (C1 is the map symbol);

- F. General Commercial District (C2 is the map symbol);
- G. Light Industrial District (M1 is the map symbol);
- H. Heavy Industrial District (M2 is the map symbol);
- I. Temporary Use District (TU is the map symbol);
- J. Unmapped District (UM is the map symbol);
- K. Aggregate Resource District (AR is the map symbol);
- L. Mixed Use Development District (MU is the map symbol) (Ord. 440, Att. A (part) 1997).

**17.12.040 Boundaries of districts, streets and alleys, lot lines.**

The boundaries of the various districts shown on the zoning map are, unless otherwise indicated, streets, alleys, lot lines, section lines, or other lines of demarcation as shown on the map. Where a street layout property line or other boundary, on the ground varies from that shown on the zoning map, and where property or other boundary lines do not exist or are not shown on the zoning map, the designations shown on the map scale or other method so as to carry out the intent and purpose of the zoning map in that district. (Ord. 440, Att. A (part) 1997).

**17.12.050 Divided ownership.**

Where a district boundary line, as shown on the zoning map, divides a lot or other unit of property in a single ownership at the time of passage of this title, the use permitted on the least restrictive portion of such lot may extend to the portion lying in the more restrictive district a distance of not more than fifty feet beyond the district boundary line. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.20

### SINGLE-FAMILY RESIDENTIAL (R1) DISTRICT

#### Sections:

- 17.20.010 Permitted use.
- 17.20.020 Accessory use.
- 17.20.030 Conditional uses.
- 17.20.040 Density.
- 17.20.050 Off-street parking.
- 17.20.060 Underground utilities required.

#### **17.20.010 Permitted use.**

Permitted uses in the R1 district shall be as follows:

- A. One single-family detached dwelling structure per lot, to include manufactured and modular homes, but not to include mobile homes;
- B. Subsistence or hobby-type gardening and horticultural activities and related structures are permitted provided they shall be less than three hundred square feet total area and used solely for noncommercial purposes. (Ord. 440, Att. A (part) 1997).

#### **17.20.020 Accessory uses.**

Accessory uses permitted in the R1 district shall be as follows:

- A. Uses customarily incidental to a principal use permitted outright, such as private garages or parking areas for noncommercial vehicles, but not including any vehicles of over twenty-eight thousand pounds gross weight;
- B. Home occupations;
- C. The renting of rooms by the resident owner for lodging purposes only and for the accommodation of not more than two roomers in a dwelling unit;
- D. Nonflashing residential name plates not exceeding sixty-four square inches bearing only the name and address of the occupant; nonflashing bulletin boards or signs not exceeding sixteen square feet for quasi-public institutional buildings;
- E. The accessory exceptions which may be authorized by the city council in this district are those customarily incidental to conditional exceptions allowed. (Ord. 440, Att. A (part) 1997).

**17.20.030 Conditional uses.**

Conditional uses shall be as set forth in Chapter 17.72 of this code. (Ord. 440, Att. A (part) 1997).

**17.20.040 Density.**

Density provisions for the R1 district as follows:

- A. Maximum number of dwelling structures permitted per lot: one, not to include mobile homes;
- B. Maximum height of buildings: two stories but not to exceed thirty-five feet;
- C. Minimum area of lot: six thousand square feet for each single-family structure;
- D. Minimum depth of lot: eighty feet;
- E. Minimum width of lot: sixty feet;
- F. Maximum percent of building coverage: thirty-five percent of lot;
- G. Minimum front yard width: twenty feet;
- H. Minimum side yard width: five feet;
- I. Minimum side yard width along flanking street of corner lot: fifteen feet;
- J. Minimum rear yard required: twenty feet. (Ord. 440, Att. A (part) 1997; Ord. 463 §2, 2000).

**17.20.050 Off-street parking.**

At least one permanently maintained off-street parking space or a private garage shall be on the same lot as the dwelling or be attached thereto or made a part of the main building. Such parking space shall be not less than ten feet wide and twenty feet long. The size of garage shall not exceed size of dwelling. (Ord. 440, Att. A (part) 1997).

**17.20.060 Underground utilities required.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.24

### TWO-FAMILY RESIDENTIAL (R-2) DISTRICT

#### Sections:

- 17.24.010 Permitted uses.
- 17.24.020 Accessory uses.
- 17.24.030 Conditional uses.
- 17.24.040 Density.
- 17.24.050 Off-street parking.
- 17.24.060 Underground utilities required.

**17.24.010 Permitted uses.** Uses permitted in the R2 district shall be as follows:

- A. Principal uses permitted outright in the R1 district;
- B. One two-family attached dwelling structure (duplex) per lot;
- C. Mobile homes shall meet the requirements of RCW 43.22.340 and shall be placed on permanent immobile foundation that will comply with the Uniform Building Code as adopted in Section 15.04.010 of this code, and shall have a masonry skirting, and shall be minimum of eight hundred square feet.
- D. Townhouse buildings meeting the following criteria:
  - 1. Each townhouse building shall contain no more than two townhouses,
  - 2. Each townhouse in the townhouse building shall have a minimum width of twenty feet,
  - 3. A common access drive at least sixteen feet wide with a minimum of twelve feet paved area with one-foot minimum shoulders on either side,
  - 4. No parking in common access drives. Parking in designated parking areas only,
  - 5. A common access for parking is allowed and may take the form of an easement as long as a maintenance agreement is approved by the city engineer and recorded with the plat,
  - 6. If a townhouse is destroyed in any manner, it shall be replaced in compliance with the townhouse criteria or the tax lots/parcels shall be legally combined to create a minimum seven thousand square foot parcel or to the size of the parcel prior to the townhouse project,

7. A preliminary map shall be submitted and approved prior to issuing a building permit,
8. A post construction survey shall be submitted prior to approval of the final plat. Said survey shall be certified by a surveyor licensed in the state of Washington and shall show all setbacks including common wall location. Each division shall conform to Title 16 of this code,
9. Where access is provided directly from a street, each townhouse building shall be required to share only one curb cut. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

**17.24.020 Accessory uses.**

Accessory uses permitted in the R2 district shall be as follows:

- A. Uses customarily incidental to principal use permitted outright, such as private garages or parking areas for non commercial vehicles only, but not including any business, trade or industry;
- B. Home occupations;
- C. The renting of rooms by the resident owner for lodging purposes only, and for the accommodation of not more than two roomers in a dwelling unit;
- D. Nonflashing residential name plates not exceeding sixty-four square inches bearing only the name and address of the occupant, nonflashing bulletin boards or signs not exceeding sixteen square feet for quasi-public institutional buildings;
- E. The accessory exceptions which may be authorized by the city council in this district are those customarily incidental to conditional exceptions allowed. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

**17.24.030 Conditional uses.**

Conditional uses shall be as set forth in Chapter 17.72 of this code. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

**17.24.040 Density.**

Density provisions for the R2 district are as follows:

- A. Maximum number of dwelling structures permitted per lot: one;
- B. Maximum height of building: two stories but not to exceed thirty-five feet;

- C. Minimum area of lot: six thousand square feet for single-family structures, seven thousand square feet for two-family structures (duplex); three thousand five hundred square feet per townhouse;
- D. Minimum depth of lot: eighty feet.
- E. Minimum width of lot: sixty feet; twenty-five feet per townhouse;
- F. Maximum percent of building coverage: thirty-five percent lot for single-family use, forty percent for two-family use, forty percent per townhouse;
- G. Minimum front yard depth: twenty feet;
- H. Minimum side yard width: five feet; zero for a townhouse common wall;
- I. Minimum side yard width along flanking street or corner lot: fifteen feet;
- J. Minimum rear yard required: twenty feet. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

**17.24.050 Off-street parking.**

For dwelling units in an R2 district there shall be two independently accessible off-street parking spaces on the same lot as the dwelling unit(s), or attached thereto, or made a part thereof, for each housekeeping unit in the dwelling. Parking spaces shall be not less than ten feet wide and twenty-feet long. The size of garage shall not exceed size of dwelling. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

**17.24.060 Underground utilities required.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part), 1997; Ord. 497 §2, 2004).

# BINGEN MUNICIPAL CODE

## Chapter 17.28

### MULTIPLE-FAMILY RESIDENTIAL (R3) DISTRICT

#### Sections:

- 17.28.010 Permitted uses.
- 17.28.020 Accessory uses.
- 17.28.030 Conditional uses.
- 17.28.040 Density.
- 17.28.050 Off-street parking.
- 17.28.060 Underground utilities required.

#### **17.28.010 Permitted uses.**

Uses permitted in the R3 district shall be as follows:

- A. Principal uses permitted outright in the R1 and R2 districts;
- B. Multiple dwelling structures or groups of structures, including triplex and fourplex family dwelling structures, and multi-family apartments in which units are rented on a permanent basis, but not including motels or other facilities offered on transient tenancy basis.
- C. Townhouse buildings meeting the following criteria:
  - 1. Each townhouse building shall contain no more than six townhouses;
  - 2. Each townhouse in the townhouse building shall have a minimum width of twenty feet;
  - 3. A common access drive at least sixteen feet wide with a minimum of twelve feet paved area with one-foot minimum shoulders on either side;
  - 4. No parking in common access drives. Parking in designated parking areas only;
  - 5. A common access for parking is allowed and may take the form of an easement as long as a maintenance agreement is approved by the city and recorded with the plat;
  - 6. If a townhouse is destroyed in any manner, it shall be replaced in compliance with the townhouse criteria or the tax lots/parcels shall be legally combined to create a parcel the size of the parcel prior to the townhouse project;

7. A preliminary map or subdivision map shall be submitted and approved prior to issuing the building permit;
8. A post construction survey shall be submitted prior to approval of the final plan. Said survey shall be certified by a surveyor licensed in the State of Washington and shall show all setbacks including common wall location. Each division shall conform to Title 16 of this code;
9. Where access is provided directly from a street, each townhouse building shall be required to share only one curb cut. Townhouse buildings containing up to three units shall be required to share only one curb cut. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

**17.28.020 Accessory uses.**

Accessory uses permitted in the R3 district shall be as follows:

Uses customarily incidental to a principal use permitted outright, such as private garages or parking areas for non commercial vehicles only, but not including any business, trade or industry. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

**17.28.030 Conditional uses.**

Conditional uses shall be set forth in Chapter 17.72 of this code. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

**17.28.040 Density.**

Density provisions for the R3 district are as follows:

- A. Maximum height of buildings: two stories, but not to exceed thirty-five feet;
- B. Minimum area of lot for single-family dwellings; six thousand square feet; two-family dwellings (duplex) attached: seven thousand square feet and shall be governed by the standards in the R1 and R2 districts;
- C. Minimum area of lot for multi-family dwellings: two thousand five hundred square feet per dwelling unit for the first four dwelling units; additional dwelling units: one thousand five hundred square feet per unit;
- D. Minimum lot depth: one hundred feet;
- E. Minimum width of lot: one hundred feet; end units of a townhouse building twenty-five feet per townhouse, middle units twenty feet per townhouse;
- F. Maximum percent of lot coverage: fifty percent;

- G. Minimum front yard depth: twenty feet;
- H. Minimum side yard width: five feet; zero for townhouse common wall;
- I. Minimum side yard width along flanking street of corner lot: fifteen feet. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

**17.28.050 Off-street parking.**

For dwelling units in an R3 district there shall be two independently accessible off-street parking spaces on the same lot as the dwelling unit complex, or attached thereto, or made a part thereof, for each housekeeping unit in the dwelling, the size and type of such parking space to be the same as prescribed in the R1 and R2 districts. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

**17.28.060 Underground utilities required.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part), 1997; Ord. 498 §2, 2004).

# BINGEN MUNICIPAL CODE

## Chapter 17.32

### MANUFACTURED HOMES

#### Sections:

- 17.32.010 Use.
- 17.32.020 Issuance of special permit.
- 17.32.030 Special permit site standards.

#### **17.32.010 Use.**

A single manufactured home may be used as a single-family dwelling:

- A. By special permit from the planning director in areas designated on the zoning map if it complies with the following minimum requirements:
  - 1. The unit is no more than ten years old;
  - 2. The unit is installed on the site by a certified manufactured home installer in accordance with the state installation code. WAC Chapter 296-150B;
  - 3. The block (one side of the street) is at least fifty percent built up (on a front foot basis) with site-built residences which are habitable;
  - 4. There are not more than two existing manufactured homes in the block on one side of the street;
  - 5. The unit does not abut a parcel or lot already occupied by a manufactured home;
  - 6. The unit has a least eight hundred sixty-four square feet of living space, excluding basement, garages, and other permitted accessory uses;
  - 7. The tongue, axles, transporting lights and removable towing apparatus have been removed;
  - 8. Title elimination (WAC 308-56A and WAC Section 65.20.040) occurs within one year of occupancy;
  - 9. The unit has been skirted;
  - 10. Every exit that is not a grade has a set of stairs that complies with the UBC requirements.
- B. In a manufactured home park;

- C. In a manufactured home subdivision, as provided in Section 11.19.300; or
- D. As a temporary or accessory use in certain cases, such as watchman's quarters in the industrial zones or a construction or business office during construction, by special permit. (Ord. 440, Att. A (part) 1997).

**17.32.020 Issuance of special permits.**

A special permit under this section does not run with the land but is issued to a particular manufactured home on particular site. (Ord. 440, Att. A (part) 1997).

**17.32.030 Special permit site standards.**

A manufactured home by special permit in a special district established by the city council must comply with the following minimum site standards:

- A. Compliance with the site plan which, drawn to scale, shows the exact footprint and exact location of any required off-street parking spaces;
- B. The manufactured home is placed on foundation system footings, foundation system piers, foundations system plates and shims, foundation fascia and an anchoring system as defined in WAC Sections 296-150B-230, 235, 240, 245 and 250, and complies with all weather and fire resistance requirements of the WAC and UBC. The wood of the fascia is at least three inches from the ground unless it is pressure-treated wood. Metal fasteners are galvanized, stainless steel, or other corrosion-resistant material. Ferrous metal members in contact with the earth, other than those that are galvanized or stainless steel are covered with asphalt emulsion;
- C. The manufactured home is lawfully hooked up to city water and sanitary sewer prior to occupancy;
- D. Extension of the pressure relief valve for the water heater is provided;
- E. A used manufacture home has been inspected and certified by the building services department prior to placement on the site to assure that the unit is the one shown on the approved site plan and that it complies with all requirements;
- F. Placement on the site complies with all building setback, building coverage and height requirements of the zone in which it is located;
- G. Accessory uses for a manufactured home that has been granted a special permit under this chapter are limited to the following and are subject to the accessory building setback requirement of the zone in which located:
  - 1. One garage or one attached carport;

2. One hot tub;
3. One attached or detached storage room with an area of no more than one hundred fifty-square feet;
4. One swimming pool;
5. Decks so long as they do not encroach into required yards or exceed forty-two inches in height in the required front yard;
6. One gazebo. (Ord. 440, Att. A (part) 1997).

**BINGEN MUNICIPAL CODE**

**Chapter 17.40**

**COMMERCIAL (C) DISTRICT**

**Sections:**

- 17.40.010 Intent.
- 17.40.020 Permitted uses.
- 17.40.030 Conditional uses.
- 17.40.040 Accessory uses.
- 17.40.050 Accessory exceptions
- 17.40.060 Density.
- 17.40.070 Use limitations.

**17.40.010 Intent.**

The C district is intended to provide an area for the existing and potential wholesale and retail commercial activities associated with the central business district of the city and associated thoroughfare along State Route 14. (Ord. 440, Att. A (part) 1997).

**17.40.020 Permitted use.**

Uses permitted in the C district shall be as follows:

- A. Retail stores, shops, services and business activities serving primarily the residents of the surrounding urban or rural neighborhood, supplying the necessary daily convenience goods for households, such as groceries, meats, dairy products, drugs, cleaning or laundry (pick-up only) and personal services;
- B. Small animal hospitals when located not closer than one hundred fifty feet from any residential district and four hundred feet or more from any hospital, nursing home or institution for the care of the infirmed; providing, the animals are housed indoors;
- C. Hardware, dry goods, apparel, home appliances, jewelry, photographic studio, furniture, boat sales;
- D. Cafe, tavern, theater, gift shop, radio, and television, bank, business, or professional office;
- E. Automobile, truck and machinery dealer (new and used), garage, and automobile, truck and other vehicle repair, refrigerated locker, shoe repair, bakery supermarket, commercial recreation, excluding, however, the manufacturing, compounding, assembly, or treatment of products other than those clearly incidental and essential to a retail business and the storage and use of chemicals, solvents, and other liquids associated therewith;

- F. Automobile service stations, including storage facilities for rental trailers, trucks and other conveyances;
- G. Hotel, motel, tourist facilities;
- H. Places of public assembly for meetings or amusement, provided the location is more than fifty feet from a residential zone, is completely enclosed and is more than three hundred feet from any public school, playground or park, except that churches may be permitted without conformance to the distance requirement. (Ord. 440, Att. A (part) 1997).

**17.40.030 Conditional uses.**

Conditional exceptions which may be authorized by the board of adjustment in the C district are as follows:

- A. Residential use up to 50 percent of the square footage of a structure containing uses permitted outright and those conditional uses permitted in all residential districts as described in Section 17.72.020;
- B. Those manufacturing, compounding, processing, treatment, or assembly uses allowed in the Light Industrial District which take place within an enclosed structure and from which there is no discernable odor, noise, dust, smoke, cinders, gas, vibration, refuse matter, or other noxious effects beyond the exterior walls of the structures;
- C. Any uses determined to be of the same general character as the principal uses permitted outright in Section 17.40.020, subject to required conditions. (Ord. 440, Att. A (part), 1997; Ord. 561 §2, 2009).

**17.40.040 Accessory use.**

The accessory uses permitted in the C district are as follows:

- A. Uses and structures customarily incidental to principal use permitted outright;
- B. Advertising signs and outdoor advertising structures in accordance with Chapter 15.12 of the Bingen Municipal Code relating to signs;
- C. Commercial parking lots for private passenger vehicles only. (Ord. 440, Att. A (part) 1997).

**17.40.060 Accessory exceptions.**

The accessory exceptions which may be authorized by the city council in the C district are those uses customarily incidental to conditional uses. (Ord. 440, Att. A (part) 1997).

**17.40.060 Density.**

Density provisions for the C district are as follows:

- A. Maximum building height: three stories, but not to exceed forty-five feet;
- B. Minimum lot: none;
- C. Minimum front yard depth: none required;
- D. Minimum side yard, interior lot: none required;
- E. Minimum side yard, corner lot: none required;
- F. Minimum side yard, zone transition lot: same as requirement of adjoining more restrictive district;
- G. Minimum rear yard: none, except when abutting a residential district: twenty feet. (Ord. 440, Att. A (part) 1997).

**17.40.070 Use limitations.**

Basic uses permitted in C business district shall be subject to following limitations:

- A. All business, service, repair, processing, or storage shall be conducted wholly within an enclosed building, except for off-street parking and for automobile service stations.
- B. Processes and equipment and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter or water-carried waste. (Ord. 440, Att. A (part) 1997).

**17.40.080 Underground utilities required.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.42

### AGGREGATE RESOURCE (AR) DISTRICT

#### Sections:

17.42.010	Intent.
17.42.012	Qualifying criteria.
17.42.014	Definitions.
17.42.020	Permitted uses.
17.42.030	Conditional uses.
17.42.040	Accessory uses.
17.42.050	Permits.
17.42.060	Performance standards of the AR District.

#### **17.42.010 Intent.**

It is the intent of the Aggregate Resource Zone to provide a process for allowing the removal of mineral resources in areas recognized for their importance in the Bingen Comprehensive Plan and to prescribe performance standards minimize conflicts with other community activities, and to assure reclamation for beneficial uses consistent with the planned growth of the town. (Ord. 440, Att. A (part) 1997).

#### **17.42.012 Qualifying criteria.**

In furthering the goals and objects of the Bingen Comprehensive Plan, any site favorably considered for Aggregate Resource zoning shall be a contiguous geographic area of not less than 10 acres and shall be designated Aggregate Resource in the Bingen Comprehensive Plan. (Ord. 440, Att. A (part) 1997).

#### **17.42.014 Definitions.**

Whenever the following words and phrases appear in this Chapter, they shall be given the meaning attributed them by this Section.

- A. "Surface Mining" is the extraction and processing of mineral resources for commercial purposes.
- B. "Excavation" is the mechanical removal of mineral resources.
- C. "Reclamation" is the rehabilitation of mined areas to reestablish on a sustainable basis the native vegetative cover, soil stability, and drainage conditions appropriate for urbanization and to prevent or mitigate future environmental degradation.

- D. “Urbanization” is development of beneficial uses allowed in the city’s residential, commercial and industrial zoning districts. Areas reclaimed for urbanization shall include the greatest extent of the total excavation where practicable. (Ord. 440, Att. A (part) 1997).

**17.42.020 Permitted uses.**

Mineral resource removal, including drilling, blasting, excavation, filling, crushing, screening, stockpiling, loading, hauling, equipment storage & maintenance, and reclamation conducted in accordance with the performance standards of this Chapter and after approval of a permit application by the Administrator. (Ord. 440, Att. A (part) 1997).

**17.42.030 Conditional uses.**

- A. Asphalt batch plant
- B. Concrete ready-mix plant
- C. Concrete pre-casting
- D. Temporary uses as may be approved by the city council. (Ord. 440, Att. A (part) 1997).

**17.42.040 Accessory uses.**

The accessory uses permitted in the AR district are those uses and structures customarily incidental to mineral resource extraction and removal. (Ord. 440, Att. A (part) 1997).

**17.42.050 Permits.**

Permits shall be required of all mineral resource extraction or removal in the AR district.

- A. Prior to commencing mineral resource extraction or removal for new operations or renewals or expansions of existing operations, the operator shall secure approval of an application for a zoning permit for surface mining from the Administrator on forms provided by the city. The application shall be supplemented with the following (to the extent the following requirements are duplicative of Washington State Department of Natural Resources [WA DNR] requirements, satisfaction of information prepared to satisfy WA DNR permit requirements shall be deemed to be satisfaction of any duplicative requirements):
  - 1. A reclamation plan describing how the material can be removed in phases or segments and how the subsequent rehabilitation will occur, how revegetation with plants and grasses that are native or suitable to the area will be accomplished, when and how reclamation will occur during and after mining operations, and what subsequent use is proposed. Drawings with contour illustrating pre-mining and ultimate site conditions shall be included in the reclamation plan. Topography

of the reclaimed site shall be compatible with the surrounding land and avoid uniformity in order to provide a more natural appearance.

2. A plan of surface mining that will provide, within limits of normal operational procedure of the industry, for completion of surface mining and associated disturbances on each segment of the area for which a permit is requested so that reclamation can be initiated at the earliest possible time on those portions of the surface mined area that will not be subject to further disturbance. Such plan shall include:
  - a. A storm drainage and erosion control plan.
  - b. A haul route plan illustrating which public streets and highways will be used.
  - c. A dust control plan showing how dust will be controlled within the mining site and on access routes/streets.
3. A vicinity map at a scale of 1" = 600' or 800" illustrating the general vicinity of the proposed site showing adjacent land uses.
4. A site plan drawn at a horizontal scale of 1" = 40' and a vertical scale of 1" = 10' on paper no larger than 24" x 36" illustrating the following:
  - a. Boundaries and dimensions of the site
  - b. Name, address and phone number of property owner
  - c. Name, address and phone number of representative
  - d. Starting and completion dates of mining
  - e. Hours of operation
  - f. Fence detail
  - g. Location of utility lines
  - h. Location of structures on the site and within 15 ft of adjacent property.
  - i. Location of associated equipment such as crushers, sorters, or scales.
  - j. Existing 5 ft contours indicated by light dashed lines
  - k. Ultimate 5 ft contours indicated by solid dark lines

- l. Cross sections taken at or near each property line and then spaced at 300 ft intervals thereafter in both north/south and east/west directions.
  - m. Cubic yards of material per phase
- B. Years of Operation: The maximum number of years a surface mining permit shall be issued is five. Renewals shall be granted by the Administrator if the owner/operator has acted in good faith and complied with all requirements of the prior permit. If not renewed, the site shall be reclaimed pursuant to the reclamation plan.
- C. Inspections: The city shall have the right to make inspections of the mining site at any reasonable time as deemed necessary to determine compliance with the permit. The city shall notify the operator of the proposed inspection at least 24 hours in advance of the inspection. The operator shall have the option of accompanying the inspector.
- D. Nonconforming Mining Sites: Mining sites which are operating with a city zoning permit shall within an eighteen (18) month period secure a zoning permit or phase out the mining operation. The administrator shall within 45 days from the adoption of this chapter notify all mining operations of their noncompliance which shall commence the eighteen month period. The city council may grant a single twelve (12) month extension if the owner/operator can demonstrate at a public hearing an extreme hardship in complying with the eighteen period. The city council may impose conditions as necessary to ensure the extension will not result in any adverse environmental impacts.
- E. Revocation of Permits: Failure of the owner/operator to comply with any or all of the provisions of this chapter or any or all of the provisions of the zoning permit may cause the administrator to revoke the permit. If the permit is revoked all mining operators shall cease until such time as noncompliance is corrected. (Ord. 440, Att. A (part) 1997).

**17.42.060 Performance standards of the AR District.**

- A. Access: All truck haul routes to destinations other than residential areas within the city shall be limited to the state highways. All access roads of mining operators shall be treated (which may include watering) or surfaced to maintain dust conditions to unobjectionable levels.
- B. Blasting and Ground Vibration: Blasting or other activities producing ground vibration shall not constitute a nuisance to, or change in any way, the property of adjacent land owners. In specific instances where the city may be involved in resolving problems, it may require testimony by technical specialist in order to determine appropriate amounts and placement of explosives and other vibration producing equipment, and may place such restrictions in the zoning permit as are appropriate to resolve problems.
- C. Fencing: Excavated areas on the property with exterior property boundaries sharing a common property line in an adjoining city zoning district different from the Aggregate Zone, or if in the judgment of the administrator the nature and location of the operation is such as to constitute a hazard public safety; then a solid wall or fence of no less than five

feet in height shall be installed and maintained no closer than fifty feet from the excavated area. All openings shall be barred by locked gates when the operator or his agent is not on the premises.

- D. Natural Drainage Protection: Operators shall divert or protect all natural drain courses to prevent pollution or reduction of natural flow, and shall refrain from disturbing natural drain points at the perimeter of the property, shall protect grounds from acid forming or toxic materials exposed or produced by excavation operations, and shall not allow water to collect nor permit stagnant water to remain in excavations that will impair surface and ground water quality per state water quality standards.
- E. Noise: Sound pressure levels, as measured on properties adjacent to property in the mining site, shall conform to the provisions of Washington Administrative Code, Section 173-60-040, Maximum Permissible Environmental Noise Levels for Noise Originating in a Class C-EDNA (Industrial Area).
- F. Removal of Equipment: Equipment, buildings and structures in support of and incidental to the mining operation shall be dismantled and removed within three months of completion with the exception of that necessary for reclamation, which shall not be removed until reclamation is completed to the satisfaction of the jurisdictional authorities (WA DNR and/or city). Temporary discontinuances of operations shall not be cause for removal.
- G. Safety and Slope Stability: Stability of slopes associated with excavations shall meet the standards of the federal Mining, Safety and Health Administration, specifically, CFR Title 30, Subchapter N, Part 56—Safety and Health Standards, Surface Metal and Non-Metal Mines.
- H. Setback Requirements: Excavation operations shall be no closer than 25 feet from any property line, street, road or highway and in no case shall impair lateral support or cause earth movements or erosion to extend beyond the exterior boundary lines of property being excavated. Exceptions may be allowed for adjoining operations within the AR Zone. This provision does not apply to pre-existing excavations.
- I. Simultaneous Reclamation: Simultaneous reclamation shall be a part of operating procedures, if reasonable under the circumstances.
- J. Time of Operations: Excavation operations and related trucking shall only be between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, except repairs to machinery, unless the city council determines at a public hearing that unusual and justifying circumstances are present, in which case relaxation of this regulation shall terminate when such conditions and circumstances are deemed by the city council to no longer be valid.
- K. Topsoil Retention: Such topsoil as exists on the site that is suitable for use in reclamation shall be retained on the site in sufficient quantities to ensure an adequate supply for reclamation purposes.

- L. Vegetation Buffer: Property developed for excavation which is adjacent to residential property shall install and maintain in addition to required fencing, a view-obscuring planting screen, and in such planting strip shall be shrubs, bushes or trees which shall be selected to be evergreen, indigenous, fast-growing, compatible with the soil, and on the basis of size, form and minimum maintenance requirements. Said planting screen shall be planted according to acceptable practice in good soil, irrigated as necessary and maintained in good condition at or before the time excavation operations commence or within a reasonable time thereafter in the judgment of the Administrator. Giving consideration of local planting conditions. Where natural flora does not exist, a view obscuring fence may be installed and maintained.
  
- M. Warning Signs: Excavated areas shall be posted with signs having letters at least three inches high and two inches wide, giving clear warning of the dangerous conditions resulting from the excavations. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.43

### MIXED-USE DEVELOPMENT (MU) DISTRICT

#### Sections:

17.43.010	Intent.
17.43.012	Qualifying criteria.
17.43.014	Definitions.
17.43.020	Permitted uses.
17.43.030	Conditional uses.
17.43.040	Accessory uses.
17.43.050	Density provisions.
17.43.060	Design criteria.
17.43.070	Site plan review.
17.43.080	Off street parking.
17.43.090	Utilities.
17.43.100	Signs.

#### **17.43.010 Intent.**

It is the intent of the Mixed-Use Development district to provide areas for a mix of mutually-supporting retail, service, office, light industrial, recreational and residential uses to enhance economic vitality, create a safe, attractive and convenient environment for living, working and recreating within the community, and to support efficient land use. (Ord. 440, Att. A (part) 1997).

#### **17.43.012 Qualifying criteria.**

In furthering the goals and objections of the Bingen Comprehensive Plan any site favorably considered for Mixed-Use Development zoning shall be a contiguous geographic area of not less than 5 acres and shall be designated Mixed-Use Development in the Bingen Comprehensive Plan. (Ord. 440, Att. A (part) 1997).

#### **17.43.014 Definitions.**

Whenever the following words and phrases appear in this Chapter, they shall be given the meaning attributed them by this Section.

- A. "Mixed-Use Development" is a group of densely configured structures planned and developed as a single-entity and containing within and/or among them a variety of complementary, integrated and/or mutually supporting uses (such as offices, manufacturing, retail, public service, entertainment, or multi-unit housing).

- B. “Mixed-Use Structure” is a single structure containing at least two complementary, integrated and/or mutually supporting uses (such as offices, manufacturing, retail, public service, entertainment, or multi-unit housing). (Ord. 440, Att. A (part) 1997).

**17.43.020 Permitted uses.**

The following may be permitted when located in a mixed-use structure or mixed-use development with site plan review—uses defined below are referenced to those defined in the OMB Standard Industrial Classification Manual, 1987:

A. Retail Trade

1. Building Materials and Garden Supplies
2. General Merchandise Stores
3. Food Stores
4. Automotive Dealers & Service Stations
  - a. Boat Dealers
  - b. Recreational Vehicle Dealers
5. Apparel and Accessory Stores
6. Furniture and Homefurnishing Stores
7. Eating and Drinking Places
8. Miscellaneous Retail (except fuel dealers)

B. Services

1. Hotels and Other Lodging Places
2. Personal Services
  - a. Photographic Studios
  - b. Beauty Shops
  - c. Barber Shops
3. Business Services (except Misc. Equipment Rental Leasing)
4. Motion Pictures

- a. Motion Picture Theaters
- b. Video Tape Rental
- 5. Amusement & Recreational Services
  - a. Dance Studios, Schools and Halls
  - b. Producers, Orchestras, Entertainers
  - c. Bowling Centers
  - d. Commercial Sports (except racing)
  - e. Misc. Amusement, Recreation Services
    - i. Physical Fitness Facilities
    - ii. Public Golf Courses
    - iii. Membership Sports and Recreational Clubs
- 6. Educational Services
- 7. Social Services
- 8. Museums, Botanical, Zoological Gardens

The following specific uses are not referenced in the OMB Standard Industrial Classification Manual but are allowed outright within the MU District:

- C. Those manufacturing, compounding, processing, treatment or assembly uses allowed in the Light Industrial District which take place within an enclosed structure and from which there is no discernable odor, noise, dust, smoke, cinders, gas, vibration, refuse matter, or other noxious effects beyond the exterior walls of the structure, except those which cause danger.
- D. Multi-family residential and houseboat developments of three or more units.
- E. Marinas for pleasure craft including facilities for the display, sale, service and repair of pleasure craft, sporting goods, and other water-oriented or boating supplies. (Ord. 440, Att. A (part) 1997).

**17.43.030 Conditional uses.**

The following may be permitted as conditional uses:

- A. Uses listed in Section 17.43.020 which are not located in a mixed-use building or mixed-use development.
- B. Temporary uses as may be approved by the city council for periods not exceeding 6 months.
- C. Any other uses determined by the Board of Adjustment to be in keeping with the purpose and intent of this district. (Ord. 440, Att. A (part) 1997).

**17.43.040 Accessory uses.**

The accessory uses permitted in the MU district are those uses and structures customarily incidental to permitted uses. (Ord. 440, Att. A (part) 1997).

**17.43.050 Density provisions.**

- A. Minimum lot area: 40,000 sq ft.
- B. Front yard depth: 20 ft.
- C. Side yard depth: 5 ft
- D. Rear Yard depth: 15 ft
- E. Building height: No structure shall exceed 45 feet.
- F. Lot coverage:
  - 1. Mixed use w/residential component,: 80%.
  - 2. Mixed use w/o residential component: 70%
  - 3. Non-residential single use: 60%
  - 4. Residential as a single use of a structure or development: 50% (Ord. 440, Att. A (part) 1997).

**17.43.060 Design criteria.**

Design of developments within the MU district shall:

- A. Provide complementary land uses which work together for mutual benefit.

- B. Provide convenient pedestrian connections.
- C. Achieve effective land utilization through shared circulation, parking, loading, pedestrian walkways, plazas, recreation areas, day and night security, or other efficiencies.
- D. Provide buffering or screening of mechanical equipment and dumpsters or other refuse containers, and buffering or loading and unloading areas.
- E. Provide landscaping designed by a professional, which utilizes appropriately scaled plant species to complement the scale of structures within the development. (Ord. 440, Att. A (part) 1997).

**17.43.070 Site plan review.**

Prior to development of permitted uses within the MU district, a site plan shall be submitted to the city council for review and approval pursuant to the design criteria set forth in 17.43.060. (Ord. 440, Att. A (part) 1997).

**17.43.080 Off street parking.**

Off street parking shall be provided in accordance with Chapter 17.64 of this Title. (Ord. 440, Att. A (part) 1997).

**17.43.090 Utilities.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part) 1997).

**17.43.100 Signs.**

Signs shall comply with Chapter 15.12 of the Bingen Municipal Code. (Ord. 440, Att. A (part) 1997).

**BINGEN MUNICIPAL CODE**

**Chapter 17.44**

**LIGHT INDUSTRIAL (M1) DISTRICTS**

**Sections:**

- 17.44.010 Intent.
- 17.44.020 Permitted uses.
- 17.44.030 Conditional uses.
- 17.44.040 Accessory uses.
- 17.44.050 Limitations.
- 17.44.060 Density.
- 17.44.070 Sign requirements.
- 17.44.080 Underground utilities required.

**17.44.010 Intent.**

To provide areas suitable and desirable for those industrial activities to maintain area economy and employment which do not create objectionable conditions to urban activities, such as noise, smoke, odor, etc. (Ord. 440, Att. A (part) 1997).

**17.44.020 Permitted uses.**

In the M1 district, all buildings and premises shall be used for the following (uses defined below are referenced to those defined in the OMB Standard Industrial Classification Manual, 1987):

- A. Agricultural Services
  - 1. Crop Services
    - a. Crop Preparation Services for Market
- B. Manufacturing
  - 1. Food and Kindred Products
    - a. Dairy Products
    - b. Preserved fruits and vegetables
    - c. Bakery Products
    - d. Confectionary Products
    - e. Beverages

- f. Misc Food and Kind Products
- 2. Apparel and Other Textile Products
- 3. Furniture and Fixtures
- 4. Printing and Publishing
- 5. Leather and Leather Products
  - a. Footwear, Except Rubber
  - b. Leather Goods
  - c. Leather Gloves and Mittens
  - d. Luggage
  - e. Handbags and Personal Leather Goods
- 6. Stone, Clay and Glass Products
  - a. Glass and Glassware, pressed or blown
  - b. Products of purchased glass
  - c. Pottery and related products
- 7. Fabricated Metal Products
  - a. Cutlery, Handtools and Hardware
  - b. Plumbing and Heating, Except Electric
  - c. Screw Machine Products, Bolts, etc.
  - d. Misc. Fabricated Metal Products
- 8. Industrial Machinery and Equipment
  - a. Computer and Office Equipment
- 9. Electronic and Other Electric Equipment
  - a. Electric Lighting and Wiring Equipment

- b. Household Audio and Video Equipment
    - c. Communications Equipment
    - d. Electronic Components and Accessories
  - 10. Instruments and Related Products
  - 11. Miscellaneous Manufacturing Industries
    - a. Jewelry, Silverware, and Plated Ware
    - b. Musical Instruments
    - c. Toys and Sporting Goods
    - d. Pens, Pencils, Office, & Art Supplies
    - e. Costume Jewelry, and Notions
- C. Transportation and Public Utilities
  - 1. Trucking and Warehousing
    - a. Public Warehousing and Storage
    - b. Trucking and Courier Services
  - 2. Communications
    - a. Telephone Communications
    - b. Cable and Other Pay TV Services
    - c. Communications Services
- D. Commercial Uses

Incidental and directly related to the services and operations of the permitted industrial uses described above. (Ord. 440, Att. A (part) 1997).

**17.44.030 Conditional uses (uses defined below are referenced to those defined in the OMB Standard Industrial Classification Manual, 1987).**

A. Manufacturing

1. Fabricated Metal Products
  - a. Fabricated Structural Metal Products
  - b. Metal Services
2. Industrial Machinery and Equipment
  - a. Metalworking Machinery
3. Electronic and Other Electric Equipment
  - a. Electric Distribution Equipment
  - b. Electrical Industrial Apparatus
  - c. Household Appliances
  - d. Misc. Electrical Equipment & Supplies
4. Miscellaneous Manufacturing Industries
  - a. Miscellaneous Manufactures

B. Transportation and Public Utilities

1. Trucking and Warehousing
  - a. Trucking Terminal Facilities

C. Any other uses determined by the Board of Adjustment to be in keeping with the purpose and intent of this district. (Ord. 440, Att. A (part) 1997).

**17.44.040 Accessory uses.**

Accessory uses in an M1 district may be permitted which are customarily incidental and subordinate to the principal uses. All such accessory uses must conform to all requirements for the principal uses. (Ord. 440, Att. A (part) 1997).

**17.44.050 Limitations.**

- A. Outdoor storage. Outdoor storage in an M1 district must be maintained in an orderly manner at all times. For outdoor storage in this district, uses such as scrap metal storage are permitted under the following conditions:
  - 1. No material may be piled higher than the top of the fence or screening material; such screening material must be seven feet high, which shall completely enclose said use.
  - 2. Such storage shall be no closer than two hundred feet from any public thoroughfare or C1 district and not closer than three hundred feet from any residential district.
  - 3. Liquid and solid wastes. Animal, vegetable, or other wastes shall not be stored in a way which attracts insects or rodents or otherwise creates a health hazard.
- B. Lighting. Sign lighting and exterior lighting shall not project into an adjoining residential zone.
- C. Landscaping.
  - 1. A landscaping plan shall accompany or be incorporated in the site plan submitted with a building permit application and shall include the location and type of plant materials.
  - 2. All unused property shall be maintained in native or existing vegetative ground cover or planted grass, shrub and bark dust, or other suitable ground cover in an uncluttered manner.
  - 3. Responsibility for establishment and maintenance of landscaping rests with the industrial property owner.
- D. Noise. Noises from within any site shall not be permitted which do not comply with the Washington State Department of Ecology standards. Noise devices which are maintained and utilized solely to serve as warning devices and noise created by highway vehicles or trains are excluded.
- E. Drainage.
  - 1. Site plans submitted with building permits shall include a drainage plan which identifies the location and flow direction of all surface and subsurface waterways, the 100 year flood plain and any stream(s), the location of any wetlands, and all improvements which will mitigate any potential flooding outside of the 100 year flood plain.

2. The installation of uses and improvements shall not substantially change the flow of surface water during future flooding.

F. Parking.

1. Any site plan submitted with an application for a building permit must include a parking plan which shows the location and number of parking spaces, circulation patterns, and ingress and egress provisions.
2. All uses within a light industrial district shall provide at least two parking spaces for every three employees on the major shift during normal season, unless a greater number of spaces are required in Chapter 17.64. (Ord. 440, Att. A (part) 1997).

**17.44.060 Density.**

Density provisions for the M1 district shall be as follows:

- A. Maximum lot coverage: None.
- B. Maximum height limitations for this district: None.
- C. Minimum front yard: No front yards required in a light manufacturing district except where such property flanks or is opposite a residential zone in which case the setbacks of the districts shall be observed.
- D. Minimum side yard: No side yards are required in a light manufacturing district except where such property flanks or is opposite a residential zone in which case the setbacks of the districts shall be observed.
- E. Minimum rear yard: No rear yards are required in a light manufacturing district except where such property flanks or is opposite a residential zone in which case the setbacks of the districts shall be observed. (Ord. 440, Att. A (part), 1997).

**17.44.070 Sign requirements.**

All types of signs and outdoor advertising structures shall be in compliance with Chapter 15.12, Signs. (Ord. 440, Att. A (part) 1997).

**17.44.080 Underground utilities required.**

All new structures shall be serviced by underground utilities. (Ord. 440, Att. A (part) 1997).

**BINGEN MUNICIPAL CODE**

**Chapter 17.48**

**INDUSTRIAL (M2) DISTRICT**

**Sections:**

- 17.48.010 Intent.
- 17.48.020 Permitted uses.
- 17.48.030 Conditional uses.
- 17.48.035 Outdoor storage.
- 17.48.040 Density.
- 17.48.045 Performance standards for cogeneration facilities.
- 17.48.050 Prohibited uses.
- 17.48.060 Underground utilities required.

**17.48.010 Intent.**

To provide areas where diverse industrial development can occur that will foster economic stability and growth consistent with maintaining environmental and community quality. (Ord. 440, Att. A (part) 1997).

**17.48.020 Permitted uses.**

The following uses shall be permitted outright in an M2 district (uses defined below are referenced to those defined in the OMB Standard Industrial Classification Manual, 1987 edition):

- A. Construction.
  - 1. Heavy construction, except building.
- B. Manufacturing.
  - 1. Lumber and Wood Products;
  - 2. Paper and allied products excluding pulp and paper mills;
  - 3. Stone, clay and glass products;
    - a. Structural clay products,
    - b. Concrete, gypsum, and plaster products:
  - 4. Primary metal industries:
    - a. Nonferrous rolling and drawing;

5. Fabricated metal products:
    - a. Metal cans and shipping containers,
    - b. Plumbing and heating, except electric,
    - c. Fabricated structural metal products,
    - d. Screw machine products, bolts, etc.,
    - e. Metal forgings and stampings,
    - f. Metal services,
    - g. Miscellaneous fabricated metal products;
  6. Industrial machinery and equipment:
    - a. Farm and garden machinery,
    - b. Construction and related machinery,
    - c. Metalworking machinery,
    - d. Special industry machinery,
    - e. General industry machinery except industrial furnaces and ovens,
    - f. Computer and office equipment,
    - g. Refrigeration and service machinery,
    - h. Industrial machinery, NEC;
  7. Transportation equipment:
    - a. Ship and boat building and repairing;
  8. Instrument and related products.
- C. Transportation and public utilities.
1. Trucking and warehousing;
  2. Water transportation:

- a. Water transportation services,
  - b. Water transportation of freight;
  - 3. Transportation services:
    - a. Freight transportation arrangement,
    - b. Miscellaneous transportation services;
  - 4. Communications:
  - 5. Electric, gas, and sanitary services except refuse systems;
  - 6. Cogeneration facility, subject to compliance with the performance standards set forth at Section 17.48.045 of this chapter.
- D. Wholesale Trade.
- 1. Wholesale trade durable goods:
    - a. Lumber and construction materials,
    - b. Metals and minerals, except petroleum,
    - c. Machinery, equipment, and supplies;
  - 2. Wholesale trade nondurable goods:
    - a. Paper and paper products,
    - b. Petroleum and petroleum products.
- E. Retail Trade.
- 1. Building materials and garden supplies:
    - a. Lumber and building materials.
- F. Other Categories.
- 1. Recycling and/or remanufacturing of metal and paper products;
  - 2. Rock, sand, or gravel crushing, processing and storage. (Ord. 440, Att. A (part) 1997).

**17.48.030 Conditional uses.**

- A. Permitted uses in the light industrial district (M1) may be considered conditional uses in this district.
- B. Any other uses determined by the board of adjustment to be in keeping with the purpose and intent of this district. (Ord. 440 Att. A (part), 1997).

**17.48.035 Outdoor storage.**

Outdoor storage in an M2 district must be maintained in an orderly manner at all times.

- A. In this district, in the case of junkyards, auto wrecking and scrap metal storage facilities, outdoor storage is permitted under the following conditions:
  - 1. No wrecked auto or scrape material may be piled higher than the top of the fence or screening material; such screening material to be a sight-obscuring fence or planting which shall completely enclose said use.
  - 2. Such storage shall not be closer than one hundred feet from any public thoroughfare and not closer than three hundred feet from any residential district.
- B. Storage of waste materials which would attract insects or otherwise create a health hazard is prohibited. (Ord. 440, Att. A (part) 1997).

**17.48.040 Density.**

Density provisions for the M2 district are as follows:

- A. Maximum lot coverage: None.
- B. Maximum height: None.
- C. Minimum front yard: No front yards are required except where such property flanks or is opposite a residential zone in which cases the setbacks of the districts can be observed.
- D. Minimum side yard: No sidewalks are required except where such property flanks or is opposite to a residential zone in which case the setbacks of the district shall be observed.
- E. Minimum rear yard: No rear yards are required except where such property flanks or is opposite a residential zone in which case the setbacks of the district shall be observed. (Ord. 440, Att. A (part) 1997).

**17.48.045 Performance standards for cogeneration facilities.**

A cogeneration facility shall be subject to the following performance standards:

- A. Air Quality.** A cogeneration facility shall comply with all applicable air quality standards established by the federal Clean Air Act, the Washington State Clean Air Act and implementing regulations promulgated there-under. A cogeneration facility shall have met this requirement by providing the city, prior to occupancy, with copies of any permits or approvals required by and one or more air quality agencies with jurisdiction to apply such standards, or if such permits or approvals are not so required, by providing the city with written evidence that such permits or approvals are not required by application of such standards.
- B. Water Quality.** A cogeneration facility shall comply with all applicable water quality standards established by the Federal Clean Water Act, the Washington State Clean Water Act and implementing regulations promulgated thereunder. A cogeneration facility shall have met this requirement by providing the city, prior to occupancy, with copies of any permits or approvals required by and one or more water quality agencies with jurisdiction to apply such standards, or if such permits or approvals required by and one or more water quality agencies with jurisdiction to apply such standards, or if such permits or approvals are not so required, by providing the city with written evidence that such permits or approvals are not required by application of such standards.
- C. Noise Standards.** A cogeneration facility shall comply with the Washington State “Maximum Environmental Noise Levels” promulgated by the Washington State Department of Ecology and codified at WAC Chapter 173-60. A cogeneration facility shall have met this requirement by providing the city, prior to occupancy, with a noise monitoring and control plan that indicates how the “Maximum Environmental Noise Levels” will be met.
- D. Outdoor Lighting.** Outdoor lighting in working areas and for security purposes shall be aimed or shielded away from any adjacent non-industrial areas.
- E. Emergency Response Plan.** A cogeneration facility shall, prior to occupancy, submit to the city an emergency response plan that:
1. Identifies all facilities and procedures for emergency preparedness and response to be implemented in compliance with all applicable regulations,
  2. Provides for employee training in the implementation of such facilities and procedures, and
  3. Provides for coordination, in the implementation of such facilities and procedures, with the Bingen Police Department and the Bingen Fire Department. (Ord. 440, Att. A (part) 1997).

**17.48.050 Prohibited uses.**

- A. No building, structure, or premises, or portions there of, established after the effective date of this title, shall be used as a permanent residence, except as quarters for a caretaker, guard or other persons whose permanent residency on the premises is required for operational safety or protective purposes.
- B. No sign shall extend over sidewalk area. (Ord. 440, Att. A (part) 1997).

**17.48.060 Underground utilities required.**

All new structures shall be serviced by underground utilities if such underground utilities are practical under the circumstances, and if such underground installations do not require a departure from a serving utility's standard practices. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.52

### TEMPORARY USE (TU) DISTRICT

#### Sections:

- 17.52.010 Intent.
- 17.52.020 Purpose.
- 17.52.030 Establishment.
- 17.52.040 Permitted uses.
- 17.52.050 Application—Procedure.
- 17.52.060 Application—Contents.
- 17.52.070 Special permits—Issuance.
- 17.52.080 Special permits—Time period extension.
- 17.52.090 Minimum standards and regulations.
- 17.52.100 Superimposition on other districts.
- 17.52.110 Termination.

#### **17.52.010 Intent.**

It is the intent of this chapter to provide for addition of special districts established to meet changing conditions and needs. (Ord. 440, Att. A (part) 1997).

#### **17.52.020 Purpose.**

The purpose of the temporary use district is to provide opportunities for the development and establishment of dwelling, commercial and industrial facilities primarily temporary in character and necessary in the public or private works projects. (Ord. 440, Att. A (part) 1997).

#### **17.52.030 Establishment.**

The city council may, upon proper application, or upon its own motion, and after public hearing, establish and cause to be shown on the zoning map temporary use districts where the need for such districts is clearly demonstrated and their use determined to be in the public interest and necessary to promote the general welfare. (Ord. 440, Att. A (part) 1997).

#### **17.52.040 Permitted uses.**

Uses permitted in the TU district shall be as follows:

Any principal or accessory use permitted outright by conditional exception in any district for which use classifications are contained in this title. (Ord. 440, Att. A (part) 1997).

**17.52.050 Application—Procedure.**

The application procedure shall be the same as provided in Section 17.76.030 of this code for changed in district boundary or zone classifications. (Ord. 440, Att. A (part) 1997).

**17.52.060 Application—Contents.**

The application shall clearly state the intended use of the property and shall be accompanied by plans, maps, or drawings to be furnished at a suitable scale showing:

- A. Property lines or boundaries;
- B. Principal natural features;
- C. Principal existing land improvement features, public facilities, buildings and other structures;
- D. Proposed principal uses of land and new improvements, including approximate locations of buildings, structures, and other facilities and their intended uses, and source of water supply and sewage conditions;
- E. Temporary or permanent character of proposed new land uses, building and facilities. (Ord. 440, Att. A (part) 1997).

**17.52.070 Special permits—Issuance.**

After a public hearing in accordance with the provisions of Section 17.76.030 of this code, the city council may establish a TU district and issue appropriate special permits authorizing approved land uses and setting forth conditions, restrictions, and requirements applying thereto. Such special permits shall specify the period during which approved uses may be continued, the manner of their discontinuance, and other matters of public concern. (Ord. 440, Att. A (part) 1997).

**17.52.080 Special permits—Time period extension.**

Extension of the time period allowed in the special permit may be granted by the board of adjustment upon application in accordance with the provisions of Section 17.76.030 of this code. Such application shall be treated in the same manner as specified in Sections 17.52.050 through 17.52.070 an action of the board of adjustment in extending the time allowed for temporary use shall be in accordance with Section 17.88.040 of this code. (Ord. 440, Att. A (part) 1997).

**17.52.090 Minimum standards and regulations.**

- A. Recognizing that temporary land uses necessary in the public interest to serve and support public or private projects or undertakings which relate to the general welfare will vary considerably as to classification, and be intended for specific purposes, and that such uses cannot reasonably be anticipated in the comprehensive plan, the board of adjustment

shall have the power to authorize such uses and to establish such minimum standards and regulations in connection therewith as it deems equitable in terms of the problems and difficulties attendant upon private development for temporary use and justifiable in terms of the general welfare.

- B. Such temporary uses may be permitted, and minimum standards and regulations applying thereto established without regard to standards and regulations contained elsewhere in this title, including, but not limited to those governing principal and accessory uses permitted outright, conditional exceptions, density provisions, and general and supplementary provisions. (Ord. 440, Att. A (part) 1997).

**17.52.100 Superimposition on other districts.**

If any area of the city wherein a zoning district classification has been established and is shown on a zoning map, a TU district shall be in effect and take precedence for the period stipulated in the special permit. (Ord. 440, Att. A (part) 1997).

**17.52.110 Termination.**

It is the intent that the establishment of a TU district shall not constitute a permanent zoning, whether such TU district is superimposed on a zoning district in effect at the time or applied to an area not designated on the zoning map as being a part of a classified district. Consistent with this intent, a TU district shall cease and be terminated, and removed from the zoning map, upon the expiration of the period stipulated in the special permit or any valid extension of such stipulated period, and the use of the land described in the special permit shall be governed thereafter by the regulations of the district established and in effect at the time such TU district is terminated. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.56

### UNMAPPED (UM) DISTRICTS

#### Sections:

- 17.56.010 Intent.
- 17.56.020 Designated.
- 17.56.030 Permitted uses.
- 17.56.040 Accessory uses.
- 17.56.050 Uses requiring special permits.
- 17.56.060 Density.

#### **17.56.010 Intent.**

It is the intent of this chapter to provide minimum standards sufficient only to afford continuing protection to property and to provide broad controls adaptable enough to avoid unnecessary hardships or interference with growth and natural changes in certain parts of the city for which comprehensive plans have not been completed and/or where precise classification of land by zoning districts has not been established. (Ord. 440, Att. A (part) 1997).

#### **17.56.020 Designated.**

The use of the lands and properties in the city not included within the boundaries of established zoning districts as shown on the official zoning map shall be governed by the provisions of this title relating to the unmapped districts. (Ord. 440, Att. A (part) 1997).

#### **17.56.030 Permitted uses.**

Uses permitted in the unmapped districts shall be as follows:

- A. One single-family detached dwelling structure per lot, to include manufactured and modular homes, but not to include mobile homes.
- B. Agricultural uses including the horticultural and nurseries, but not including the raising of animals or fowl for commercial purposes, or the sale of any produce at retail on the premises;
- C. A private stable or barn if located on the premises;
- D. Home occupations. (Ord. 440, Att. A (part) 1997).

**17.56.040 Accessory uses.**

Accessory uses permitted in the UM zone shall be as follows:

- A. **Generally.** Accessory uses customarily incidental to a principal use permitted outright, such as private garages or parking areas for noncommercial vehicles only, conservatories for plants and flowers, but not including any business, trade or industry.
- B. **Signs.** Non-flashing residential name plates not exceeding sixty-four square inches bearing only the name and address of the occupant; non-flashing sign or bulletin boards for quasi-public institutional buildings not exceeding sixteen square feet permitted for non-residential uses and conditional exceptions.
- C. **Accessory Exceptions.** The accessory exceptions for an UM district which may be authorized by the city council include only those uses customarily incidental to conditional exceptions allowed. (Ord. 440, Att. A (part) 1997).

**17.56.050 Uses requiring special permits.**

In interpreting and applying the provisions of this district, the administrator under the direction of the planning commission or the board of adjustment, may appropriate special permits authorizing certain land uses which will not have undesirable adverse effects upon surrounding properties. These permits may set forth conditions, restrictions, and requirements applying thereto. (Ord. 440, Att. A (part) 1997).

**17.56.060 Density.**

Density provisions for the unmapped districts are as follows:

- A. Maximum number of dwelling structures for permanent living permitted per lot: one;
- B. Maximum height of building: two story but not to exceed thirty-five feet;
- C. Minimum area of lot: twenty thousand square feet;
- D. Minimum width of a lot: one hundred feet;
- E. Maximum percent of building coverage on lot: twenty percent;
- F. Minimum front yard depth: thirty feet;
- G. Minimum side yard width: fifteen feet;
- H. Minimum side yard width along flanking street of corner lot: twenty feet;
- I. Minimum rear yard required: fifty feet. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.60

### USE REGULATIONS

#### Sections:

- 17.60.010 Purpose.
- 17.60.020 Lot reduction—Prohibited when.
- 17.60.030 Lot reduction—Exceptions.
- 17.60.040 Front yard requirements.
- 17.60.050 Front yard projections.
- 17.60.060 Side yard requirements.
- 17.60.070 Side yard projections.
- 17.60.075 Projections in side yards along flanking street of corner lot.
- 17.60.080 Rear yard projections.
- 17.60.090 Corner line lot visibility.
- 17.60.100 Setback—Irregularly shaped lots.
- 17.60.110 Home occupations.
- 17.60.120 Professional offices and clinics.
- 17.60.130 Accessory structures.

#### **17.60.010 Purpose.**

Provisions of this chapter are of general application to several districts unless otherwise noted. It is the intent of this title to provide standards sufficient to afford continuing protection to property and yet be adaptable enough to avoid unnecessary hardship or interference with growth and natural change. Those special deviations are to be contrasted with the granting of a variance which requires discretionary action by the board of adjustment where standards cannot be completely defined. (Ord. 440, Att. A (part) 1997).

#### **17.60.020 Lot reduction—Prohibited when.**

No property may be so reduced in area that it would be in violation of minimum lot size, yard provisions, lot coverage, off-street parking or any other requirements of the district or use. (Ord. 440, Att. A (part) 1997).

#### **17.60.030 Lot reduction—Exceptions.**

Building or structures may be erected, moved, or structures altered on property which is less than the minimum lot area or dimensions for the district in which it is located provided such property existed by title in its present form and size before the date of adoption of the ordinance codified in this title. In such cases documentation shall be submitted by the person claiming benefits from this cause. This section shall not waive other minimum requirements of this title. (Ord. 440, Att. A (part) 1997).

**17.60.040 Front yard requirements.**

Where any front yard is required, no building shall be thereafter erected or altered so that any portion thereof is nearer the front property line than the distance indicated by the depth of the required front yard. (Ord. 440, Att. A (part) 1997).

**17.60.050 Front yard projections.**

- A. Eaves, cornices, steps, platforms, front porches, decks and similar projections, having a roof covering and not being enclosed but not exceeding in width one-half of the building nor more than one story in height, may extend into the front yard not more than twenty percent of the distance from the exterior wall of the structure to the front property line.
- B. Steps, terraces, platforms, porches, decks and similar projections having no roof covering and no more than the minimum required support structure as per applicable building codes may be built within a front yard, but in no case shall such projections cause a front yard to be less than ten feet from the face of the projection to the front property line. The lower portion supporting steps, terraces, platforms, porches, decks and similar projections that are no more than four (4) feet in height may be enclosed but may not be used for living space. At grade steps, sidewalks and driveways are allowed within the front yard. (Ord. 440, Att. A (part), 1997; Ord. 509 §2, 2005; Ord. 526 §2, 2006).

**17.60.060 Side yard requirements.**

Where any specified side yard is required, no building shall be erected or altered so that any portion thereof shall be nearer to the side lot line than the distance indicated by the width of the required side yard. (Ord. 440, Att. A (part) 1997).

**17.60.070 Side yard projections.**

Eaves, cornices, chimneys, and similar projections, may extend over the required side yard for a distance of not more than two feet. (Ord. 440, Att. A (part) 1997).

**17.60.075 Projections in side yards along flanking street of corner lot.**

Upon review and approval by the mayor or his designee, eaves, cornices, chimneys, steps, terraces, platforms, porches, decks and similar projections having no roof covering and no more than the minimum required support structure as per applicable building codes may be built within a side yard along a flanking street of a corner lot, but in no case shall such projections cause a side yard along a flanking street of a corner lot to be less than ten feet from the face of the projection to the side yard property line along a flanking street of a corner lot. The lower portion supporting steps, terraces, platforms, porches, decks and similar projections that are no more than four (4) feet in height may be enclosed but may not be used for living space. At grade steps, sidewalks, and driveways are allowed within the side yard along a flanking street of a corner lot. (Ord. 514 §1, 2005).

**17.60.080 Rear yard projections.**

- A. Eaves, cornices, steps, platforms, rear porches, decks and similar projections that are enclosed and not used for living space but not exceeding in width one-half of the building nor more than one story in height, may extend into the rear yard not more than twenty percent from the exterior wall of the structure to the rear property line.
- B. Steps, terraces, platforms, porches, decks and similar projections having no roof covering and no more than the minimum required support structure as per applicable building codes may be built within a rear yard, but in no case shall such projections cause a rear yard to be less than ten feet from the face of the projection to the rear property line. The lower portion of supporting steps, terraces, platforms, porches, decks and similar projections that are no more than four (4) feet in height may be enclosed but may not be used for living space. At grade steps, sidewalks, and driveways are allowed within the rear yard. (Ord. 440 Att. A (part), 1997; Ord. 526 §3, 2006).

**17.60.090 Corner line lot visibility.**

For traffic safety purposes, no obstruction restricting corner visibility will be permitted closer than ten feet to the corner. (Ord. 440, Att. A (part) 1997).

**17.60.100 Setback—Irregularly shaped lots.**

On irregularly shaped lots, the average distance from the building line to the lot line shall not be less than the minimum yard provision, provided, however, that no part of the structure shall be located so that one-half the minimum yard provision occurs at any point along such averaged alignment. (Ord. 440, Att. A (part) 1997).

**17.60.110 Home occupations.**

- A. Home occupations when permitted are those which customarily are carried on within a dwelling by the residents only. Such activity shall be secondary to the use of the dwelling for living purposes.
- B. No home occupations shall be permitted which is objectionable due to noise, dust, smoke, odor, glare, traffic attraction or other disturbing influences greater than that of other residential properties in the vicinity.
- C. There shall be no exterior modification or adornment of the structure which would suggest a use of other than residential properties in the vicinity.
- D. In all residential districts no service shall be allowed on the premises which attract the presence of persons in connection with the home occupations in excess of an average of four persons per day, including customers.
- E. All home occupations must receive final written permission from the planning commission. (Ord. 440, Att. A (part) 1997).

**17.60.120 Professional offices and clinics.**

Professional offices and clinics when permitted under conditional exceptions in districts more restrictive than the C district shall meet the following requirements:

- A. Minimum lot shall be ten thousand square feet;
- B. Maximum lot coverage shall be thirty-five percent;
- C. Buildings, structures and landscaping shall harmonize with buildings in the vicinity. (Ord. 440, Att. A (part) 1997).

**17.60.130 Accessory structures.**

- A. Accessory structures 300 square feet or less shall be allowed within the rear yards of residential districts with the following minimal setback requirements:
  - 1. Minimum rear yard required: 5 feet
  - 2. Minimum side yard required: 5 feet
  - 3. Minimum side yard width along flanking street of corner lot required: 15 feet
- B. Accessory structures within residential districts that are more than 300 square feet shall meet the minimal setback requirements as identified in BMC 17.20, BMC 17.24, and BMC 17.28. (Ord. 576 §2, 2010).

# BINGEN MUNICIPAL CODE

## Chapter 17.64

### OFF-STREET PARKING

#### Sections:

- 17.64.010 Intent.
- 17.64.020 Purpose.
- 17.64.030 Requirements generally.
- 17.64.035 Review of new uses within downtown core commercial area.
- 17.64.040 Size, access requirements.
- 17.64.050 Location requirements.
- 17.64.060 Expansion, enlargement.
- 17.64.070 Joint use—Authorized.
- 17.64.080 Joint uses—Conditions required.
- 17.64.090 Standards.

#### **17.64.010 Intent.**

It is the intent of this section to allow for parking and loading standards. (Ord. 440, Att. A (part) 1997).

#### **17.64.020 Purpose.**

The provision of off-street parking and loading space in accordance with the needs and requirements of particular property use is a necessary public policy in the interest of traffic safety minimizing congestion, and to provide harmonious development. (Ord. 440, Att. A (part) 1997).

#### **17.64.030 Requirements generally.**

New uses in all districts shall meet the minimum standards of this chapter; provided that the Downtown Core Commercial area, described as that area between Depot Street and Steuben Street east of Dry Creek to west of Maple Street, the south half of the area between Steuben Street and Humboldt Street east of Walnut Street to west of Cherry Street, and the north half of the area between Steuben Street and Humboldt Street from east of Walnut Street to west of Maple Street, is exempt from the minimum standards of this title. (Ord. 440 Att. A (part), 1997; Ord. 492 §2, 2003).

#### **17.64.035 Review of new uses within downtown core commercial area.**

All new uses proposed within the downtown core commercial area (as described in BMC 17.64.030) shall provide information to the city council regarding the number of expected vehicle visits in a given day. This information will not be used to deny a use but will provide information to the city for transportation planning within the downtown core commercial area. (Ord. 492 §3, 2003).

**17.64.040 Size, access requirements.**

- A. Each off street parking space shall have a net area of not less than one hundred sixty square feet exclusive of access drives or aisles, and shall be of usable space and condition. If determined on a gross area basis, three hundred square feet shall be allowed per vehicle.
- B. The required space for a residential dwelling unit shall not be less than two hundred square feet per space. (Ord. 440, Att. A (part), 1997; Ord. 500 §2, 2004).

**17.64.050 Location requirements.**

Off-street facilities shall be located as specified in this section. Where a distance is specified, such distance shall be the maximum walking distance measured from the nearest point of the parking facility to the nearest point of the buildings that such facility is required to serve.

- A. For one and two-family dwellings, on the home lot with the building they are required to serve;
- B. For multiple dwellings, one hundred and fifty feet;
- C. For hospitals, sanitariums, homes for aged, asylums, orphanages, club rooms, fraternity and sorority houses, and other uses, three hundred feet. (Ord. 440 Att. A (part), 1997).

**17.64.060 Expansion, enlargement.**

Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for said expansion or enlargement in accordance with the requirements of the schedule; provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement since the effective date of the ordinance codified in this title is less than the percent of the parking spaces specified in the schedule for the building. Nothing in this section shall be construed to require off-street parking spaces for the portion of such building existing at the time of passage of the ordinance codified at the time of passage of this title. (Ord. 440, Att. A (part) 1997).

**17.64.070 Joint use—Authorized.**

The board of adjustment may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

- A. Up to fifty percent of the parking facilities required by this section for a theater, bowling alley, dance hall, restaurant, or other similar uses, may be supplied by the off-street parking provided by other daytime types of uses.

- B. Up to fifty percent of the off-street parking facilities required by this section for any daytime buildings or uses may be supplied by the parking facilities provided by uses herein referred to as nighttime uses.
- C. Up to one hundred percent of parking facilities required by this section for a church or auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities serving primarily daytime uses. (Ord. 440, Att. A (part) 1997).

**17.64.080 Joint uses—Conditions required.**

The conditions required for use shall be as follows:

- A. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred feet of such parking facilities.
- B. The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed. (Ord. 440, Att. A (part) 1997).

**17.64.090 Standards.**

Required off-street parking shall be as follows:

<u>Use</u>		
• Residential structures	2	for each dwelling unit (each space must be independently accessible)
• Auto courts, motels	1	for each sleeping unit
• Hospitals and institutions	1	for each 4 beds
• Theaters	1	for each 4 seats, except 1 for each 8 seats in excess of 800 seats
• Churches, auditoriums and similar open assembly	1	for each 6 sets and/or 1 for each 50 square feet of floor area for assembly not containing fixed seats
• Stadiums, sports arenas and similar open assemblies	1	for each 8 seats and/or 1 for each 100 square feet of assembly space without fixed seats
• Dance halls	1	for each 50 square feet of gross floor area
• Bowling alleys	6	for each alley
• Banks, business and professional offices with on-site customer service	1	for each 400 square feet of gross fee of gross floor area
• Offices not providing customer services on premises	1	for each 4 employees or 1 for each 800 square feet of gross floor area
• Warehouse, storage and wholesale business	1	for each 2 employees
• Food and beverage places with sale and	1	for each 200 square feet of gross

consumption on premises		floor area
• Furniture, appliance, hardware, clothing, shoe, personal services store	1	for each 600 square feet of gross floor area
• Other retail stores at a ratio of 1 inside to 1 outside	1	for each 300 square feet floor area or
• Manufacturing uses, research, testing and processing, assembly, all industries	1	for each 2 employees on the maximum working shift and not less than 1 for each 800 square feet of gross floor area
• Use not specified	-	to be determined by Planning Commission

(Ord. 440 Att. A (part); 1997; Ord. 500 §4, 2004).

# BINGEN MUNICIPAL CODE

## Chapter 17.65

### CRITICAL AREAS

#### Sections:

- 17.65.010 Purpose.
- 17.65.020 Designations.
- 17.65.030 Critical areas map.

#### **17.65.010 Purpose.**

The purpose of this section is to implement the requirements of the State Growth Management Act and the goals and policies of the Bingen Comprehensive Plan regarding the protection of areas within the city that are identified in the plan as being critical areas and requiring protection from incompatible development. (Ord. 440, Att. A (part) 1997).

#### **17.65.020 Designations.**

Critical areas identified within the city are designated in the Bingen Comprehensive Plan and include flood plains, fish and wildlife habitat, slope hazard areas, and wetlands.

- A. Regulation of development in flood plain areas shall be pursuant to Chapter 15.28 of the Bingen Municipal Code.
- B. Regulation of development in critical slope hazard areas shall be pursuant to Chapter 17.66 of this title. Critical slopes shall be defined as those slopes identified in the Comprehensive Plan as being in excess of 25% average grade or those areas in excess of normal design standards as determined by city officials with expertise when less than 25% average grade.
- C. As the only critical fish and wildlife habitat areas identified in the Bingen Comprehensive Plan are those fish habitat areas associated with Jewett Creek and the Columbia River and their riparian areas, regulation of development in these areas shall be pursuant to Chapter 17.67 of this title pertaining to wetlands. Buffers for these fish habitat areas shall be fifty feet.
- D. Regulation of development in critical wetland areas and their buffers shall be pursuant to Chapter 17.67 of this title. (Ord. 440, Att. A (part) 1997).

#### **17.65.030 Critical areas map.**

Critical areas identified by the city in the Bingen Comprehensive Plan and as it may be amended to reflect deletions or additions of critical areas shall be delineated on a composite map which shall be maintained by the city clerk/treasurer and made available to the public at a price not to

exceed the cost of reproduction. This map shall be referred to as the official critical areas map for the purpose of identifying those critical areas within the city which are required to be protected under this title and the State Growth Management Act. A certification of authenticity shall be placed on this map and all subsequent amendments with signatures of the mayor and clerk/treasurer. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.66

### SLOPE HAZARD OVERLAY ZONE

#### Sections:

- 17.66.010 Purpose.
- 17.66.020 Definitions.
- 17.66.030 Lands to which the chapter applies.
- 17.66.040 Engineering report.
- 17.66.050 Conditions for approval of development.

#### **17.66.010 Purpose.**

The purpose of this chapter is to provide a review procedure for development in those areas of the city identified in the Bingen Comprehensive Plan as having slopes in excess of fifteen percent to help protect human lives and property against unstable slopes or slopes subject to erosion or deterioration. (Ord. 440, Att. A (part) 1997).

#### **17.66.020 Definitions.**

“Development” means any excavation or change in topography, such as home construction, associated roads, driveways, septic tank disposal fields, wells and water tanks. It does not include mined land activities that may be permitted by local and state authorities, such as rock quarries and gravel and aggregate pits permitted pursuant to Section 17.42.050. (Ord. 440, Att. A (part) 1997).

#### **17.66.030 Lands to which the chapter applies.**

- A. No development shall be allowed on slopes in excess of 40% average grade.
- B. Slopes of average grade in excess of 15% but not more than 25% may be exempt from these requirements at the discretion of the building official upon evidence provided by the applicant that the slope is stable for purposes of the development proposed for the specific site.
- C. Slopes of 25%+ average grade shall be subject to this chapter. (Ord. 440, Att. A (part) 1997).

#### **17.66.040 Engineering report.**

Any proposed development in an identified slope hazard area shall be preceded by a written report by an engineering geologist or engineer who certifies qualifications to evaluate soils for development suitability. The written report of the engineering geologist or engineer shall certify

the development proposed may be completed without threat to public safety or welfare and shall be used to evaluate the development proposal. (Ord. 440, Att. A (part) 1997).

**17.66.050 Conditions for approval of development.**

In approving the building permit, the following conditions may be imposed to ensure site and area suitability.

- A. Maintain vegetation and eliminate unnecessary destruction of vegetation.
- B. Carefully design new roads and buildings with respect to:
  - 1. Placement of roads and structures on the surface topography;
  - 2. Surface drainage on and around the site;
  - 3. Drainage from buildings and road surfaces;
  - 4. Placement of septic tank disposal fields.
- C. Careful construction of roads and buildings to:
  - 1. Avoid cutting toe slopes of slump blocks;
  - 2. Provide careful grading around the site, avoiding over-steepened cut banks;
  - 3. Require revegetation of disturbed area as soon as possible.
- D. Other conditions may be imposed to reasonably ensure the development is protected from damage by mass earth movement. (Ord. 440, Att. A (part) 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.67

### WETLANDS AND WETLAND BUFFERS

#### Sections:

- 17.67.010 Purpose.
- 17.67.020 Definitions.
- 17.67.030 Lands to which this chapter applies.
- 17.67.040 Regulated activities and allowed activities.
- 17.67.050 Procedures for wetland permits.
- 17.67.060 Wetland buffers.
- 17.67.070 Avoiding wetland impacts.
- 17.67.080 Minimizing wetlands impacts.
- 17.67.090 Acting on applications.
- 17.67.100 Compensating for wetland area impacts.
- 17.67.110 Temporary emergency permit.

#### **17.67.010 Purpose.**

The purpose of this chapter is to protect the adverse environmental impacts of development by:

- A. Preserving, protection and restoring wetlands by regulating development within them and their buffers;
- B. Protecting the public against losses from:
  - 1. Unnecessary maintenance and replacement of public facilities,
  - 2. Publicly funded mitigation of avoidable impacts,
  - 3. Cost for public emergency rescue and relief operations, and
  - 4. Potential litigation from improper construction practices authorized for wetland areas;
- C. Achieve no overall net loss in acreage and functions of the state's remaining wetland base;
- D. Implement the policies of the State Growth Management Act and the Bingen Comprehensive Plan. (Ord. 440, Att. A (part) 1997).

## **17.67.020 Definitions.**

For purposes of this chapter, the following definitions shall apply:

- A. “High intensity land use” means and includes land uses which are associated with moderate or high levels of human disturbance or substantial wetland habitat impacts including, but not limited to, medium and high-density residential, multifamily residential, active recreation, and commercial and industrial land uses.
- B. “Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soils shall be determined following the methods described in the “Federal Manual for Identifying and Delineating Jurisdictional Wetlands”.
- C. “Low intensity land use” means and includes land uses which are associated with low levels of human disturbance or low wetland habitat impacts, including, but not limited to, passive recreation, open space, or agricultural or forest management uses.
- D. “Mitigation” means and includes avoiding, minimizing or compensating for adverse wetland impacts. Mitigation, in the following order of preference is:
  - 1. Avoiding the impact altogether by not taking a certain action or parts of an action;
  - 2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
  - 3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
  - 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
  - 5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
  - 6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation for individual actions may include a combination of the above measures.
- E. “Native vegetation” means plant species which are indigenous to the area in question.
- F. “Regulated wetlands” means ponds twenty (20) acres or less, including their submerged aquatic beds, and those lands defined as wetlands under the Federal Clean Water Act, and those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances, do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Regulated wetlands

generally include swamps, marshes, bogs, and similar areas. Wetlands created as mitigation and those modified for approved land use activities shall be considered as regulated wetlands. All category I wetlands shall be considered regulated wetlands. Regulated wetlands do not include category II and III wetlands less than 2,500 square feet and category IV wetlands less than 10,000 square feet. Regulated wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. The applicant shall bear the burden of proving that the site was not previously a wetland. For identifying and delineating a regulated wetland, local government shall consider the appropriate federal manual for identifying and delineating wetlands consistent with state statute.

- G. “Repair or Maintenance” means an activity that restores the character, scope, size and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.
- H. “Wetland buffer” or “Wetland Buffer Zone” is an area that surrounds and protects a wetland from adverse impacts to the functions and values of a regulated wetland.
- I. “Wetland permit” means any permit issued, conditioned or denied specifically to implement this chapter. (Ord. 440, Att. A (part) 1997).

**17.67.030 Lands to which this chapter applies.**

A. Wetland Areas.

Areas designated as wetlands in the Bingen Comprehensive Plan and areas that may be identified on a case-by-case basis as wetlands by professionals with expertise as defined by federal standards are subject to this section. Wetlands not shown on the wetland map in Bingen Comprehensive Plan are presumed to exist in the city and are protected under all the provisions of this chapter. In the event that any of the wetland designations shown on the map conflict with the criteria set forth in federal standards, the criteria shall control.

B. Wetland Rating System.

The city shall use the state of Washington’s four-tier wetlands rating system for categorizing wetlands for purposes of this chapter. The wetland category shall be assigned by the planning department at the time of development review. Categories shall be applied as the regulated wetland exists on the date of adoption of this section; as the regulated wetland may naturally change thereafter; or as the regulated wetland may change in accordance with permitted activities. Wetland rating categories shall not be altered to recognize illegal modifications.

C. Determination of Regulatory Wetland Boundary.

The exact location of the wetland boundary shall be determined by the applicant through the performance of a field investigation applying the wetland definition provided in Section 17.67.020F. The applicant is required to show the location of the wetland boundary on a scaled drawing as a part of a permit application. (Ord. 440, Att. A (part) 1997).

**17.67.040 Regulated activities and allowed activities.**

A. Regulated Activities.

A permit shall be obtained from the city prior to undertaking the following activities in a regulated wetland or its buffer unless authorized by Section 17.67.040B of this section.

1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind;
2. The dumping, discharging, or filing with any material;
3. The draining, flooding, or disturbing of water level or water table;
4. The driving of pilings;
5. The placing of obstructions;
6. The construction, reconstruction, demolition, or expansion of any structure;
7. The destruction or alteration of wetlands vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
8. Activities that result in a significant change of water temperature, a significant change of physical or chemical characteristics of wetlands water sources, including quantity, or the introduction of pollutants.

B. Allowed Activities.

The following uses shall be allowed within a wetland or wetland buffer to the extent that they are not prohibited by any other chapter or law and provided they are conducted using best management practices, except there such activities result in the conversion of a regulated wetland or wetland buffer to a use to which it was not previously subjected:

1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;

2. Outdoor recreational activities, including fishing, bird watching, hiking, boating, horseback riding, swimming, canoeing, and bicycling;
3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, or alteration of the wetland by changing existing topography, water conditions or water sources;
4. Existing and ongoing agriculture, aquaculture, irrigation, ranching or grazing of animals. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be ongoing when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations;
5. The maintenance (but not construction) of drainage ditches;
6. Education, scientific research, and use of nature trails;
7. Navigation aids and boundary markers;
8. Boat mooring buoys;
9. Site investigative work necessary for land use applications submittals such as surveys, soil logs, percolation tests and related activities. In every case, wetland impacts shall be minimized and disturbed areas shall be immediately restored; and
10. The following uses are allowed within wetlands and/or wetland buffers provided that written notice at least 10 days prior to the commencement of such work has been given to the city and provided that wetland impacts are minimized and that disturbed areas are immediately restored;
  - a. Normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Maintenance and repair does not include any modification that changes the character, facility, or improved area and does not include the construction of a maintenance road, and
  - b. Minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions.

C. Special Permit Uses.

Any activity other than those specified in this section may not be conducted in wetlands or wetland buffers except upon issuance of a wetland permit by the city. Where the proposed activity requires any other permit approval by the city, the wetland permit shall be submitted with or incorporated as part of the other permit application. (Ord. 440, Att. A (part) 1997).

**17.67.050 Procedures for wetland permits.**

A. Wetland Permit.

Except as specifically provided in Section 17.67.040B; no regulated activity shall occur or be permitted to occur within a regulated wetland or wetland buffer without a written permit from the city. All activities that are not allowed or permitted shall be prohibited. Applications for wetland permits shall be made to the administrator in forms furnished by that office. Permits shall be valid for a period of three years and shall expire at the end of that time unless a longer or shorter period is specified by the city upon issuance of the permit. Extensions may be granted upon written request.

B. Filling Fees.

At the time of an application a fee shall be paid in an amount established by the city council. The city may assess additional reasonable fees as needed to monitor and evaluate permit compliance and mitigation measures.

C. Notification.

Upon receipt of a completed permit application, the administrator shall notify the individuals and agencies, including federal and state agencies, having jurisdiction over or an interest in the matter to provide such individuals and agencies an opportunity to comment. The administrator shall establish a mailing list of all interested persons and agencies who wish to be notified of such applications.

D. Public Hearing.

Following the submittal of an application determined to be complete, the planning commission shall hold a public hearing on the application unless the administrator finds the activity is so minor as to not affect a wetland buffer. Notice of the hearing shall be given as provided in Section 17.12.090.

E. Permit Action.

1. Upon receipt of a complete application for a permit authorizing activities on a category I wetland or its buffer, the city shall submit the application to the State Department of Ecology for its review and comment within 30 days of submittal, or within a period approved otherwise by the city upon request of extension. When submitted, no permit shall be issued under this subsection prior to receipt of such comments or the expiration of the time period or any extension.
2. The planning commission shall approve, approve with conditions, or deny a permit application within thirty (30) working days of the public hearing, except that where additional information is required by the city, it may extend this period by sixty (60) days. In acting on the application, the commission shall in writing deny, permit, or conditionally permit the proposed activity. If a decision must be

made in a 90 day period and there is insufficient information or time to process the application, a denial will be issued.

3. A permit shall only be granted if the permit, as conditioned, is consistent with the provisions of this chapter. Additionally, permits may only be granted if:
  - a. A proposed action avoids adverse impacts to regulated wetlands or their buffers or takes affirmative and appropriate measures to minimize and compensate for unavoidable impacts;
  - b. The proposed activity results in no net loss; or
  - c. Denial of a permit would cause an extraordinary hardship on the applicant.
4. Wetland permits shall not be effective and no activity thereunder shall be allowed during the time provided to file a permit appeal.
5. Appeals. Any decision of the planning commission in the administration of this chapter may be appealed to the city council.
6. Modification of permits. A wetland permit holder may request and the planning commission may approve modification of a previously issued permit.
7. Resubmittal of denied wetland permit applications. A wetland permit application which has been denied may be modified and resubmitted no earlier than 180 days following action on the original application. (Ord. 440, Att. A (part) 1997).

**17.67.060 Wetland buffers.**

Wetland buffer zones shall be required for all regulated activities adjacent to regulated wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard buffer required for the category of the created, restored, or enhanced wetland.

A. Standard Buffer Zone Widths.

All buffers shall be measured from the wetland boundary as surveyed in the field pursuant to Section 17.67.030C. The width of the wetland buffer zone shall be determined according to wetland category and the proposed land use.

1. Category I
 

High intensity use	300 feet
Low intensity use	200 feet
  
2. Category II
 

High intensity use	200 feet
Low intensity use	100 feet
  
3. Category III
 

High intensity use	100 feet
Low intensity use	50 feet
  
4. Category IV
 

High intensity use	50 feet
Low intensity use	25 feet

B. Increased Wetland Buffer Zone Width.

The city shall require increased standard buffer zone widths on a case-by-case basis when a larger buffer is necessary to protect wetlands functions and values based on local conditions. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the regulated wetland. Such determination shall be attached as a permit conditions and shall demonstrate that:

1. A larger buffer is necessary to maintain viable populations of existing species; or
2. The wetland is used by species listed by the federal government or the state as endangered, threatened, sensitive or as documented priority species or habitats, or essential or outstanding potential habitat for those species or has unusual nesting or resting sites; or
3. The adjacent land is susceptible to severe erosion and erosion control measures will not effectively prevent adverse wetland impacts; or
4. The adjacent land has minimal vegetation cover or slopes greater than 15 percent.

C. Reduction of Standard Wetland Buffer Zone Width.

The city may reduce the standard wetland buffer zone widths on a case-by-case basis where it can be demonstrated that:

1. The adjacent land is extensively vegetated and has less than 15% slopes and that no direct or indirect, short-term or long-term, adverse impacts to regulated wetlands, as determined by the city will result from a regulated activity. The city may require long-term monitoring of the project and subsequent corrective actions if adverse impacts to regulated wetlands are discovered; or
2. The project includes a buffer enhancement plan using native vegetation which substantiates that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetland functions and values. An enhanced buffer shall not result in greater than a 25% reduction in the buffer shall not result in greater not be less than 25 feet.

D. Standard Wetland Buffer Width Averaging.

Standard wetland buffer zones may be modified by averaging buffer widths. Wetland buffer width averaging shall be allowed only where the applicant demonstrates all of the following:

1. That averaging is necessary to avoid an extraordinary hardship to the applicant caused by circumstances peculiar to the property;
2. That the wetland contains variations in sensitivity due to existing physical characteristics;
3. That low intensity land uses would be located adjacent to areas where buffer width is reduced, and that such low intensity land uses are guaranteed in perpetuity by covenant, deed restriction, easement, or other legally binding mechanism;
4. That width averaging will not adversely impact the wetland functional values;
5. That the total area contained within the wetland buffer after averaging is no less than that contained within the standard buffer prior to averaging, In no instance shall the buffer width be reduced by more than 50% of the standard buffer or be less than 25 feet.

E. Wetland Buffer Shall Be Left in Natural Condition.

Except as otherwise specified, wetland buffers shall be retained in their natural condition. Where buffer disturbance has occurred during construction, re-vegetation with native vegetation may be required.

F. Permitted Uses in a Wetland Buffer Zone.

Regulated activities shall not be allowed in a buffer zone except for the following:

1. Activities having minimal adverse impacts on buffers and no adverse impacts on regulated wetlands. These may include low intensity, passive recreational activities such as pervious trails, nonpermanent wildlife watching blinds, short term scientific or educational activities, and sports fishing or hunting;
2. With respect to category III and IV wetlands, stormwater management facilities having no reasonable alternative on site location; or
3. With respect to category III and IV wetlands, development having no feasible alternative location.

G. Building Setback Lines.

A building setback line of 15 feet is required from the edge of any wetland buffer. Minor structural intrusions into the area of the building setback may be allowed if the city determines that such intrusions will not negatively impact the wetland. The setback shall be identified on a site plan which shall be filed as an attachment to any permit application submitted for approval by the city. (Ord. 440, Att. A (part) 1997).

**17.67.070 Avoiding wetland impacts.**

- A. Regulated activities shall not be authorized in a regulated wetland except where it can be demonstrated that the impact is both unavoidable and necessary or that all reasonable economic uses are denied.
- B. With respect to category I wetlands, an applicant must demonstrate that denial of the permit would impose an extraordinary hardship on the part of the applicant brought about by circumstances peculiar to the subject property.
- C. With respect to category II and III wetlands, the following provisions shall apply:
  1. For water-dependent activities, unavoidable and necessary impacts can be demonstrated where there are no practicable alternatives which would not involve a wetland or which would not have less adverse impact on a wetland, and would not have other significant adverse environmental consequences.
  2. Where nonwater-dependant activities are proposed, it shall be presumed that adverse impacts are avoidable. This presumption may be rebutted upon a demonstration that:
    - a. The basic project purpose cannot reasonably be accomplished utilizing one or more other sites in the general region that would avoid, or result in less, adverse impact on a regulated wetland; and
    - b. A reduction in the size, scope, configuration, or density of the project as proposed and all alternative designs of the project as proposed that would

avoid, or result in less, adverse impact on a regulated wetland or its buffer will not accomplish the basic purpose of the project; and

- c. In cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, deficiencies of infrastructure, or parcel size, the applicant has made reasonable attempt to remove or accommodate such constraints.

D. With respect to category IV wetlands, unavoidable and necessary impacts can be demonstrated where the proposed activity is the only reasonable alternative which will accomplish the applicant's objectives.

E. Reasonable Use.

- 1. If an applicant for a development proposal demonstrates to the satisfaction of the city that application of these standards would deny all reasonable economic use of the property, development as conditioned shall be allowed if the applicant also demonstrates all of the following to the satisfaction of the city:
  - a. That the proposed project is water-dependent or requires access to the wetland as a central element of its basic function, or is not water-dependent but has no practicable alternative pursuant to Section 17.67.070;
  - b. That no reasonable use with less impact on the wetland and its buffer is possible;
  - c. That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to wetlands and wetland buffers;
  - d. That the proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contours, vegetation, fish and wildlife resources, and hydrological conditions;
  - e. That disturbance of wetlands has been minimized by locating any necessary alteration in wetland buffers to the extent possible;
  - f. That the proposed activities will not jeopardize the continued existence of species listed by the federal government or the state as endangered, threatened, sensitive, or documented priority species or priority habitats;
  - g. That the proposed activities will not cause significant degradation of groundwater or surface-water quality;

- h. That the proposed activities comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;
  - i. That any and all alterations to wetlands and wetland buffers will be mitigated in accordance with state regulations and policies
  - j. That there will be no damage to nearby public or private property and no threat to the health or safety of people on or off the property; and
  - k. That the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of this chapter.
2. If the city determines that alteration of a wetland and/or wetland buffer is necessary and unavoidable, the city shall set forth in writing in the file it maintains regarding a permit application its findings with respect to each of the items in this subsection. (Ord. 440, Att. A (part), 1997).

**17.67.080 Minimizing wetlands impacts.**

After it has been determined by the city pursuant to Section 17.67.040 that losses of wetland are necessary and unavoidable or that all reasonable economic use has been denied, the applicant shall take deliberate measures to minimize wetland impacts. These measures shall include but are not limited to:

- A. Limiting the degree or magnitude of the regulated activity;
- B. Limiting the implementation of the regulated activity;
- C. Using appropriate and best available technology;
- D. Taking affirmative steps to avoid or reduce impacts;
- E. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;
- F. Involving resource agencies early in site planning; and
- G. Providing protective measures such as siltation curtains, hay bales, and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities. (Ord. 440, Att. A (part), 1997).

**17.67.090 Acting on applications.**

As a condition of permit approval for any land containing a wetland area designated and/or defined pursuant to this chapter, the city shall condition the approval to delineate existing wetlands and identify applicable buffers. Wetland areas and buffers shall be included in the area of the lot for purposes of subdivision method and zoning minimum lot size. (Ord. 440, Att. A (part), 1997).

**17.67.100      Compensating for wetland area impacts.**

As a condition of any permit allowing alteration of wetland areas and/or wetland area buffers, or as an enforcement action, the city shall require that the applicant engage in the restoration, creation, or enhancement of these areas in order to offset the impacts resulting from order to offset the impacts resulting from the applicant's or violator's actions. For wetlands, the overall goal of any compensatory project shall be no net loss of wetlands function and area and to strive for a net resource gain in wetlands over present conditions. Compensatory mitigation shall follow an approved mitigation plan prepared by a professional with expertise approved by the city.

A.      Wetland Mitigation Plans.

All wetland restoration, creation and/or enhancement projects required pursuant to this chapter either as a permit condition or as the result of an enforcement action shall follow a mitigation plan prepared by qualified wetland professionals approved the city. Written approval of the mitigation plan by the city shall be secured prior to enhancement activity.

B.      Monitoring Program.

A program outlining the approach for monitoring construction of the compensation project shall be provided.

C.      Permit Conditions.

Any compensation project prepared pursuant to this chapter and approved by the city shall become part of the application for the permit.

D.      Performance Bonds and Demonstration of Competence.

A demonstration of financial resources, administrative, supervisory, and technical competence and scientific expertise of sufficient standing to successfully execute the compensation project shall be provided. A compensation project manager shall be named and the qualifications of each team member involved in preparing the mitigation plan and implementing and supervision the project shall be provided, including educational background and areas of expertise, training and experience with comparable projects. In addition, bonds ensuring fulfillment of the compensation project, monitoring program, and any contingency measure shall be posted in the amount of one hundred twenty percent of the expected cost of compensation.

E. Agency Consultation.

The city shall consult with and solicit comments of any federal, state, regional, or local agency, including tribes, having any special permit expertise with respect to any mitigation proposal which includes wetlands compensation. The compensation project proponents should provide sufficient information on plan design and implementation in order for such agencies to comment on the overall adequacy of the mitigation proposal.

F. Compensatory mitigation is not required for regulated activities:

1. For which a permit has been obtained that occur only in the buffer or expanded buffer and which have no adverse impacts to regulated wetlands; or
2. For those allowed activities pursuant to Section 17.67.040B provided such activities utilize best management practices to protect the functions and values of regulated wetlands. (Ord. 440, Att. A (part), 1997).

**17.67.110 Temporary emergency permit.**

Notwithstanding the provisions of the chapter, the administrator may issue a temporary emergency wetlands permit if:

- A. The administrator determines that an unacceptable threat to life or severe loss of property will occur if an emergency permit is not granted; and
- B. The anticipated threat or loss may occur before an approval can be granted or modified under the procedures otherwise required by this chapter.
- C. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this chapter.
- D. The emergency permit may be terminated at any time without process upon a determination by the city that the action was not or is no longer necessary to protect human health or the environment.
- E. Issuance of an emergency permit does not preclude the necessity to obtain necessary approvals from appropriate federal and state authorities.
- F. Notice of the issuance of the emergency permit and request for public comments shall be published at least once a week on the stone day of the week for two consecutive weeks in a newspaper having a general circulation in the city no later than ten days after issuance of the emergency permit. The applicant shall be responsible to provide this notice at applicant's expense. (Ord. 440, Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.68

### NONCONFORMING USES

#### Sections:

- 17.68.010 Policy.
- 17.68.020 Prior establishment required.
- 17.68.030 Continuance permitted.
- 17.68.040 Enlargement and extension.
- 17.68.050 Discontinuance or abandonment.
- 17.68.060 Enlargement restrictions.
- 17.68.070 Upgrading.
- 17.68.080 Improvement, repair.
- 17.68.090 Damaged—Restoration.
- 17.68.100 Unlawful uses prohibited—Exception.
- 17.68.110 Effect on previously approved construction.

#### **17.68.010 Policy.**

It is the policy of the council to provide regulatory mechanics for nonconforming uses as found and determined to be reasonable and equitable in many jurisdictions. This policy is pursued in order that properties with nonconforming uses in existence at the time of adoption of the ordinance codified in this title, or amendments thereto, shall be brought to conformity within such periods of time as are compatible with justice to the owners of properties affected and with the interests of the safety, health and general welfare of the city. It shall not be the policy of the city to require the removal or cessation of nonconforming uses unless specifically stipulated under Section 17.68.050 and 17.68.090 or unless otherwise required by law (e.g., nuisance abatement). (Ord 440 Att. A (part), 1997).

#### **17.68.020 Prior establishment required.**

To benefit from the protection given to a nonconforming use, such use must have been legitimately and lawfully established prior to the adoption of the ordinance codified in this title. (Ord 440 Att. A (part), 1997).

#### **17.68.030 Continuance permitted.**

Any nonconforming use may be continued for such time and under such conditions as specified in this chapter. (Ord 440 Att. A (part), 1997).

**17.68.040      Enlargement and extension.**

No nonconforming use of land shall be changed to another nonconforming use. The lawful use of land existing at the time of the adoption of the ordinance codified in this title may be continued, although such use does not conform to this title for the district in which such land is located; provided, further, that except as otherwise provided in BMC 17.68.045, no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land or building than that occupied by such use at the time of the adoption of the ordinance codified in this title, unless by said change it brings the use closer to conformance with this title or mitigates an identified adverse environmental impact. (Ord 440 Att. A (part), 1997; Ord. 589 §2, 2011).

**17.68.045      Nonconforming single-family residential uses in commercial districts.**

Nonconforming single-family dwellings located within a Commercial District may be continued. Residential single-family dwelling uses located within a Commercial District may be enlarged or increased or extended to occupy a greater area of land or building as long as the enlargement or extension does not violate the zoning requirements of the Single-Family (R1) Residential District. (Ord. 589 §3, 2011).

**17.68.050      Discontinuance or abandonment.**

- A. A nonconforming use, if changed to a conforming use, may not thereafter be changed back to a nonconforming use.
- B. A non conforming use, when discontinued or abandoned, shall not be resumed. Discontinuance or abandonment shall be defined as follows:
  - 1. When improved land, buildings or facilities used as nonconforming use shall cease to be used for that particular use for twelve consecutive calendar months;
  - 2. When a building designed or arranged for a conforming use, but used for nonconforming activities shall cease to be used for such particular use for a period of twelve consecutive calendar months.
- C. The land from which nonconforming structure has been removed shall be subsequently used in conformity with the appropriate district regulations. (Ord 440 Att. A (part), 1997).

**17.68.060      Enlargement restrictions.**

- A. The enlargement of a nonconforming use to any portion of an existing building, which portion was designed and built for such nonconforming use prior to the passage of the ordinance codified in this title may be permitted, provided no structural alterations are made.

- B. A building designed and built for, and devoted to, a nonconforming use at the time of the passage of this title may not be enlarged or structurally altered unless the use of such building is changed to a conforming use, or when such enlargement is permitted by variance in case of evident hardship.
- C. Moving of a nonconforming use to contiguous lots is prohibited. (Ord 440 Att. A (part), 1997).

**17.68.070 Upgrading.**

A lawful nonconforming use of a building may not be changed to another nonconforming use unless changed to a more restrictive use. (Ord 440 Att. A (part), 1997).

**17.68.080 Improvement, repair.**

Normal repairs and alterations may be made to a lawful nonconforming building, provided that no structural alterations shall be made except those required by law or those that result in mitigation of adverse environmental impacts as may be approved by the city council. No existing nonconforming structure designed, arranged, intended for, or devoted to a use not permitted under this title for the district in which such structure is located shall be enlarged, extended, reconstructed, structurally altered, or moved unless such use is changed to a use permitted under the regulations specified by this title for the district in which said building is located; provided, further, that nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe and ordered to be strengthened or restored to a safe condition, unless such a building has been destroyed by an extent exceeding seventy-five percent of full value, as determined by consideration of the assessed value referred to above, or unless otherwise allowed under Section 17.68.090. (Ord 440 Att. A (part), 1997).

**17.68.090 Damaged—Restoration.**

When a building or other structure containing a nonconforming use is damaged by any cause to an extent exceeding seventy-five percent of the cost of the structure's fair market value as indicated by the records of the county assessor, then such building shall not be rebuilt unless the building and its construction and uses conform fully to this title and other codes of the city as applied to new buildings and structures and to uses for the district in which it is located, or in the case of a dwelling, unless a building permit is obtained from the city within twelve months of the date of the damage for a repair or replacement with a similar structure. The determination of whether a building is destroyed to the extent described shall rest with the city building official. (Ord. 440 Att. A (part), 1997).

**17.68.100 Unlawful uses prohibited—Exception.**

Nothing in this title shall be interpreted as authorization for, or approval of, the continuance of, or the allowing of a special permit, exception or variance for the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of the ordinance codified in this title. Any use existing at the time of adoption of this title which is within the

scope of uses permitted by conditional exception or accessory exception in the use district in which the property is situated shall be deemed a conforming use without necessity of any action by the board of adjustment. (Ord 440 Att. A (part), 1997).

**17.68.110 Effect on previously approved construction.**

Nothing in this title shall be deemed to require any change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the adoption of the ordinance codified in this title and upon which building actual construction has been diligently carried on. (Ord. 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.72

### CONDITIONAL USES IN RESIDENTIAL DISTRICTS

#### Sections:

- 17.72.010 Generally.  
17.72.020 Designated.

#### **17.72.010 Generally.**

The following uses may be authorized by the board of adjustment as conditional exceptions in residential districts as indicated. Such uses, although not permitted outright, shall not be deemed nonconforming if existing at the time of adoption of the ordinance codified in this title. (Ord 440 Att. A (part), 1997).

#### **17.72.020 Designated.**

Conditional uses in all residential districts shall be as follows:

- A. Parks and playgrounds;
- B. Public, private and parochial schools and supporting dormitory facilities;
- C. Churches and other religious or charitable organizations;
- D. Public and governmental buildings serving as administrative offices;
- E. Fire and police stations;
- F. Libraries;
- G. Hospitals, rest and convalescent facilities for human beings;
- H. Nursery schools, day nurseries, orphanages, private kindergartens and similar child-care centers;
- I. Private clubs, lodges, convents, social or recreational buildings and community assembly halls except those having a chief activity carried on for monetary gain; provided that any building used for such purpose shall be at least twenty feet distant from any adjoining residentially used lot; and provided that there be no external evidence of gainful activities other than from within the building;
- J. Office buildings for professional type services such as physicians, dentists, architects, accountants, engineers, lawyers, and similar occupations; provided the property is

planned, built and operated as a unit and adjoins or abuts a business or industrial district within the same block;

- K. Franchised and public utility and communications facilities such as branch telephone exchanges, static transformers, booster stations, pumping stations, provided there are not any services or storage buildings or yards in connection therewith;
- L. Residential care facilities pursuant to RCW 35A.63.149;
- M. Child care facilities pursuant to RCW 35A.63.210;
- N. Similar uses not harmful to or inconsistent with residential neighborhoods or districts. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.76

### INTENT TO REZONE

#### Sections:

- 17.76.010 Purpose.
- 17.76.020 Resolution intent to rezone.
- 17.76.030 Site plan required –Variance.
- 17.76.040 Site plan—Contents.
- 17.76.050 Resolution of intent—Binding when.
- 17.76.060 Resolution of intent—Void when.

#### **17.76.010 Purpose.**

It is the purpose and intent of this chapter to provide additional procedures in the manner of zoning reclassifications so that the health, safety and general welfare and environmental amenities of the citizens of the city are insured as certain development occurs, and further, to prevent speculative holding of real property after rezoning. (Ord 440 Att. A (part), 1997).

#### **17.76.020 Resolution intent to rezone.**

If, from facts presented and findings made, the city council determines that the public health, safety, welfare and convenience will be best served by this reclassification or any portion thereof, it may indicate its general approval in principle of the reclassification by the adoption of a resolution of intent to rezone said property. This resolution shall include any conditions, stipulations or limitations which the council may feel necessary to require in the public interest as a prerequisite to final action, including those provisions which the council may feel necessary to prevent speculative holding of the property after reclassification. (Ord 440 Att. A (part), 1997).

#### **17.76.030 Site plan required –Variance.**

A site plane approved by the planning commission may be required and if such requirement is made in the resolution of intent issued under Section 17.76.020 it shall be binding upon the property. Upon classification, the property having an approved site plan under this section be plainly marked as subject to approved site plan on the official zoning map. Any approved site plan may be amended or a variance there from obtained, or the property may be released from the restrictions of such site plan by action of the council on recommendation from the planning commission. No other changes shall be made constituting a departure from the approved site plan except by amendment or variance as provided in this section unless the property has been released from the site plan. (Ord 440 Att. A (part), 1997).

**17.76.040 Site plan—Contents.**

Where a site plan is required pursuant to Section 17.76.030 it shall include the following:

- A. Location of existing and proposed buildings, structures, accesses, off-street parking and loading spaces and landscaping;
- B. Topography, existing and proposed;
- C. Mechanical roof facilities if subject property is so oriented as to become part of the view from adjacent properties;
- D. Architectural perspective, layout and all elevations drawn without exaggeration except where noted including locations, area and design of signs and all landscaping. (Ord 440 Att. A (part), 1997).

**17.76.050 Resolution of intent—Binding when.**

The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent to rezone on the part of the applicant shall make this resolution a binding commitment on the council. (Ord 440 Att. A (part), 1997).

**17.76.060 Resolution of intent—Void when.**

Upon completion of compliance action by the applicant, the council shall by ordinance effect the reclassification. The failure of all conditions, stipulations or limitations contained in a resolution of intent to rezone, including the time limit placed in the resolution, shall render the resolution null and void, unless an extension is granted by the council upon recommendation of the planning commission. In the event a reclassification is approved by the council, but not on the basis of a resolution of intent to rezone, the council shall by ordinance effect such reclassification. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.80

### AMENDMENTS

#### Sections:

- 17.80.010 Policy.
- 17.80.020 Zoning map amendment.
- 17.80.030 Regulations amendment.
- 17.80.040 Application procedure—Fee.

#### **17.80.010 Policy.**

It is the policy of the city council to provide for relief in cases of hardship, and a process of appeal to govern situations in which parties affected by these zoning regulations allege improper administrative actions. (Ord 440 Att. A (part), 1997).

#### **17.80.020 Zoning map amendment.**

The council may, upon proper application, or upon its own motion, and after public hearing, change by resolution the district boundary lines or zone classification as shown on the zoning map, provided such change is consistent with the Bingen Comprehensive Plan. (Ord 440 Att. A (part), 1997).

#### **17.80.030 Regulations amendment.**

The council may, upon proper application, or upon its own motion, after public hearing delete, supplement, or change by resolution the regulations established in this title, provided such revisions conform to the laws of the state and the comprehensive plan. (Ord 440 Att. A (part), 1997).

#### **17.80.040 Application procedure—Fee.**

An application for change of zone classification, district boundary lines or text amendment submitted by the property owner or his authorized representative, shall be filed with the administrator at least fourteen days before a regularly scheduled meeting of the hearings body. Said petition shall be accompanied by a check made payable to the city in the amount established by ordinance which shall be nonrefundable and used to cover costs incurred in connection with posting of the premises, mailing of notices and conducting the hearing as provided in this title. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.84

### ADMINISTRATION

#### Sections:

- 17.84.010 Applicability.
- 17.84.020 Exception—Granting authority.
- 17.84.030 Special use authorization—Record to be kept.
- 17.84.040 Zoning map interpretation.
- 17.84.050 Comprehensive plan interpretation authority.
- 17.84.060 Hearing—Notice—Fee.
- 17.84.070 Conflict of provisions.
- 17.84.080 Permit and exceptions—Declaration of restrictions and covenants.
- 17.84.090 Permit and exceptions—Declaration of restrictions and covenants.

#### **17.84.010 Applicability.**

The provisions of this title shall be the minimum requirements for the promotion of the public health, safety, and general welfare; therefore, where this title imposes greater restriction than is imposed or required by other laws, ordinance rules or regulations, the provisions of this title shall prevail. (Ord 440 Att. A (part), 1997).

#### **17.84.020 Exception—Granting authority.**

Recognizing that there are certain uses of property that may or may not be detrimental to the public health, safety, and general welfare, depending upon the facts of each particular case, the planning commission shall have limited power to issue special permits for new or unusual uses which are of similar character and not specifically mentioned elsewhere in this title as a permitted use. (Ord 440 Att. A (part), 1997).

#### **17.84.030 Special use authorization—Record to be kept.**

The planning commission may permit by interpretation in a zoning district any uses not described in this title, not a prohibited use, or not expressly allowed in a less restrictive district, and deem it to be in general keeping with the uses authorized in such district. A record shall be kept of such interpretations to facilitate equitable future administration and to permit periodic amendments to this title. (Ord 440 Att. A (part), 1997).

#### **17.84.040 Zoning map interpretation.**

It shall be the duty of the planning commission to interpret the provisions of this title in such a way as to carry out the intent and purpose of the official zoning plan as shown by the zoning map and file in the city clerk, county auditor and other offices. (Ord 440 Att. A (part), 1997).

**17.84.050 Comprehensive plan interpretation authority.**

It shall be the duty of the planning commission, board of adjustment and city council to interpret and/or administer the provisions of this title in such a way as to carry out the intent and purpose of the Bingen Comprehensive Plan as required by the RCW Chapter 35.63 and adopted by the city council. (Ord 440 Att. A (part), 1997).

**17.84.060 Hearing—Notice—Fee.**

Whenever public hearing is required by this title, no less than three notices thereof shall be posted by the administrator in conspicuous places on or adjacent to the tract, lot or other land or building area affected. Written notices shall be mailed to adjacent land owners of record or others likely to be affected. Such notices shall state the time and the place of such hearing and nature of the question to be heard, and shall be posted not less than fourteen days prior to the date of the hearing. Notices shall be sent to owners of record of all property within a distance of three hundred feet, streets and alleys excluded, which is the subject of the public hearing. Notices may also be sent to other property owners who might be affected. In addition to a list of land owners of record, the applicant shall supply any other data required by the administrator. The person requesting a public hearing shall pay the city a processing fee at the time of application in an amount established by ordinance. In addition to the processing fee, the applicant shall pay within ten days of billing, the costs incurred in mailing notices to the interested parties specified herein and any other processing costs that exceed the processing fee. (Ord 440 Att. A (part), 1997).

**17.84.070 Conflict of provisions.**

In the event of conflict of provisions in this title, the most restrictive requirements shall prevail. (Ord 440 Att. A (part), 1997).

**17.84.080 Permit and exceptions—Declaration of restrictions and covenants.**

Whenever any permit or exception is issued pursuant to provisions of this title, such permit or exception shall remain effective only for twelve months, unless the use allowed is begun within that time. If not in use, or if related construction is not undertaken within twelve months, the authorized use shall become invalid and the principal uses permitted outright in the district shall prevail, provided that one twelve-month extension may be granted upon proof of need and timely application therefore is made to the zoning administrator. (Ord 440 Att. A (part), 1997).

**17.84.090 Permit and exceptions—Declaration of restrictions and covenants.**

To insure the perpetuation of any and all conditions and limitations agreed upon as conditions of the special permit or exception authorized, the owner and/or owners of the property affected may execute a declaration of restrictions and covenants to be duly recorded covering said property. Said requirements may not be relaxed without rehearing. The covenant is waived and terminated at such time as the use is abandoned as to any duties not yet due to be performed under the covenant at the time of abandonment of use. Also, any permits or rights granted on the basis of a variance or conditional use is abandoned. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.88

### BOARD OF ADJUSTMENT

#### Sections:

- 17.88.010 Created.
- 17.88.020 Membership—Appointment—Compensation.
- 17.88.030 Quorum.
- 17.88.040 Powers and duties.
- 17.88.042 Conditional use permit action by the board of adjustment.
- 17.88.050 Appeal—Time limit for filing.
- 17.88.060 Conditional uses permit hearing notice.
- 17.88.070 Appeal—Hearing notice.
- 17.88.080 Appeal—Scope of authority.
- 17.88.090 Action final—Exception.
- 17.88.100 Findings of fact required.
- 17.88.110 Appeal to city council.

#### **17.88.010 Created.**

To carry out the intent and policy of this chapter, the city council shall serve as the board of adjustment until such time as the city council appoints a separate body for such purpose pursuant to Section 17.88.020. (Ord 440 Att. A (part), 1997).

#### **17.88.020 Membership—Appointment—Compensation.**

The board of adjustment shall consist of five voting members, all of whom shall serve without compensation. The members of the board of adjustment shall be appointed, serve, and be removed in accordance with provisions of RCW Chapter 35.63. One member of the board of adjustment shall be an appointment member of the planning commission. (Ord 440 Att. A (part), 1997).

#### **17.88.030 Quorum.**

The presence of three voting members shall constitute a quorum. (Ord 440 Att. A (part), 1997).

#### **17.88.040 Powers and duties.**

The jurisdiction duties and powers of the board of adjustment are as follows:

- A. Hearing and deciding applications for conditional uses (principal and accessory) expressly provided for in certain districts. A conditional use permit shall be granted by the city only if the application demonstrates that:

1. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;
  2. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
  3. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;
  4. The conditional use is not in conflict with health and safety of the community;
  5. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood; and
  6. The conditional use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities.
- B. Application for variance from the terms of this title; provided, that any variance granted shall be subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated, and that the following circumstances are found to apply:
1. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of rights and privileges enjoyed by other property in the vicinity and under identical zoning district classifications;
  2. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zoning district in which subject property is situated;
- C. Appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, or determination made by an administrative official in the administration or enforcement of this title. (Ord 440 Att. A (part), 1997).

**17.88.042 Conditional use permit action by the board of adjustment.**

In permitting a conditional use the city may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the city as a whole. These conditions may include requirements which:

1. Increase the required lot size or yard dimensions;
2. Increase street widths;
3. Control the location and number of vehicular access points to the property;
4. Increase the number of off-street parking or loading spaces required;
5. Limit the number of signs;
6. Limit the coverage or height of buildings because of obstructions to view and reductions of light and air to adjacent property;
7. Limit or prohibit openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area;
8. Requirements under which any future enlargement or alteration of the use shall be reviewed by the city and new conditions imposed; and
9. Regulations as to the use of such property as found necessary to protect the public health or safety or necessary to protect other property from adverse effects or such conditional use. (Ord 440 Att. A (part), 1997).

**17.88.050 Appeal—Time limit for filing.**

Appeals may be taken to the board of adjustment by any person aggrieved, or by any officer, department, board or bureau affected by any decision of an administrative official of this title. Such appeals shall be filed in writing in duplicate with the board of adjustment within twenty days of the date of the action being appealed. (Ord 440 Att. A (part), 1997).

**17.88.060 Conditional uses permit hearing notice.**

Upon filing of an application for a conditional use permit or a variance, the board of adjustment shall set the time and place for a public hearing on such matter, and written notice thereof shall be mailed to all property owners of record within a radius of three hundred feet of the exterior boundaries of subject property. The written notice shall be mailed no less than fourteen days prior to the hearing. (Ord 440 Att. A (part), 1997).

**17.88.070 Appeal—Hearing notice.**

Upon filing of an appeal from an administrative determination, or from the action of the administrator, the board of adjustment shall set the time and place at which the matter will be considered. At least a fourteen-day notice of such time and place, together with one copy of the written appeal, shall be given to the official whose decision is being appealed. At least fourteen days notice of time and place shall also be given to the adverse parties of record in the case. The

official from whom the appeal is being taken shall forthwith transmit to the board of adjustment all of the records pertaining to the decision being appealed from, together with such additional written report as the official deems pertinent. (Ord 440 Att. A (part), 1997).

**17.88.080 Appeal—Scope of authority.**

In exercising the powers granted in this chapter, the board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as should be made, and to that end, shall have all the powers of the official from whom the appeal is taken, insofar as the decision on the particular issue is concerned. (Ord 440 Att. A (part), 1997).

**17.88.090 Action final—Exception.**

The action by the board of adjustment on a application for conditional use permit or a variance, or on an appeal from the decision of the administrator or other administrative officer shall be final and conclusive unless within twenty-one days from the date of the action the original applicant or an adverse party makes application to a court of competent jurisdiction for a writ of prohibition, a writ of mandamus, or a land use petition in accordance with appropriate state statute and Chapter 17.100 of this title. (Ord 440 Att. A (part), 1997).

**17.88.100 Findings of fact required.**

The board of adjustment shall, in making an order, requirement, decision or determination, include in a written record of the case findings of fact upon which the action is based. (Ord 440 Att. A (part), 1997).

**17.88.110 Appeal to city council.**

Any interested citizen or administrative officer of the city may appeal to the council from rulings of the planning commission where such ruling allegedly is adverse to his or her interests. Written notice of appeal from such ruling shall be filed within five days from such ruling. Thereupon the planning commission shall forthwith transmit to the council all papers constituting the record upon which the ruling was made. The council at its hearing may receive such further evidence as seems relevant. After a hearing the council may overrule or alter the decision of the planning commission by a majority vote of the full council. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.92

### ENFORCEMENT

#### Sections:

17.92.010 Enforcement authority.

17.92.020 Violation—penalty.

#### **17.92.010 Enforcement authority.**

It shall be the duty of the administrator to see that this title is enforced through the proper legal channels. He or she shall approve no permit for the construction or alteration of any building or part thereof unless the plans, specifications and intended use of such building conform in all respects with the provisions of this title. (Ord 440 Att. A (part), 1997).

#### **17.92.020 Violation—penalty.**

Any person, partnership, association, firm or corporation who willfully violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not in excess of one thousand dollars or by imprisonment in the county jail for not to exceed ninety days or by both such fine and imprisonment. Each day that a violation exists shall constitute a separate offense. (Ord 440 Att. A (part), 1997).

# BINGEN MUNICIPAL CODE

## Chapter 17.100

### JUDICIAL APPEALS OF LAND USE DECISIONS

#### Sections:

- 17.100.010 Purpose.
- 17.100.020 Definitions.
- 17.100.030 Land use petition.

#### **17.100.010 Purpose.**

The purpose of this chapter is to provide consistent, predictable, and timely judicial review of the city's land use decisions, except that this does not apply to judicial review of:

- A. Land use decisions that are subject to review by a quasi-judicial body created by state law, such as the shorelines hearing board;
- B. Judicial review of applications for a writ of mandamus or prohibition; or
- C. Claims provided by any law for monetary damages or compensation. (Ord 440 Att. A (part), 1997).

#### **17.100.020 Definitions.**

Whenever the following words and phrases appear in this chapter, they shall be given the meaning attributed them by this section.

“Land use decisions” means a final determination by a city body or officer with the highest level of authority to make the determination, including those with authority to hear appeals on:

1. An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;
2. An interpretation or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and
3. The enforcement of ordinances regulating the improvement, development, modification, maintenance, or use of real property. However, when the city is

required by law to enforce the ordinances in a court of limited jurisdiction, a petition may not be brought under this chapter.

“Person” means an individual, partnership, corporation, association, public or private organization, or governmental entity or agency. (Ord 440 Att. A (part), 1997).

**17.100.030 Land use petition.**

- A. Proceedings for review under this section shall be commenced by filing a land use petition in superior court within twenty-one days of the issuance of the land use decision and serving the following persons who shall be parties to the review;
1. The City of Bingen, which for purposes of the petition shall be the corporate entity and not an individual decision maker or department;
  2. Each of the following persons if the person is not the petitioner:
    - a. Each person identified by name and address in the city’s written decision as an applicant for the permit or approval at issue: and
    - b. Each person identified by name and address in the local jurisdictions written decision as an owner of the property at issue;
  3. If no person is identified in a written decision as provided in subsection (A) (2) of this section, each person identified by name and address as a taxpayer for the property at issue in the records of the county assessor, based upon the description of the property in the application; and
  4. Each person named in the written decision who filed an appeal to a quasi-judicial decision maker regarding the land use decision at issue, unless the person has abandoned the appeal or the person’s claims were dismissed before the quasi-judicial decision was rendered. Persons who later intervened or joined in the appeal are not required to be made parties under this subsection.
- B. For purposes of this section, the date on which a land use decision is issued is:
1. Three days after a written decision is mailed, or if not mailed, the date on which the city provides notice that a written decision is publicly available;
  2. If the land use decision is made by ordinance or resolution by a city body sitting in a quasi-judicial capacity, the date the body passes the ordinance or resolution; or
  3. If neither subsection (B) (1) or (2) of this section applies, the date the decision is entered into the public record.

- C. Notice of judicial appeal and any other pleadings required to be filed with the court shall be served on the city clerk and the city attorney within the applicable time period.
- D. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be refunded to the appellant within thirty days of filing the certified records with the superior court.
- E. The procedure for judicial appeals shall be provided in the Land Use Petition Act, Chapter 36.70C RCW. (Ord 440 Att. A (part), 1997).