CHAPTER 154: ZONING CODE

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INTRODUCTORY PROVISIONS

§ 154.001 TITLE.

This chapter shall be known as the Winston zoning ordinance.
(Ord. 590, passed 6-23-2003)

§ 154.002 DEFINITIONS.

(A) Words used in the present tense include the future; the singular includes the plural; and the word "shall" is mandatory and not discretionary. Whenever the term "this chapter" is used herewith, it shall be deemed to include all amendments hereto as may hereafter from time to time be adopted.

(B) For the purposes of this chapter, unless otherwise specifically provided, certain words, terms and phrases are defined as follows:

ABUTTING. Adjoining with a common boundary line, except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting if the common property line between the two parcels measures less than eight feet in a single direction.

ACCESS. The way or means by which pedestrians and vehicles enter and leave property.

ACCESS EASEMENT. A private street which is part of the lot, parcel or unit of land providing access to one or more lots, parcels or units of land.

ACCESSORY USE or ***ACCESSORY STRUCTURE.*** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use. No building shall be considered accessory if it is the only building on a lot, parcel or unit of land.

ADJUSTED LOT. A unit of land created by a property line adjustment. Once created, the term ***ADJUSTED LOT*** is synonymous with ***LOT*** and ***PARCEL*** for purposes of this chapter.

ADMINISTRATIVE ACTION. A proceeding pursuant to this chapter in which the legal rights, duties or privileges of specific parties are determined by the City Manager, and any appeal or review thereof.

ALLEY. A public or private way which affords only a secondary means of access to property.

APPEAL. A request for a review of the interpretation of any provision of this chapter or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. ***SPECIAL FLOOD HAZARD AREA*** is synonymous in meaning and definition with the phrase ***AREA OF SPECIAL FLOOD HAZARD.***

AREA OF SHALLOW FLOODING. A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AUTOMOBILE REPAIR GARAGE. A use providing for the major repair and maintenance of motor vehicles, and including any mechanical and body work, straightening of body parts, painting, welding, or temporary storage of motor vehicles pending such repair or maintenance.

AUTOMOBILE SERVICE STATION. A use providing for the retail sale of motor fuels, lubricating oils and vehicle accessories, and including the servicing and repair of motor vehicles as an accessory use, but excluding all other sales and services except the sale of minor convenience goods for service station customers as accessory and incidental to the principal operation. Uses permitted at an automobile service station shall not include major mechanical and body work, straightening of body parts, painting, welding, tire recapping, storage of motor vehicles not in operating condition, or other work generating noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in service stations. An automobile service station shall not be deemed to include a repair garage or a body shop.

AUTOMOBILE WRECKING YARD. An area of land used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of vehicles unable to be moved under the power of the vehicle.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation to which floodwater is anticipated to rise during the base flood.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BEE. Any stage of development of the common domestic honey bee, *Apis mellifera* species.

BEEKEEPER. A person owning, possessing or controlling one or more colonies of bees.

BELOW-GRADE CRAWL SPACE. An enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

BOARDING HOUSE. A single family dwelling where lodging and meals are provided to guests, for compensation, for time periods of at least 16 consecutive nights.

BUILDING. A structure having a roof and comprised of typical construction materials built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. Where this chapter requires or where special authority granted pursuant to this chapter requires that a use shall be entirely enclosed within a building, this definition shall be qualified by adding "and enclosed on all sides."

CARE. The provision of room and board and services providing assistance to the resident with personal care and activities of daily living, provision of protection, transportation, or recreation and assistance in the time of crisis.

CARPORT. A stationary structure consisting of a roof with its supports and no more than two walls or storage cabinets substituting for walls used for sheltering a motor vehicle.

CEMETERY. Land used or intended to be used for the burial of the dead, and dedicated for cemetery purposes; including crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

CHILD. A person under 15 years of age.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for worship, and which building, together with its accessory uses, is maintained and controlled by a religious body organized to sustain public worship.

CITY MANAGER. The person designated by the City Council to act as administrator of this chapter, or such person as the administrator designates.

CLINIC. A facility conducted by one or more physicians, dentists, or other licensed medical practitioners for the treatment and examination of outpatients.

CLUB. A building and facilities owned or operated for a social, educational, or recreational purpose, to which membership is required for participation and which is not operated primarily for profit nor to render a service which is customarily carried only by a business. A club does not include a public rehabilitation facility of any kind.

COLONY. A bee hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen and brood.

COMMUNICATION FACILITY. A facility constructed for the purpose of transmitting telegraph, telephone, microwave, television, radio and other similar signals.

COMMUNITY CENTER or ***HALL.*** A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the district or neighborhood in which the facility is located or to any resident of the city, provided that the primary purpose of the facility is for recreation, social welfare, community improvement, or public assembly.

COMPREHENSIVE PLAN. The generalized, coordinated land use map and policy statement for the urban area that interrelates all functional and natural systems and activities relative to the use of lands, including but not limited to sewer and water systems; transportation systems, recreational facilities, and natural resources and air and water quality management programs.

CONDOMINIUM. A structure meeting the city's definition of a multi-family dwelling and including all easements, rights and appurtenances belonging to the property. The condominium is created via the process outlined in current state statutes.

CONTIGUOUS. Touching at least one point or that which would be so except it is separated only by a public right-of-way or a body of water.

COUNCIL. The City Council of Winston, Oregon.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

DAY CARE. Supervision provided to a child during a part of the 24-hours of the day, with or without compensation. Day care does not include care provided: by the child's parent, guardian, or person acting in loco parentis; by providers of medical services, in the home of the child; by a person related to the child by blood or marriage within the fourth degree as determined by civil law; on an occasional basis; or by a school.

DAY CARE CENTER. A facility which provides day care for 13 or more children.

DAY CARE GROUP HOME. A facility which provides day care for six or more full-time children with a maximum of 12 full or part-time children.

DAY NURSERY. Any institution, establishment, or place in which are commonly received at one time, three or more children not of common parentage, under the age of six years, for a period or periods not exceeding 12 hours, for the purpose of being given board, care or training apart from their parents or guardians for compensation or reward.

DENSITY. The number of dwelling units to be contained within a specified land area.

DESTINATION RESORT. A self-contained development providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. A proposed development must meet the following standards:

(a) The resort will be located on a site of 20 acres or more;

(b) At least 25 but not more than 75 units of overnight lodging shall be provided; and

(c) Restaurant and meeting rooms with at least one seat for each unit of overnight lodging shall be provided.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Except when in conjunction with other development, installation of less than 3,000 square feet of asphalt or other impervious paving surfaces shall not be included in this definition.

DUPLEX. See ***DWELLING, TWO-FAMILY (DUPLEX).***

DWELLING. A building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, excluding hotels and motels.

DWELLING, MULTI-FAMILY. A building or portion thereof, designed for occupancy by three or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached building, other than a trailer house, designed for and occupied by not more than one family which either:

(a) Has passed inspection for compliance with the State of Oregon Uniform Building Code (UBC) standards; or

(b) Is a manufactured home constructed after June 15, 1976, which also meets all of the following standards:

1. The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet;

2. The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 18 inches above grade.

3. The manufactured home shall have a pitched roof with a slope of at least a nominal three feet in height for each 12 feet in width.

4. The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by such a person as the City Manager may direct.

5. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelop meeting requirements specified by the National Manufactured Housing Construction and Safety Standards Act, in effect at the time the manufactured home was constructed.

6. Unless inconsistent with the above, the manufactured home and the lot upon which it is sited shall also be subject to all other development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.

(c) Exempt from these standards is the family hardship variance according to § 154.129 allowing the following special requirements for such:

1. The manufactured home shall enclose a space of not less than 900 square feet and at least 14 feet in width;

2. The manufactured home may be placed on concrete pads or crushed rock pad and skirted within 45 days of the placement. It shall be equipped with skirting which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home, unless the manufactured home is anchored to a permanent, continuous concrete or block foundation, or both. Nonporous skirting material shall be such that there are no gaps or openings between the unit and the ground, except for windows and vents. Porous skirting material shall extend from the manufactured home to within, but not closer than, six inches from the ground to prevent dry rot.

3. No placement permit shall be issued for a manufactured home that does not exhibit the Oregon Department of Commerce "Insignia of Compliance."

DWELLING, TWO-FAMILY (DUPLEX). A building designed or used exclusively for the occupancy of two families living independently of each other, and having separate housekeeping facilities for each family, and passing inspection for compliance with the State of Oregon Uniform Building Code standards. This definition shall not include mobile homes and manufactured dwellings.

DWELLING UNIT. A building, or portion thereof occupied in whole or in part as a home, residence or sleeping place, either permanently or temporarily, excluding hotels and motels, designed for occupancy by one family unit.

ELEVATED BUILDING. For insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FAMILY. An individual or two or more persons related by blood, marriage, legal adoption, or legal guardianship living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than two additional persons, excluding servants; or a group of not more than five unrelated persons living together as one housekeeping unit using one kitchen; or a group of six or more persons living together as one housekeeping unit using one kitchen, if said persons are handicapped persons as defined in the Federal Fair Housing Amendments Act of 1988.

FAMILY DAY CARE HOME. A facility which provides day care in the home of the provider to fewer than 13 children, including children of the provider, regardless of full time or part time status.

FAMILY DAY CARE PROVIDER. For the purposes of this chapter, the terms ***FAMILY DAY CARE HOME*** and ***FAMILY DAY CARE PROVIDER*** shall be synonymous. See ***FAMILY DAY CARE HOME.***

FAMILY HARDSHIP DWELLING. A mobile home used temporarily during a family hardship situation, pursuant to § 154.129, when an additional dwelling is allowed to house aged or infirm persons or persons physically incapable of maintaining a complete separate residence apart from their family.

FISH AND WILDLIFE MANAGEMENT. The protection, preservation, propagation, promotion and control of wildlife by either public or private agencies or individuals.

FLOOD/FLOODING.

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; or

2. The unusual and rapid accumulation of runoff of surface waters from any source; or

3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in division (a)2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division (a)1. of this definition.

FLOOD ELEVATION STUDY. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). See ***FLOOD ELEVATION STUDY.***

FLOODWAY. The channel of river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as ***REGULATORY FLOODWAY.***

FLOODWAY FRINGE. That area which is outside of the floodway of the watercourse, but is subject to periodic inundation.

FLOOD PROTECTION. A combination of structural provisions, changes, or adjustment to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or from the center line of walls separating two buildings, but not including:

(a) Attic space providing head room of less than seven feet.

(b) Basement, if the floor above is less than six feet.

(c) Uncovered steps or fire escapes.

(d) Private garages, carports, or porches.

(e) Accessory water towers or cooling towers.

(f) Accessory off-street parking or loading spaces.

FOSTER HOME. Any family home or facility in which 24-hour care is provided for five or fewer persons who are not related to the provider by blood or marriage. See ***RESIDENTIAL HOME.***

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

GARAGE, PRIVATE PARKING. A publicly or privately-owned structure having one or more tiers or heights used for the parking of automobiles for the tenants, employees, or owners of the property for which the parking spaces contained in or on said garage as required by this chapter, and which is not open for any use by the general public.

GARAGE, PUBLIC PARKING. A publicly or privately-owned structure having one or more tiers or heights used for the parking of automobiles and open garages may include parking spaces for customers, patrons or clients which are required by this chapter, providing said parking spaces are clearly identified as free parking space(s) for the building or use which is required to provide said space(s).

GOVERNING BODY. The City Council of the City of Winston, Oregon.

GRADE (GROUND LEVEL). The average elevation of the finished ground level at the centers of all walls of a building except that if a wall is parallel to, and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground level.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A basement, as that word is defined in the Oregon State Structural Specialty Code and Fire and Life Safety Code, is a habitable floor.

HARDSHIP. A substantial injustice which deprives the landowner of beneficial use of his land. ***HARDSHIP*** applies to the property itself, including structures, and not to the owner or applicant, and is applicable to property which is unique or unusual in its physical characteristics so that the regulations render the property substantially unusable.

HEIGHT OF A BUILDING. The vertical distance to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the center height between the highest and lowest points on the other types of roofs.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

HIVE. Any Langstroth type structure with movable-frames intended for the housing of a bee colony. A hive typically consists of a cover, honey supers, brood chambers and a bottom board.

HOME OCCUPATION. A home occupation is any occupation or profession and associated parking of vehicles. For the purpose of this definition, a day nursery or child care center is not a home occupation. A home occupation is subject to the following standards:

(a) It shall be operated by a resident or employee of a resident of the property on which the business is located;

(b) It shall employ on the site no more than five full or part-time persons;

(c) All aspects of a home occupation shall be substantially contained and conducted within a completely enclosed building which shall be the same structure as the principal residence or appropriate accessory building typically permitted in the zone;

(d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located;

(e) Such occupation shall be a secondary use on the premises, and shall not occupy more than 25% of the floor area of the dwelling;

(f) No sign, other than a nameplate which identifies the nature of the home occupation and the operator thereof, not to exceed three square feet in area;

(g) The majority of products made or sold shall be disposed of primarily by delivery from the premises to the homes or places of business of customers.

(h) The existence of home occupations shall not be used as justification for a zone change.

HOSPITAL. Institutions devoted primarily to the rendering of healing, curing and nursing care, which maintain and operate facilities for the diagnosis, treatment and care of two or more non-related individuals suffering from illness, injury or deformity, or where obstetrical or other healing, curing and nursing care is rendered over a period exceeding 24 hours.

HOTEL. A building which is designed, intended or used for the accommodation of tourists, transients and permanent guests for compensation, and in which no provision is made for cooking in individual rooms or suites of rooms.

JUNK YARD. An area where any person is engaged in breaking up, dismantling, sorting, storing, distributing, buying, selling, packing, or scrap, waste material, or bailing any scrap, waste material, or junk.

KENNEL. A use providing for the accommodation of four or more dogs, cats, where such animals are kept for board, propagation, training or sale.

KITCHEN. Any room, all or any part of which is designed, built, equipped or used for the preparation of food and/or the washing of dishes.

LIMITED HOME OCCUPATION. Any occupation or profession carried on by a member of the family residing on the premises provided the following conditions are satisfied:

(a) No sign shall be used;

(b) There is no display that will indicate from the exterior that the building is used in whole or in part for any purpose other than a dwelling;

(c) The building retains the characteristics of a residence;

(d) There is no outside storage of materials;

(e) No non-family paid employees shall perform work or render services to clients upon the premises;

(f) No dwelling shall be used as a headquarters for the assembly of employees for instructions or other purposes, or for dispatch employees gathered at the premises to work at other locations;

(g) All aspects of a home occupation shall be contained and conducted within a completely enclosed building which shall be the same structure as the principal residence or appropriate accessory building;

(h) The aggregate of all space within any building devoted to one or more home occupation shall not exceed 500 square feet in floor area, except such space within or on a lot occupied by an apartment dwelling containing three or more units shall not exceed 100 square feet in floor area for any one dwelling unit;

(i) Products made or sold shall be disposed of primarily by delivery from the premises to the homes or places of business of customers;

(j) Customer and client contact shall be primarily by telephone, mail or in their homes and places of business, except for those home occupations which by their very nature cannot otherwise be conducted except by personal contact upon the premises;

(k) Instruction in music shall be limited to no more than two students on the premises at one time and, in crafts, to no more than six students on the premises at one time.

(l) The existence of home occupations shall not be used as justification for a zone change.

LIVESTOCK. Animals of the bovine species, and horses, mules, asses, sheep, goats, rabbits and swine.

LOT. A unit of land created by a subdivision of land. Once created, the term ***LOT*** is synonymous with the term ***PARCEL*** for the purposes of this chapter.

LOT AREA. The total horizontal area within the property lines of a lot exclusive of public and private streets and easements of access to other property.

LOT CORNER. A lot abutting on two or more streets, other than an alley, at their intersection.

LOT LENGTH. The perpendicular distance measured from the midpoint of the front line to the opposite (usually the rear) property line. In the case of irregular or triangular lots, the lot depth will be established by the lot depth line which is parallel to the front property line and located by the intersection of the perpendicular from the property line midpoint and whatever property line is bounding the rear of the lot.

LOT LINE. The lot line bounding a lot.

LOT LINE, FRONT. The lot line separating the lot from a street other than an alley, and having the shortest property line along a street other than an alley. In the case of the corner lot, the front lot line may consider the arc of corners as long as the lot width immediately adjacent to the arc is maintained. This does not apply to cul-de-sac lots that may be reduced to 30 foot lot frontage.

LOT LINE, REAR. The lot line which is opposite and most distant from the front line. In the case of an irregular, triangular, or other shaped lot, a line ten feet in length within the lot parallel to and at maximum distance from the front line.

LOT LINE, SIDE. Any lot line not a front or rear property line.

LOT OF RECORD. A unit of land created as follows:

(a) A lot in an existing, duly recorded subdivision;

(b) A parcel in an existing, duly recorded major or minor land partition;

(c) An adjusted lot resulting from an approved property line adjustment;

(d) An existing unit of land for which a survey has been duly filed which conformed to all applicable regulations at the time of filing;

(e) Any unit of land created prior to zoning and partitioning regulations by deed or metes and bound description, and recorded with the Douglas County Clerk; provided, however, that contiguous units of land so created under the same ownership and not conforming to the minimum property size of this chapter shall be considered one lot of record.

LOT WIDTH. The average horizontal distance between the side property lines, ordinarily measured parallel to the front property line.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE***.

MANUFACTURED HOME PARK or ***SUBDIVISION.*** A parcel (or contiguous parcels) of land dividing into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

MEDICAL MARIJUANA FACILITY (MMF). A facility registered by the Oregon Health Authority (OHA) under O.A.R. 333-008-1050 to, as outlined in O.R.S. 475.314, authorize the transfer of usable marijuana and immature marijuana plants from:

(a) A registry identification cardholder, the designated primary care giver of a registry identification cardholder, or a person responsible for a marijuana grow site to the medical marijuana facility; or

(b) A medical marijuana facility to a registry identification cardholder or the designated primary care giver of a registry identification cardholder.

MOBILE HOME. For the purpose of this chapter, the term ***MOBILE HOME*** shall have the same meaning as ***MANUFACTURED HOME.***

MOBILE HOME PARK. Any place where four or more mobile homes are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

MOBILE HOME SUBDIVISION. A residential subdivision subject to mobile home subdivision overlay standards.

MODULAR HOME. A building which is not framed on site in the conventional manner but which does meet the conventional criteria for a single-family dwelling under this chapter.

MOTEL. A building or group of buildings on the same lot containing guest units, which building or group is intended or used primarily for the accommodation of transient automobile travelers.

NEW CONSTRUCTION. Structures for which the ***START OF CONSTRUCTION*** commenced on or after the effective date of this chapter. For floodplain management purposes, ***NEW CONSTRUCTION*** means structures for which the ***START OF CONSTRUCTION*** commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK or ***SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NONCONFORMING LOT OF RECORD. A unit of land which lawfully existed in compliance with all applicable ordinances and laws, but which, because of the application of subsequent zoning regulations, no longer conforms to the lot dimension requirements for the zoning district in which it is located.

NONCONFORMING STRUCTURE or ***USE.*** A lawful existing structure or use at the time this chapter or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

NURSING CARE. The performance by a licensed nurse of observation, care and counsel of the ill, injured or infirm, which requires substantial specialized skill and judgment as prescribed by a physician. Nursing care does not include periodic treatment such as changing dressings or injections provided by a visiting licensed nurse.

NURSING HOME. Any home, place or institution which operates and maintains facilities providing convalescent and/or chronic care, for a period exceeding 24 hours for two or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

OVERLAY DISTRICT. A set of zoning requirements described in the zoning regulations, mapped on the zone maps, and applied in addition to the zoning requirements of the underlying districts.

OWNER. The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel of property under recorded contract.

PARCEL. A unit of land crated by a partition of land. Once created, the term ***PARCEL*** is synonymous with the term ***LOT*** for the purposes of this chapter.

PARK. An open or enclosed tract of land set apart and devoted for the purposes of pleasure, recreation, ornament, light and air for the general public.

PARKING AREA. Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified for use by tenants, employees, owners of the property or the general public.

PARKING SPACE. An off-street enclosed or unenclosed surfaced area of not less than 18 feet by nine feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile.

PARTITION. An act of partitioning land or an area or tract of land partitioned.

PARTITION LAND. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. ***PARTITION LAND*** does not include divisions of land resulting from foreclosure; divisions of land resulting from foreclosure of recorded contracts for the sale of real property; divisions of land resulting from the creation of cemetery lots; the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner; ***PARTITION LAND*** does not include any adjustment of a property line by

the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by applicable zoning or other provisions of this chapter; and ***PARTITION LAND*** does not include a sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the comprehensive plan.

PARTY. The following persons or entities who file a timely statement or request for hearing as provided by the general provisions of this chapter, are hereby defined as a party:

(a) The applicant and all owners or contract purchasers of record, as shown in the files of the Douglas County Assessor's office, of the property which is the subject of the application.

(b) All property owners of record, as provided in division (a) above, within 150 feet of the property which is the subject of the application.

(c) Any affected unit of local government or state or federal agency which has entered into an agreement with the city to coordinate planning efforts and to receive notices of land use actions.

(d) Any other person, and/or his representative, who is specially, personally, adversely and substantially affected in the subject matter, as determined by the Planning Commission.

PERSON. Every natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

PERSON RESPONSIBLE FOR A MEDICAL MARIJUANA FACILITY or ***PRF.*** An individual who owns, operates, or otherwise has legal responsibility for a facility and who meets the qualifications established in O.A.R.333-008-1000 through 333-008-1400, "Medical Marijuana Facilities," and has been approved by the Oregon Health Authority for registration of that facility.

PLANNED UNIT DEVELOPMENT (PUD). A unit of land planned and developed as a single unit, rather than an aggregate of individual lots, with design flexibility from traditional siting regulations or land use regulations and subject to the provisions of § 154.041.

PLANNING COMMISSION. The Planning Commission of the City of Winston, Oregon.

PLAT. A final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or a partition.

PROFESSIONAL OFFICE. The place of business of a person engaged in a profession, such as accountant, architect, attorney-at-law, real estate broker, landscape architect, or medical and dental practitioners.

PROPERTY LINE ADJUSTMENT. The adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with the development standards of this chapter.

PUBLIC and ***SEMI-PUBLIC BUILDINGS*** and ***USES.*** A building or use operated by a governmental agency or a religious, charitable or other non-profit organization; a public utility; a church, school, auditorium, meeting hall, grange hall, hospital, stadium, library, art gallery, museum, fire station, utility substation; or uses such as a park or playground or community center, community halls or pumping stations.

PUBLIC UTILITY. Any corporation, company, individual association of individuals or its lessees, trustees, or receivers, that owns, operates, manages or controls all or any part of any plat or equipment for the conveyance of telegraph, telephone messages, with or without wires, for the transportation as common carriers, or for the production, transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to the public.

RECREATIONAL VEHICLE. A vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use.

RECREATIONAL VEHICLE PARK. Any place where four or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.

RESIDENTIAL CARE CENTER. A dwelling for 16 or more elderly, handicapped, mentally or emotionally disturbed persons, or children. Providers must be licensed, certified or registered as required by state law.

RESIDENTIAL CARE FACILITY. A facility that provides for six or more physically handicapped or socially dependent individuals residential care in one or more buildings on contiguous properties.

RESIDENTIAL FACILITY. A residential care facility, residential training facility, residential treatment facility licensed under O.R.S. 443.400 to 443.455 for 11 or fewer unrelated physically or mentally handicapped persons or elderly persons and not to exceed two staff persons who need not be related to each other or to any other facility resident.

RESIDENTIAL HOME. A residence for five or fewer unrelated physically or mentally handicapped persons and for staff persons who need not be related to each other or to any other home resident.

RESIDENTIAL TRAINING FACILITY. A facility that provides for six or more mentally retarded or other retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties.

RESIDENTIAL TREATMENT FACILITY. A facility that provides for six or more mentally, emotionally, or behaviorally disturbed individuals, residential care and treatment in one or more buildings on contiguous properties.

ROOMING HOUSE. A single-family dwelling where lodging, but not meals, is provided to guests, for compensation, for time periods of at least 16 consecutive nights.

SALVAGE YARD. Any property where scrap, waste material or other goods, articles or secondhand merchandise are dismantled, sorted, stored, distributed, purchased or sold in the open.

SCHOOL. Any public or private institution for learning meeting State of Oregon accreditation standards.

SIGN. Any identification, description, illustration, symbol or device, other than a house number, which is placed or affixed directly or indirectly upon a building, structure or land.

SIGN AREA. The area of the sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display together with any material or color forming an integral part of the background of the display or used to differentiate design from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, decorative fence or wall when such fence or wall otherwise meets the requirements of this chapter and is clearly incidental to the display itself.

SIGN FACE. The functional surface of a sign including all sign elements facing in the same direction.

SIGN STRUCTURE. Any structure that supports or is capable of supporting a sign. A sign structure may be a single pole and may or may not be an integral part of the building.

SPECIAL FLOOD HAZARD AREA. See ***AREA OF SPECIAL FLOOD HAZARD*** for this definition.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first

placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structures. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE BUILDING CODE. The combined specialty codes.

STREET, PRIVATE. Any street, road or right-of-way which is not a public street as defined in this chapter.

STREET, PUBLIC. A street or road which has been dedicated or deeded to the use of the public. The purposes of this chapter, public street may include ***ALLEY, LANE, PLACE, COURT, AVENUE, BOULEVARD*** and similar designations, and any county roads and state highways.

STRUCTURAL ALTERATION. Any change to the supporting members of a structure including foundation, bearing walls or partitions, columns, beams, girders, or any structural change in the exterior walls.

STRUCTURE. That which is built or constructed; an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground, including but not limited to, fences and retaining walls. This definition shall include, for the purpose of this chapter, a manufactured home and accessories thereto. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as manufactured home.

SUBDIVIDE LAND. To divide an area or tract of land into four or more lots within a calendar year when such areas or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

SUBDIVISION. Either an act of subdividing land or an area or a tract of land subdivided as defined in this section.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(c) This term includes structures which have incurred ***SUBSTANTIAL DAMAGE*** regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SWIMMING POOL. Any constructed or prefabricated pool used for swimming or bathing, 24 inches or more in depth.

URBAN AREA. All territory, whether incorporated or unincorporated, located within the Winston Urban Growth Boundary.

USE. The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

USE, PERMITTED. A building, structure or use permitted outright in a zoning district, and which complies with all of the regulations applicable in that district.

USE, PRINCIPAL. The primary use of a lot or site, and includes a permitted or conditional use.

VARIANCE. A grant of relief by the city from the terms of a floodplain management regulation.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

VISION CLEARANCE. A triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, the space being defined by a line across the corner, the ends of which are on the street or alley right-of-way lines an equal and specified distance from the corner, and containing no planting, walls, structures or temporary or permanent obstruction exceeding two feet in height above the curb level.

YARD. An open space on a lot which is unobstructed from the ground upward.

YARD, FRONT. A yard between side property lines and measured horizontally at right angles to the front property line from the front property line to the nearest point of the building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.

YARD, REAR. A yard between side property lines and measured horizontally at right angles to the rear property line from the rear property line to the nearest point of a main building.

YARD, SIDE. A yard between the front and rear yard measured horizontally at right angles from the side property line to the nearest point of a main building.

YARD, STREET SIDE. A yard adjacent to a street between the front and rear property line measured horizontally a right angles from the side property line to the nearest point of a building. (Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

GENERAL PROVISIONS

§ 154.010 INTENT.

(A) The intent of this chapter is to encourage the most appropriate use of land and the conservation and stabilization of property values; to aid in rendering fire and police protection; to insure adequate open space for light, air, and circulation; to prevent undue concentration of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements, and, in general, to promote public health, safety, and general welfare.

(B) The basis for this chapter is the city's comprehensive plan, which sets the character of the city, provides policies pertaining to land and public improvements, and lays out the general design of the city. (Ord. 590, passed 6-23-2003)

§ 154.011 COMPLIANCE WITH ORDINANCE PROVISIONS.

(A) A parcel of land may be used or developed, by land division or otherwise, and a structure may be used or developed, by construction, reconstruction, alteration, occupancy or otherwise only as this chapter permits.

(B) In addition to complying with the criteria and other provisions within this chapter, each development shall comply with the applicable standards published by the Public Works Superintendent.

(C) The requirements of this chapter apply to the person undertaking a development, or the user of a development, and to the person's or user's successors in interest.
(Ord. 590, passed 6-23-2003)

§ 154.012 INTERPRETATION.

It shall be the duty of the Planning Commission to interpret the provisions of this chapter in such a way as to carry out the intent and purpose, and to rule on the proper application. When in the administration of this chapter there is doubt regarding the intent of this chapter or the suitability of uses not specified, the City Manager or designee may request an interpretation of the provision by the Commission. An interpretation by the Planning Commission shall not have the effect of amending the provisions of this chapter. Any interpretation of this chapter by the Planning Commission shall be deemed an administrative action, subject to review by the City Council pursuant to §§ 154.189 and 154.190 and based on the following considerations:

(A) The City of Winston comprehensive plan;

(B) The purpose and intent of this chapter as applied to the particular section in question; and, if necessary

(C) The opinion of the appointed legal counsel of the approving authority.
(Ord. 590, passed 6-23-2003)

§ 154.013 RESTRICTIVENESS.

Where the conditions imposed by a provision of this chapter or the subdivision ordinance as codified in Chapter 153 of this code, are less restrictive than comparable conditions imposed by other provisions of this chapter, the subdivision ordinance or any other ordinance of the city, or any provisions of state law, the provisions which are more restrictive shall govern.
(Ord. 590, passed 6-23-2003)

§ 154.014 SEVERABILITY.

The provisions of this chapter are severable. If any section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.015 MINOR TEXT CORRECTIONS.

(A) The City Manager may correct the zoning and subdivision ordinances, the comprehensive plan and the transportation system plan, without prior notice or hearing, so long as the City Manager does not alter the sense, meaning, effect, or substance of any adopted ordinance and, within such limitations, the City Manager may:

(1) Renumber chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies of zoning and subdivision ordinances, the comprehensive plan and the transportation system plan;

(2) Rearrange chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;

(3) Change reference numbers to agree with renumbered chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;

(4) Delete references to repealed chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;

(5) Substitute the proper chapter, article, section, subsection, finding, goal, objective, or policy numbers;

(6) Change capitalization and spelling for the purpose of uniformity;

(7) Correct manifest clerical, grammatical or typographical errors; and,

(8) Change the name of an agency by reason of a name change prescribed by law.

(B) The City Manager shall maintain a record, available for public access, of all corrections made under this section.

(C) Corrections to the zoning and subdivision ordinances, the comprehensive plan and the transportation system plan made by the City Manager pursuant to this section are prima facie evidence of the law, but they are not conclusive evidence. If any correction to the zoning and subdivision ordinances, the comprehensive plan and the transportation system plan made pursuant to this section differs in sense, meaning, effect, or substance from any adopted ordinance, the adopted ordinance shall prevail.
(Ord. 590, passed 6-23-2003)

ESTABLISHMENT OF ZONES

§ 154.020 CLASSIFICATION OF ZONES.

For the purposes of this chapter the following zones are hereby established:

ZONE	ABBREVIATED DESIGNATION
Agriculture/Open Space	A-O
Residential Low Density A	R-L-A
Residential Low Density B	R-L-B
Residential Low Density C	R-L-C
Residential Medium Density	R-M
Residential High Density	R-H
Special Historic Commercial	C-SH
Office/Professional Commercial	C-OP
Highway-Commercial	C-H
General Commercial	C-G
Industrial Limited	M-L
Industrial General	M-G
Planned Development	PD
Floodway	FW
Floodway Fringe	FF

Flood Hazard	FH
Public Reserve	P-R
Steep Slope Overlay	SSO

(Ord. 590, passed 6-23-2003)

§ 154.021 ZONING MAP.

The City of Winston Zoning Map is hereby adopted by reference. The boundaries for the zones listed in this chapter are indicated on the City of Winston Zoning Map which is hereby adopted by reference. An amendment shall be performed as provided in §§ 154.140 through 154.151. The map, and any amendment thereto, shall be dated with the number and effective date of the ordinance adopting or amending the map. A certified print of the adopted map or amended map shall be maintained in the office of the City Recorder.
(Ord. 590, passed 6-23-2003)

§ 154.022 ZONING OF ANNEXED AREAS.

Areas annexed to the city shall retain their existing zoning classifications unless a change is requested by the property owner pursuant to the criteria in the zoning ordinance.
(Ord. 590, passed 6-23-2003)

§ 154.023 ZONE BOUNDARIES.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, property lines, center lines of street or railroad rights-of-way, or such lines extended.
(Ord. 590, passed 6-23-2003)

§ 154.024 ZONE CHANGE.

This section provides the criteria for amending the boundaries of any district delineated on the official zoning maps. Zoning shall be consistent with the comprehensive plan and maintain the general purpose of this chapter and specific purpose of the applicable zone classification.
(Ord. 590, passed 6-23-2003)

§ 154.025 CRITERIA FOR ZONE CHANGE.

The approving authority may grant a zone change only if the following circumstances are found to exist:

(A) The rezoning will conform with the City of Winston comprehensive plan, including the land use map and written policies.

(B) The site is suitable to the proposed zone with respect to the public health, safety and welfare of the surrounding area.
(Ord. 590, passed 6-23-2003)

§ 154.026 CONDITIONS RELATIVE TO THE APPROVAL OF ZONE CHANGE.

Reasonable conditions may be imposed, as are necessary to ensure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this chapter. Such conditions may include, but are not limited to, the following:

(A) Special yards and spaces.

(B) Fences and walls.

(C) Special parking and/or loading provisions.

(D) Street dedication and improvements or bonds in lieu of improvements.

(E) Control of points of vehicular ingress and egress.

(F) Special provisions for signs.

(G) Lighting, landscaping and maintenance of grounds.

(H) Control of noise, vibration, odors or other similar nuisances.
(Ord. 590, passed 6-23-2003)

§ 154.027 GRANT OF AUTHORITY FOR ZONE CHANGE.

The governing body shall have the authority to order a change in the official map as provided by this chapter.
(Ord. 590, passed 6-23-2003)

ZONING CLASSIFICATIONS

§ 154.030 AGRICULTURE/OPEN SPACE (A-O).

In an A-O zone, the following regulations shall apply:

(A) *Uses permitted outright*. In an A-O zone, the following uses and their accessory uses are permitted outright:

(1) Forest management;

(2) Farm use in accordance with the city's animal ordinance;

(3) Fish and wildlife management;

(4) The development of water impoundments and canals;

(5) Publicly owned parks, playgrounds, campgrounds, boating facilities, lodges, camps and other such recreational facilities;

(6) Fire prevention, detection and suppression facilities;

(7) Nursery for the growing, sale and display of trees, shrubs, and flowers;

(8) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches;

(9) Single family dwellings customarily provided in conjunction with a use permitted in this classification, providing residence for the landowner, immediate family members, or an employee, providing that: a minimum average density of ten acres per dwelling shall be maintained;

(10) Home occupations;

(11) Limited home occupations;

(12) Buildings and structures necessary to the above uses; and

(13) Accessory residential unit in conjunction with a single family dwelling or manufactured home subject to the standards in § 154.031(C)(1)(d).

(B) *Conditional uses permitted.* In an A-O zone, the following uses and their accessories may be permitted subject to the provisions of §§ 154.115 through 154.119:

(1) Use or keeping of animals other than that permitted;

(2) Quarry, gravel pit or mining;

(3) Beekeeping, subject to the additional provisions of § 154.088;

(4) Operating a zoological park or botanical garden;

(5) Other similar agricultural and open space uses which are consistent with the comprehensive plan and purpose of this zoning district and deemed by the Planning Commission to be conditional; and

(6) Recreational vehicle park.

(C) *Lot size*. Except as provided in §§ 154.084 and 154.116, the minimum lot size within an A-O zone shall be as follows:

(1) The minimum lot area shall be ten acres.

(D) *Yards*. Except as provided in § § 154.056, 154.073, 154.083 and 154.116, in an A-O zone, yards shall be as follows:

(1) Front yard - 30 feet;

(2) Side yard - 20 feet;

(3) Rear yard - 30 feet; and

(4) On streets not constructed to city standards, the front setbacks of structures shall be a minimum of 40 feet from the center line of a street (other than an alley.)

(E) *Building height*. Except as provided in §§ 154.056, 154.086 and 154.116, in an A-O zone no building shall exceed a height of 35 feet.

(F) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.031 RESIDENTIAL LOW DENSITY ZONE (R-L).

(A) *Uses permitted outright*. In an R-L zone the following uses and their accessory uses are permitted outright:

(a) One single-family dwelling;

(b) One manufactured home;

(c) Agricultural use of land provided that no livestock shall be raised or kept on the premises without permit in accordance with the city's animal ordinance;

(d) Residential home;

(e) Family day care home;

(f) Limited home occupation; and

(g) Accessory residential unit in conjunction with a single family dwelling or manufactured home subject to the standards in division (C)(1)(d).

(B) *Conditional uses permitted.* In an R-L zone the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119.

(1) Cemetery;

(2) Church, non-profit religious, or philanthropic institution;

(3) Community center;

(4) Governmental structure or use of land including but not limited to park, playground, fire station, or library;

(5) Home occupation;

(6) Hospital;

(7) Kindergarten, nursery, day nursery, or similar facility;

(8) Private golf course or country club, but excluding golf driving range, miniature golf course or similar facility;

(9) Private non-commercial recreational club such as tennis club, swimming club, or archery club, but excluding commercial amusement enterprises;

(10) Private school offering curricula similar to public school;

(11) Public utility facility;

(12) Day care center;

(13) Day care group home;

(14) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks; and

(15) Beekeeping, subject to the additional provisions of § 154.088.

(C) *Lot size and width.* Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in an R-L zone shall be as follows:

(1) The minimum lot areas shall be:

(a) R-L-A 6,000 square feet;

(b) R-L-B 8,500 square feet;

(c) R-L-C 20,000 square feet; and

(d) *Accessory residential unit.* Shall not exceed one per single-family unit; may either be part of the primary residence, existing garage, accessory building, or a separate detached structure; maximum size is 1,000 square feet or no more than 50% of the gross floor area of the primary residence, whichever is less; the primary heat source shall be electric or gas, not wood; accessory dwelling units that were established illegally may be legalized, subject to city review and approval, by applying for a planning clearance worksheet.

(2) The minimum lot width at the front property line shall be:

(a) R-L-A 60 feet for an interior lot;

(b) R-L-A 70 feet for a corner lot;

(c) R-L-B 80 feet; and

(d) R-L-C 85 feet.

(3) The maximum lot length shall be three times the width.

(D) *Yards.* Except as provided in §§ 154.056, 154.073, 154.083, 154.085 and 154.116, in an R-L zone yards shall be as follows:

		R-L-A	R-L-B	R-L-C
a.	Front yard	20'	20'	30'
b.	Side yard (except as below)	5'	5'	10'

		R-L-A	R-L-B	R-L-C
c.	Side yard adjacent to a street	15'	15'	15'
d.	Rear yard	10'	15'	20'
e.	On streets not constructed to city standards, the front setbacks of structures shall be a minimum of 40 feet from the center line of a street (other than an alley).			

(E) *Building height*. Except as provided in §§ 154.056, 154.086 and 154.116, in an R-L zone no building shall exceed the height of 30 feet.

(F) *Parking*. Refer to § 154.059.

(G) *Screening*. Sight obscuring fences or hedges six feet in height are required along property lines that border residential areas for:

(1) Churches, meeting halls, community halls and general assemblies;

(2) Day care center; and

(3) Day care group home.

(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.032 RESIDENTIAL MEDIUM DENSITY ZONE (R-M).

In an R-M zone the following regulations shall apply:

(A) *Uses permitted outright*. In an R-M zone the following uses and their accessory uses are permitted outright:

(1) Single-family dwelling;

(2) One manufactured home;

(3) Two-family dwelling (duplexes);

(4) Multi-family dwelling (limited up to four units only);

(5) Limited home occupation; and

(6) Accessory residential unit in conjunction with a single family dwelling or manufactured home subject to the standards in § 154.031(C)(1)(d).

(B) *Conditional uses permitted.* In an R-M zone the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119.

(1) A use permitted as a conditional use in an R-L zone;

(2) Nursing home, rest home, retirement home, convalescent hospital or home, or similar facility;

(3) Mobile home parks, subject to § 154.089;

(4) Residential facilities to include: residential care facility, residential training facility and residential treatment facility; and

(5) Condominium.

(C) *Lot size and width.* Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in an R-M zone shall be as follows:

(1) The minimum lot area and width standards which apply in an R-L-A zone shall apply in an R-M zone.

(2) The minimum lot area per dwelling unit shall be as follows:

(a) One dwelling unit on 6,000 square feet.

(b) Two dwelling units on 9,000 square feet.

(c) Three dwelling units on 14,000 square feet.

(d) Four dwelling units on 18,500 square feet.

(D) *Yards.* Except as provided in §§ 154.156, 154.073, 154.083, 154.085 and 154.116, in an R-M zone yards shall be as follows:

(1) The front yard shall be a minimum of 15 feet;

(2) Each side yard shall be a minimum of five feet from any portion of the building;

(3) The street side yard shall be a minimum of 15 feet;

(4) The rear yard shall be a minimum of ten feet for one-story buildings; and

(5) On streets not constructed to city standards, the front setbacks of structures shall be a minimum of 40 feet from the center line of a street (other than an alley.)

(E) *Building height*. Except as provided in §§ 154.056, 154.085 and 154.116, in an R-M zone no building shall exceed a height of 30 feet.

(F) *Parking*. Refer to § 154.059.

(G) *Screening*. Sight obscuring fences or hedges six feet in height are required along property lines that border residential areas for:

(1) Churches, meetings halls, community halls and general assemblies;

(2) Day care center;

(3) Day care group home; and

(4) Residential facility.

(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.033 RESIDENTIAL HIGH DENSITY ZONE (R-H).

In an R-H zone the following regulations shall apply:

(A) *Uses permitted outright*. In an R-H zone one of the following uses and its accessory uses are permitted outright:

(1) A use permitted outright in an R-M zone;

(2) Duplex;

(3) Multi-family dwellings;

(4) Residential home; and

(5) Limited home occupation.

(B) *Conditional uses permitted*. In an R-H zone the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119:

(1) A use permitted as a conditional use in an R-L zone;

(2) Clinic;

(3) Mobile home park, subject to § 154.089;

(4) Mortuary;

(5) Professional office;

(6) Residential facilities to include: residential care facility, residential training facility, and residential treatment facility; and

(7) Condominium.

(C) *Lot size and width*. Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in an R-H zone shall be as follows:

(1) The minimum lot area and width standards which apply in an R-M zone shall apply in an R-H zone for one to four units.

(2) The minimum lot area per dwelling unit shall be 2,500 square feet for units five or over, in addition to the amount required for one to four.

(D) *Yards*. Except as provided in §§ 154.056, 154.073, 154.085 and 154.116, in an R-H zone yards shall be as follows:

(1) The front yard shall be a minimum of 15 feet;

(2) Each side yard shall be a minimum of five feet from any portion of the building;

(3) The street side yard shall be a minimum of 15 feet;

(4) The rear yard shall be a minimum of ten feet; and

(5) On streets not constructed to city standards, the front setback of structure's shall be a minimum of 40 feet from the center line of a street (other than an alley.)

(E) *Building height*. Except as provided in §§ 154.056, 154.086 and 154.116, in an R-H zone no building shall exceed a height of 35 feet.

(F) *Parking*. Refer to § 154.059.

(G) *Screening*. Sight obscuring fences or hedges six feet in height are required along property lines that border residential areas for:

(1) Churches, meetings halls, community halls and general assemblies;

(2) Day care center;

(3) Day care group home; and

(4) Residential facility.

(Ord. 590, passed 6-23-2003)

§ 154.034 PUBLIC RESERVE ZONE (PR).

In a public reserve zone the following regulations shall apply:

(A) *Purpose.* The public reserve classification is intended to establish districts within which a variety of public service activities may be conducted without interference from inappropriate levels of residential, commercial, or industrial activities. It is intended to be applied primarily, though not exclusively, to publicly owned lands.

(B) *Uses permitted outright.* In a public reserve zone the following uses and their accessory uses are permitted outright:

(1) Farm uses;

(2) Parks, playgrounds, campgrounds, boating activities, golf courses, lodges, camps, and other such recreational facilities;

(3) Public and private schools;

(4) Churches;

(5) Cemeteries;

(6) Hospitals, residential facilities, and nursing homes;

(7) Fish and wildlife management;

(8) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks;

(9) Single-family dwellings that are accessory to, and necessary for, a use permitted in the public reserve zone; and

(10) Accessory residential unit in conjunction with a single family dwelling or manufactured home subject to the standards in § 154.031(C)(1)(d).

(C) *Conditional uses permitted.* In the public reserve zone, the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119:

(1) Quarry gravel pit or mining;

(2) Beekeeping, subject to the additional provisions of § 154.088; and

(3) Other uses later deemed by the Planning Commission to be conditional.

(D) *Lot size and width*. Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in any public reserve zone shall be as follows:

(1) The minimum lot area shall be 6,000 square feet; and

(2) The minimum lot width at the front building line shall be 60 feet.

(E) *Yards*. Except as provided in §§ 154.056, 154.073, 154.083, and 154.116, in a public reserve zone yards shall be as follows:

(1) Front yard setback is 20 feet;

(2) All yards abutting a lot in a public reserve zone shall be a minimum of ten feet;

(3) For corner lots, see § 154.057; and

(4) On streets not constructed to city standards, the front setbacks of structures shall be a minimum of 40 feet from the center line of a street (other than an alley).

(F) *Building height*. Except as provided in §§ 154.056, 154.086, and 154.116, in a public reserve zone, no building shall exceed a height of 35 feet.

(G) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.035 SPECIAL HISTORIC COMMERCIAL ZONE (C-SH).

In a C-SH zone the following regulations shall apply:

(A) *Purpose*. To maintain the commercial uses of recognized historic areas and preserve their character.

(B) *Procedure*. No building or structure shall be erected, altered or moved which is designated special historic commercial without first obtaining specific approval of the city Planning Commission. The decision of the Planning Commission may be appealed as provided in §§ 154.170 through 154.191.

(C) *Criteria*. In reviewing such proposals the following shall be considered:

(1) Uses of buildings shall be compatible with the nature of the historic site and surrounding area;

(2) Rehabilitation, remodeling or movement of buildings should not alter the distinguishing qualities of the site;

(3) Repair of architectural features or replacement with similar features shall be encouraged; and

(4) Review shall include uses, building and parking locations, site layout, signs, exteriors of all buildings, parking and landscaping.

(D) *Uses permitted outright.* In a C-SH zone the following uses and their accessory uses are permitted outright:

(1) A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor business building and if the following conditions are met:

(a) There shall be parking designated for the exclusive use of residents only, in an amount as specified in § 154.059; and

(b) For each residential unit, there shall be yard, patio, or other private open space of at least 100 square feet, with a minimum dimension of seven feet in any direction;

(2) Car wash;

(3) Automobile, boat, truck, or trailer sales, service, or repair, provided that all repair shall be conducted entirely within an enclosed building;

(4) Bakery;

(5) Commercial amusement or recreation establishment including uses such as bowling alley, theater, pool hall, or miniature golf course, but excluding establishments such as race tracks or automobile speedways;

(6) Financial institution;

(7) Gift or souvenir shop;

(8) Motel or hotel;

(9) Restaurant;

(10) Tavern, nightclub, cocktail lounge;

(11) Barber or beauty shop;

(12) Bus station, taxi stand;

(13) Clinic;

(14) Club, lounge, fraternal organization;

(15) Drug store;

(16) Food store;

(17) Laundromat;

(18) Museum, art gallery, or similar facility;

(19) Office;

(20) Parking lot;

(21) Implement, machinery, and heavy equipment sales and service;

(22) Mortuary;

(23) Newspaper office;

(24) Tire sales and repair (not including tire recapping) provided that all repair shall be conducted entirely within an enclosed building;

(25) Upholstery shop;

(26) The following uses provided that all business, service, storage, sales, repair, and display shall be conducted entirely within an enclosed building:

(a) Veterinarian, animal hospital;

(b) Lumber or building materials sales and storage; and

(c) Contractor's office and storage.

(E) *Conditional uses permitted.* In a C-SH zone, the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119:

(1) Boat moorage or launching facility;

(2) Cabinet or similar woodworking shop;

(3) Church, non-profit religious or philanthropic institution;

(4) Golf course;

(5) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, wastewater treatment plants and parks;

(6) Hospital, nursing home, rest home, retirement home, or similar facility; and

(7) Public utility facility.

(F) *Lot size and width*. Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in any C-SH zone shall be as follows:

(1) The minimum lot areas shall be 6,000 square feet; and

(2) The minimum lot width at the front of the building line shall be 60 feet.

(G) *Yards*. Except as provided in §§ 154.073, 154.083 and 154.116, in a C-SH zone yards shall be as follows:

(1) On streets not constructed to city standards, all structures shall be setback a minimum of 40 feet from the center line of a street, other than an alley;

(2) All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minimum of ten feet; and

(3) For corner lots, see § 154.057.

(H) *Building height*. Except as provided in §§ 154.056, 154.086 and 154.116, in a C-SH zone no building shall exceed a height of 35 feet.

(I) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003)

§ 154.036 OFFICE-PROFESSIONAL COMMERCIAL ZONE (C-OP).

In a C-OP zone the following regulations shall apply:

(A) *Uses permitted outright*. In a C-OP zone the following uses and their accessory uses are permitted:

(1) A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor of a business and if the following conditions are met:

(a) There shall be parking designated for the exclusive use of residents only, in an amount as specified in § 154.059; and

(b) For each residential unit, there shall be a yard, patio, or other private open space area of at least 100 square feet with a minimum dimension of seven feet in any direction;

(2) Professional offices, including banks and financial institutions, doctor, dentist, insurance, and utility offices;

(3) Day care center;

(4) Day care group home; and

(5) Day nursery, preschool and kindergarten.

(B) *Conditional uses permitted.* In a C-OP zone, the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.115 through 154.119.

(1) Hospitals;

(2) Schools;

(3) Churches; and

(4) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks.

(C) *Lot size and width.* Except as provided in §§ 154.084 and 154.116, the minimum lot size and width in a C-OP zone shall be as follows:

(1) The minimum lot area shall be 6,000 square feet; and

(2) The minimum lot width at the front of the building line shall be 60 feet.

(D) *Yards.* Except as provided in §§ 154.056, 154.073 and 154.116, in a C-OP zone yards shall be as follows:

(1) Front yard - 0;

(2) Side yard - 0;

(3) Rear yard - 0;

(4) On streets not constructed to city standards, all structures shall be setback a minimum of 40 feet from the center line of a street (other than an alley);

(5) All yards abutting a lot in any residential zone shall be a minimum of ten feet; and

(6) For corner lots, see § 154.057.

(E) *Building height*. Except as provided in §§ 154.056, 154.086 and 154.116, and in a C-OP zone no building shall exceed a height of 35 feet.

(F) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003)

§ 154.037 HIGHWAY-COMMERCIAL ZONE (C-H).

In a C-H zone the following regulations shall apply.

(A) *Uses permitted outright*. In a C-H zone the following uses and their accessory uses are permitted outright:

(1) Hotels and motels;

(2) Restaurants;

(3) Gift or souvenir shops; and

(4) Destination resorts.

(B) *Conditional uses permitted*. In a C-H zone, the following uses and their accessory uses may be permitted subject to provisions of §§ 154.116 through 154.118:

(1) Service stations providing fuel and minor repair; and

(2) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches.

(C) *Lot size and width*. Except as provided in §§ 154.084, 154.116, and 154.117, the minimum lot size and width in a C-H zone shall be as follows:

(1) The minimum lot area shall be 15,000 square feet; and

(2) The minimum lot width at the front building shall be 100 feet.

(D) *Yards*. Except as provided in §§ 154.056, 154.073, 154.083, 154.116 and 154.117, in a C-H zone yards shall be as follows:

(1) Front - 20 feet;

(2) Side (except as below) - 0 feet;

(3) Side where adjacent to street - ten feet;

(4) Rear - 0 feet;

(5) On streets not constructed to city standards, all structures shall be setback a minimum of 40 feet from the center line of a street (other than an alley);

(6) All yards abutting a lot in any residential zone shall be a minimum of ten feet; and

(7) For corner lots, see § 154.057.

(E) *Building height*. Except as provided in §§ 154.056, 154.086, 154.116, and 154.117, in a C-H zone no building shall exceed a height of 35 feet.

(F) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003)

§ 154.038 GENERAL COMMERCIAL (C-G).

In a C-G zone the following regulations shall apply:

(A) *Uses permitted outright*. In a C-G zone the following uses and their accessory uses are permitted outright:

(1) A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor of a business building and if the following conditions are met:

(a) There shall be parking designated for the exclusive use of residents only, in an amount specified in § 154.059; and

(b) For each residential unit, there shall be a yard, patio, or other private open space of at least 100 square feet, with a minimum dimension of seven feet in any direction;

(2) Car wash;

(3) Bakery or restaurant;

(4) Bowling alley, theater or miniature golf course;

(5) Financial institution;

(6) Gift or souvenir shop;

(7) Motel or hotel;

(8) Retail sales;

(9) Tavern, night club, cocktail lounge;

(10) Barber or beauty shop;

(11) Bus station, taxi stand;

(12) Clinic;

(13) Club, lodge, fraternal organization;

(14) Drug store;

(15) Food store;

(16) Laundromat;

(17) Museum, art gallery, or similar facility;

(18) Office;

(19) Parking lot;

(20) Implement, machinery, and heavy equipment sales and service;

(21) Mortuary;

(22) Newspaper office;

(23) Tire sales and repair (not including tire recapping), provided that all repairs shall be conducted entirely within an enclosed building;

(24) Upholstery shop;

(25) The following uses provided that all business, service, storage, sales, repair, and display shall be conducted entirely within an enclosed building:

(a) Veterinarian, animal hospital;

(b) Lumber or building materials sales and storage; and

(c) Contractor's office and storage;

(26) Service stations providing fuel and minor repair;

(27) Day care center;

(28) Day care group home;

(29) Day nursery, preschool and kindergarten;

(30) A medical marijuana facility, subject to the following standards:

(a) No portion of the facility shall be located within 1,000 feet of the property boundary of another medical marijuana facility;

(b) No portion of the facility shall be located within 1,000 feet of the property boundary of a public or private elementary, secondary or career school* attended primarily by minors;

(c) No portion of the facility shall be located within 1,000 feet of the property boundary of a registered Head Start facility, or a licensed preschool or daycare facility;

(d) No portion of the facility shall be located within 500 feet of the property boundary of an established tax-exempt church;

(e) No portion of the facility shall be located within 200 feet of any property with a public plan designation or zoned for (PR) Public Reserve and/or parks, unless an arterial street runs between the facility and those properties;

(f) The facility shall not be located at a registered grow site;

(g) The maximum hours of operation for the facility shall be 9:00 a.m. through 7:00 p.m;

(h) No mobile facility or services shall be authorized;

(i) Proof of an approved Oregon Health Authority (OHA) registration shall be provided, demonstrating that the facility is in full compliance with O.R.S. 475.314 and O.A.R. 333-008-1000 through 333-008-1400, which includes a criminal background check of the person responsible for the facility, a security alarm system installed by an alarm installation company, and a fully operational video surveillance recording system; and

(j) The facility shall comply with all applicable parking, setback, signage and other property development standards of the C-G zone.

*As defined in O.A.R. 333-008-1010, "career school" means any private proprietary professional, technical, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession at a physical location attended primarily by minors.

(B) *Conditional uses permitted.* In a C-G zone, the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.117 and 154.118:

(1) Boat moorage or launching facility;

(2) Cabinet or similar woodworking shop;

(3) Church, non-profit religious or philanthropic institution;

(4) Golf course;

(5) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks;

(6) Hospital, nursing home, rest home, retirement home, or similar facility;

(7) Public utility facility;

(8) Manufacturing, assembling, fabrication, processing, packing, storage, or wholesaling use, except for use specified in § 154.040(B), and except a use declared a nuisance by this chapter, or by a court of competent jurisdiction;

(9) Commercial amusement or recreation establishment;

(10) "Mini" storage warehouses; and

(11) Automobile, boat, truck, or trailer sales, service, or repair, provided that all repair shall be conducted entirely within an enclosed building.

(C) *Lot size and width.* Except as provided in §§ 154.084, 154.116, and 154.117, the minimum lot size and width in any C-G zone shall be as follows:

(1) The minimum lot areas shall be 6,000 square feet; and

(2) The minimum lot width at the front building line shall be 60 feet.

(D) *Yards.* Except as provided in §§ 154.056, 154.073, 154.083, 154.116. and 154.117, in a C-G zone yards shall be as follows:

(1) On streets not constructed to city standards, the front setbacks of structures shall be setback a minimum of 40 feet from the center line of a street (other than an alley);

(2) All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minimum of ten feet; and

(3) For corner lots, see § 154.057.

(E) *Building height.* Except as provided in § § 154.056, 154.086, 154.116, and 154.117, in a C-G zone no building shall exceed a height of 35 feet.

(F) *Parking.* Refer to § 154.059.
(Ord. 590, passed 6-23-2003)

§ 154.039 INDUSTRIAL LIMITED ZONE (M-L).

In an M-L zone the following regulations shall apply:

(A) *Uses permitted outright.* In an M-L zone the following uses and their accessory uses are permitted outright but not subject to the same limitations which apply to the conduct of business, sales, service, repair, and storage in an enclosed building in a C-G zone:

(1) Boat moorage or launching facility;

(2) Cabinet or similar woodworking shop;

(3) Commercial amusement or recreation establishment;

(4) Feed and seed store;

(5) Ice or cold storage plant;

(6) Implement, machinery, heavy equipment repair;

(7) Truck terminal, freight depot;

(8) Warehouse;

(9) Welding, sheet metal, or machine shop; and

(10) Wholesale establishment.

(B) *Conditional uses permitted.* In an M-L zone the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.116 through 154.118:

(1) Family dwellings above the ground floor of a business building and if the following conditions are met:

(a) There shall be parking designated for the exclusive use of residents only, in an amount as specified in § 154.059; and

(b) For each residential unit, there shall be a yard, patio, or other private open space of at least 100 square feet with a minimum dimension of seven feet in any direction;

(2) Bulk oil or gas storage facility;

(3) Church, non-profit religious or philanthropic organization;

(4) Community center;

(5) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks; and

(6) Public utility facility.

(C) *Lot size and width.* Except as provided in §§ 154.084, 154.116, and 154.117, the minimum lot size and width in any M-L zone shall be as follows:

(1) The minimum lot areas shall be 15,000 square feet; and

(2) The minimum lot width at the front building line shall be 100 feet.

(D) *Yards.* Except as provided in §§ 154.056, 154.073, 154.083, 154.085, 154.116, and 154.117, in an M-L zone yards shall be as follows:

(1) On streets not constructed to city standards, the front setback of structures shall be setback a minimum of 40 feet from the center line of a street (other than an alley); and

(2) All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minimum of ten feet.

(E) *Building height*. Except as provided in § § 154.056, 154.086, 154.116, and 154.117, in an M-L zone no building shall exceed a height of 35 feet.

(F) *Parking*. Refer to § 154.059.
(Ord. 590, passed 6-23-2003)

§ 154.040 INDUSTRIAL GENERAL ZONE (M-G).

In an M-G zone the following regulations shall apply:

(A) *Uses permitted outright*. In an M-G zone the following uses and their accessory uses are permitted outright:

(1) Manufacturing, assembling, fabricating, processing, packing, storage, or wholesaling use except a use specified in § 154.040(B) and except a use declared a nuisance by statute, by ordinance, or by a court of competent jurisdiction;

(2) Automobile, truck, or trailer sales, service, repair, display, or storage;

(3) Boat moorage or launching establishment;

(4) Feed and seed stores;

(5) Governmental structure or land use;

(6) Implement, machinery, or heavy equipment sales, service, repair, display, or storage;

(7) Office;

(8) Residence for night watchmen or caretaker;

(9) Truck terminal, freight depot; and

(10) Public utility facility.

(B) *Conditional uses permitted.* In an M-G zone the following uses and their accessory uses may be permitted subject to the provisions of §§ 154.116 through 115.118:

(1) Acid manufacture;

(2) Automobile wreckage yard;

(3) Cement, lime, gypsum, plaster of Paris manufacture;

(4) Explosives manufacture and storage;

(5) Extraction or processing of sand, gravel, or other earth product;

(6) Fertilizer manufacture;

(7) Gas manufacture;

(8) Glue manufacture;

(9) Junk yard;

(10) Petroleum or petroleum products refining;

(11) Pulp mill;

(12) Refuse disposal area;

(13) Rendering plant;

(14) Slaughter house, stockyard;

(15) Smelting or refining of metallic ore; and

(16) Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches.

(C) *Lot size and width.* Except as provided in §§ 154.084, 154.116, and 154.117, the minimum size and width in any M-G zone shall be as follows:

(1) The minimum lot area shall be one acre; and

(2) The minimum lot width at the front building line shall be 100 feet.

(D) *Yards.* Except as provided in §§ 154.056, 154.073, 154.083, 154.085, 154.116, and 154.117, in an M-G zone yard shall be as follows:

(1) On streets not constructed to city standards, the front setback of structures shall be setback a minimum of 40 feet from the center line of a street, (other than an alley); and

(2) All yards abutting a lot in an R-L, R-M and R-H zone shall be a minimum of 50 feet. (Ord. 590, passed 6-23-2003)

§ 154.041 PLANNED UNIT DEVELOPMENT ZONE (PUD).

The purpose of a planned unit development is to provide a means of creating harmonious planned environments through the application of flexible and diversified land development standards; to encourage the application of new development techniques and technology which will result in superior living or development arrangements; to promote the efficient use of land to facilitate more economic provision of housing, circulation systems, utilities and their maintenance; to promote energy conservation and use of renewable energy resources; to preserve to the greatest extent possible significant landscape features and to utilize such features in a harmonious fashion; and to provide for more usable and suitably located open space and recreation facilities than would otherwise be provided under conventional land development procedures.

The purpose of the planned unit development process is also to provide special site review for development occurring in areas designated in the comprehensive plan and zoning map by a PUD overlay.

(A) *Types of PUDs and general process of consideration.* Planned unit developments shall fall into two basic categories:

(1) (a) PUDs involving land division and/or condominiums and development of property the nature of which requires the application of flexible standards of development not afforded by strict application of the usual zoning and land division regulations, and/or involving cases where the applicant sees such flexibility to achieve a desired design. The consideration process in this case is substantively a specialized subdivision proceeding with special site review.

(b) The preceding shall include a determination of the appropriate development standards to be applied, wherein appropriate regulatory flexibility is granted in specific terms in exchange for development amenities and/or mitigation of potential adverse impacts on significant landscape features, neighboring properties and uses.

(c) The consideration process shall culminate in the review and approval of a detailed site plan and formal articulation of conditions and standards of development.

(d) Factors to be reviewed by the hearing body include the following:

1. Clustered or compact development with open space protection and enhancement;

2. Dedications of land to public for public recreational facilities;

3. Increased density;

4. Architectural design regulation;

5. Extraordinary landscaping;

6. Amenities and design for the special needs of children, the elderly, the handicapped or disadvantaged persons;

7. Recreational and cultural amenities;

8. Urban agriculture/silviculture production;

9. Low-cost housing programs;

10. Traffic and parking regulation and provisions;

11. Energy conservation enhancement;

12. Special protection of environmentally sensitive areas and historical and natural resources on-site and those off-site;

13. Development of uses not normally permitted in the zoning district(s) of the subject property;

14. Structure height, setbacks and lot coverage; and

15. Lot area and dimension.

(2) (a) PUDs involving the development without land division or condominium on property whose nature and/or location have been determined by designation in the comprehensive plan and/or zoning map (Flood Zone, Slope, Wetland, etc.) to be of a sensitive nature with an acknowledged potential for adverse impacts on surrounding properties or uses, either directly adjacent or in the general vicinity, and/or on the community in general. The process in this instance is substantively a special site review with public hearing.

(b) The site plan approval process may provide for the application of conditions to the site plan. Such conditions may consist of development criteria articulated herein or conditions in addition to the standard development criteria.

(c) Factors to be reviewed by the hearing body include the following:

1. Screening and buffering of sight, access, noise, light, vibration, etc., from neighboring properties, uses and rights-of-way;

2. Protection of significant landscape features and historic and natural resources;

3. Traffic and parking regulation;

4. Enhancement of storm drainage facilities;

5. Uses not normally permitted by the zoning;

6. Extraordinary landscaping; and

7. Structure height, setbacks and lot coverage.

(B) *Definitions.* The following definitions apply only to the planned unit development section of this chapter:

COMMON OPEN SPACE. Open space reserved primarily for the leisure and recreational use of all PUD residents, and owned and maintained in common by them through a homeowners association or other legal arrangement.

ESSENTIAL IMPROVEMENTS. Public and/or private streets and other improved vehicular and emergency access provisions, sanitary sewer, storm drainage facilities, water for domestic and fire flows, electricity and telephone.

GROSS ACREAGE. The acreage of the entire PUD, less the acreage devoted to public streets, public or semi-public building, kindergarten or day-care uses.

LANDSCAPE FEATURES. Natural features of the PUD site, including waterways, wetlands, rock outcroppings, forest areas and significant wildlife habitat areas.

NET ACREAGE. The acreage of the PUD devoted to residential use, including residential building sites, private open space and private streets and driveways.

OPEN SPACE. Land not covered by buildings or structures, except minor recreational structures. Open space does not include streets, driveways, parking lots or loading areas. Landscaped roof areas devoted to recreational or leisure-time activities, freely accessible to residents, may be counted as open space at a value of 50% of actual roof area devoted to these uses.

PRIVATE OPEN SPACE. Open space located immediately adjacent to an individual dwelling unit, owned and maintained by the owners of the dwelling unit, and reserved exclusively for the use of the residents of the dwelling unit.

PUBLIC OPEN SPACE. Open space dedicated in fee to a public agency and maintained by the agency for public use.

(C) *PUD preliminary development plan application and approval.*

(1) An application for PUD preliminary development plan approval shall be initiated as provided in §§ 154.170 through 154.191;

(2) The PUD preliminary development plan shall consist of the following:

(a) *Written documents.*

1. A legal description of the total site proposed for development, including a statement of present and proposed ownership and present zoning, or any proposed zoning.

2. A statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant landscape features of the site and adjacent areas, and the rationale behind the assumptions and choices made by the applicant.

3. A development schedule indicating the approximate date when construction of the PUD or stages of the PUD can be expected to begin and be completed.

4. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PUD, such as land areas, dwelling units, commercial and industrial structures, etc.

5. Information regarding the establishment of a property owners association or other similar entity, if any common space or facilities are contemplated.

6. *Quantitative data for the following.* Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; approximate gross and net residential acreage; total amount of open space; amounts of private, common and public open space; total area and types of nonresidential construction; economic feasibility studies or market analysis where necessary to support the objectives of the development.

7. Proposed covenants, if any.

(b) *Site plan and supporting maps.* A site plan and any maps necessary to show the major details of the proposed PUD, containing the following minimum information:

1. The existing site conditions, including contours at five-foot intervals, water courses, floodplains and other areas subject to natural hazards, significant landscape features and forest cover.

2. Proposed property lines and layout design.

3. The location and floor area size of all existing and proposed buildings, structures and other improvements, including maximum heights, types of dwelling units, and non-residential structures, including commercial and industrial facilities, and elevation plans of major structures. Major structures do not include single-family and two-family dwellings.

4. The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common or public open spaces or recreational areas, school sites and similar public and semi-public uses.

5. The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way. Notations of proposed ownership--public or private--should be included where appropriate.

6. The existing and proposed pedestrian and bicycle circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatment of points of conflicts.

7. The existing and proposed system for providing sewage disposal, water, electricity, gas, fire protection and telephone services.

8. A general schematic landscape plan indicating the technique and materials to be used for private, common and public open spaces.

9. A preliminary subdivision or partition plan if the land is to be divided, including all information required for the filing of a preliminary subdivision or partition plan as specified in the subdivision ordinance, as codified in Chapter 153 of this code.

10. Enough information on land areas adjacent to the proposed PUD, including land uses, zoning classifications, densities, circulating systems, public facilities and significant landscape features, to indicate the relationships between the proposed development and the adjacent areas.

11. The proposed treatment of the perimeter of the PUD, including materials and techniques to be used, such as landscaping, screens, fences and walls.

(D) The approving authority shall approve the PUD preliminary development plan if it finds:

(1) The proposed PUD is consistent with applicable comprehensive plan goals, policies and map designations, and with the purpose statement set forth in § 154.037.

(2) The preliminary development plan meets the development standards laid out in divisions (F) through (P) of this section.

(3) If the preliminary development plan provides for phased development, pursuant to division (O) of this section, that each phase meets the standards of division (O)(3) of this section, and that the applicant has the capability to obtain final development plan approval in the time limits imposed.

(4) Exceptions from the standards of the underlying zone district or from the quantitative requirements of the subdivision ordinance, as codified in Chapter 153 of this code, are warranted by amenities and other design features of the PUD furthering the purpose statement of this section.

(5) Any conditions or modifications imposed by the approving authority in the preliminary development plan approval are necessary to meet the requirements of divisions (E) to (N), to further the purpose statement of this section, or to comply with the comprehensive plan.

(E) *Standards and criteria for PUD development in non-residential districts.* PUDs in non-residential districts shall be developed to standards applied by the approving authority pursuant to the purpose statement in division (A) of this section.

(F) *Standards and criteria for PUD development in residential districts.* A PUD must meet the development standards of this subsection and those applied in conditions of approval pursuant to § 154.041(A).

(1) *Minimum site size.* A parcel to be developed as a PUD in any residential district shall be of such a size that at least four dwelling units would be permitted by the underlying district.

(2) *Permitted uses.* The following uses are permitted subject to the general standards of the planned unit development section of this chapter:

(a) *Residential uses.* Single-family dwellings, duplexes, mobile homes conforming to the standards established in §§ 154.082 and 154.089, multi-family dwellings, including townhouses, row houses, apartments and condominiums and accessory buildings such as garages, storerooms, woodsheds, hobby shops, laundries, playhouses, or similar and related uses may be permitted.

(b) *Commercial uses.* Retail commercial uses may be permitted in a PUD if the approving authority determines that they are designed to serve primarily the residents of the PUD. The approving authority may require that the applicant submit a market analysis demonstrating that the amount of land proposed for commercial use is needed for, and realistically can be supported, commercial use by the residents of the PUD.

(c) *Other uses.* If designed to serve primarily the residents of a PUD, the following uses may be permitted. If designed to serve residents of adjacent areas, as well, the following uses may be permitted by the approving authority if it finds that such use is consistent with the purpose statement of § 154.041 and with the surrounding zone district:

1. Public and semi-public buildings, including schools, churches, libraries, community centers, fire stations, pump stations and substations.

2. Park, playground or golf course.

3. Privately-operated kindergartens or day nurseries.

(G) *Density criteria.*

(1) *Basic allowable density*. The number of dwelling units in a PUD shall not exceed the number that would be allowed on the gross acreage of the site by the comprehensive plan land use designation, except that the Commission may allow an increase of up to 15% if it finds that such increase is compensated by the provision of amenities described in division (A)(1) of this section and can be reasonably accommodated on the site without adversely affecting public facilities, significant landscape features, or properties and uses in the vicinity.

(H) *Lot sizes*. Where lots are proposed, size and shape shall be determined with consideration given to the types of structures contemplated and the privacy and safety needs of the residents. Appropriateness shall be demonstrated.

(I) *Building spacing and yard requirements*.

(1) *General requirements*. A preliminary development plan shall provide for reasonable light, ventilation, safety separation and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. High-rise buildings shall be located within a PUD in such a way as to avoid adverse impact on neighboring low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

(2) *Yard requirements; detached dwellings*. Yard requirements (setbacks) for detached dwellings in a PUD shall be as established by the applicable zoning district, except that one side yard may be reduced or eliminated, provided the adjoining side yard of the abutting lot shall be increased by an amount equal to the reduction, or by 50% over the minimum side yard requirement of the applicable zoning district, whichever is less.

(3) *Yard requirements; attached dwellings*. Yard requirements for attached dwellings in a PUD shall be as established by the applicable zoning district, except that two single-family dwellings may be attached along one common property line and may also have a garage or carport attached along the same common line, provided the conditions of division (J)(5) of this section are satisfied.

(4) *Front yard variation*. In a PUD, front yards may be varied so as to facilitate a staggered effect to avoid monotony and enhance the aesthetics of the development, provided the following requirements are met:

(a) The average front yard of no more than every three consecutive dwellings along a street shall be no less than the minimum requirement of the applicable zoning district, and in no case shall a front yard be less than ten feet.

(b) Front and side yards of corner lots shall not be varied under the provisions of the planned unit development section of this chapter if such variation would result in encroachment into the required clear vision area otherwise established by this chapter.

(5) *Zero property line development*.

(a) Zero property line attached development shall only be permitted in a planned unit development approved pursuant to the provisions and standards set forth in the planned unit development section of this chapter.

(b) All lots utilizing zero property line attached development shall be clearly identified on the development plan. Once approved, such specified lots shall be considered fixed and shall not be transferable except as provided in division (Y).

(c) When a side yard is eliminated as a result of zero property line development, the other side yard on the same lot shall be increased by 50% over the minimum side yard requirement of the applicable zoning district.

(d) In addition to the declaration of covenants and restrictions otherwise required by the planned unit development section of this chapter, the applicant or developer shall prepare special deed restrictions that run with each lot to be approved for zero property line development. Such special deed restrictions shall be acceptable to the approving authority, and shall make provision for the following:

1. Assurance that the lots and the dwellings thereon will be used for residential purposes only.

2. Provisions for the repair and maintenance of the lots, the dwellings thereon, and all related facilities, as well as a method of fair payment for such repairs and maintenance.

3. Provisions for mutual consent prior to making structural, paint or decorative changes to the building exterior, as well as the location, height and design of fencing and major landscape work.

4. Provisions for equitably resolving liens filed against areas of common responsibility or interest.

5. Provisions granting access or easement to each owner for the purpose of maintaining or repairing the lots, the dwellings located thereon, and related facilities and improvements.

6. Provisions for liability and equitable treatment in the event of damage or destruction of the building due to fire or other casualty.

7. Provision for emergency action by one party in the absence of the other where an immediate threat exists to the property of the former.

(e) Such special deed restrictions, when accepted by the approving authority, shall be filed with the County Clerk, and shall become perpetual deed restrictions running with the subject lots. No building permit shall be issued for zero property line development until the deed restrictions required by this section have been filed with and recorded by the City Manager or his designee.

(f) *Special setbacks.* If the approving authority finds it necessary to meet the perimeter design standards of division (N) of this section, it may require a special setback from all or a portion of the perimeter of the PUD.

(J) *Open space.*

(1) Open space must be provided to an extent at least equal to that which would be provided in standard development in conformance with the underlying zone, i.e., yard setbacks.

(2) Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purpose of the PUD. Unless the approving authority requires otherwise to meet the environmental design standards of division (L) of this section, common or public open space shall be distributed equitably throughout the PUD in relation to the dwelling units of the residents they are intended to serve.

(3) Open spaces shall be altered only to the extent necessary for their intended use or as otherwise reasonably necessary to permit development; use and maintenance of the PUD open spaces containing significant landscape features shall be left unimproved, or may be improved to assure protection of the features, subject to the requirements imposed by the approving authority pursuant to divisions (H) or (L) of this section.

(4) The development schedule required by division (C)(2)(c) of this section shall provide for coordination of the improvement of open spaces with the construction of other proposed site improvements.

(5) The approving authority shall require that the applicant assure the permanent maintenance of the common or public open space in a manner provided for by O.R.S. 94.550 to 94.780.

(K) *Environmental design.*

(1) The preliminary development plan shall provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites and landmarks, and for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The approving authority may require that significant landscape features and historical sites be preserved as part of the common or public open space of the project.

(2) Excessive site clearing of topsoil, trees and natural features before the commencement of construction operations shall be discouraged. The approving authority may require the applicant to submit a grading plan detailing proposed excavation, earth-moving procedures, and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space.

(3) Sites or residential and non-residential buildings shall be discouraged in areas of natural hazards, such areas subject to flooding, landslides and areas with unstable soil formations. The approving authority may require that all floodplains be preserved as permanent common or public open space of the proposed development and be left unimproved or improved to assure minimization of the hazard.

(4) All slopes shall be planted or otherwise protected from the effects of storm runoff erosion and shall be of a character to cause the slope to blend with the surrounding terrain and development. The applicant shall provide for maintenance of the planting for a period of time established by the approving authority.

(5) Preliminary development plans are encouraged to promote the conservation of energy and use of solar or other renewable energy resources through such factors as the location and extent of site improvements, the orientation and exposure of buildings and usable open spaces, the types of buildings and the selection of building materials.

(L) *Traffic circulation.* The location and number of points of access to the site, the interior circulation pattern of streets and pedestrian ways, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings and uses. Design of facilities shall be appropriate to the anticipated usage and shall be approved by the Superintendent of Public Works.

(M) *Perimeter design.*

(1) The preliminary development plan shall minimize adverse impacts of proposed uses and structures in the PUD on existing and anticipated uses and structures in the adjacent area.

(2) If topographical or other barriers do not provide reasonable privacy and the mitigation of potential adverse impacts on existing uses adjacent to the development, the approving authority shall require one or more of the following:

(a) A special setback or setbacks of residential and nonresidential structures located on the perimeter, sloping of abutting lots to provide on-site drainage and view retention of existing structures.

(b) Residential and nonresidential structures located on the perimeter of the development be screened by fencing, landscaping or other natural or man-made materials.

(N) *Development phasing.*

(1) The applicant may provide in the preliminary development plan for development of the project up to three phases.

(2) In acting to approve the preliminary development plan, the approving authority may require that development be completed in up to three specific phases, if it finds that existing public facilities would not otherwise be adequate to serve the entire development.

(3) If the preliminary development plan provides for phased development, each phase shall provide a suitable share of the development facilities and amenities, as approved by the approving authority.

(4) If the preliminary development plan provides for phased development, the approving authority shall establish time limitations for the approval of final development plans for each phase, except that the final development plans for the first phase must be approved within 12 months of the date of preliminary approval.

(O) *Duration of PUD preliminary development plan approval.*

(1) Approval of the preliminary development plan shall be valid for 12 months from the date of approval, provided that if an approved preliminary development plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the time limitations of division (O)(4) of this section.

(2) If any time for obtaining final development plan approval is exceeded, the approved preliminary development plan, or phase of the preliminary development plans and any subsequent phase, shall be void. Any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new action.

(P) *Extension of PUD preliminary development plan approval.*

(1) An applicant may request an extension of preliminary development plan approval, or, if the preliminary development plan approval with respect to the phase the applicant is then developing.

(2) Such request shall be considered an application for administrative action, and shall be submitted to the City Manager or his designee in writing, stating the reasons why an extension should be granted.

(3) The City Manager may grant an extension of up to 12 months of preliminary development plan approval, or, if the preliminary development plan provides for phased development, an extension of up to 12 months of a preliminary development plan approval with respect to the phase then being developed, if he determines that a change of conditions, for which the applicant was not responsible, would prevent the applicant from obtaining final development plan approval within the original time limitation.

(Q) *Improvement procedures.* The design and installation of improvements to be dedicated to the public shall conform to the standards of §§ 153.16 to 153.18.

(R) *PUD final development plan approval.*

(1) Within 12 months of the date of approval of the preliminary development plan, unless otherwise specified pursuant to divisions (O) and (Q) of this section, the applicant shall submit a final development plan, prepared by an Oregon registered professional engineer, and supporting documents to the City Manager or his designee.

(2) The final development plan shall include:

(a) The site plan and maps submitted pursuant to division (C)(2) of this section in their final, detailed form.

(b) The documents submitted pursuant to division (C)(2)(a)1. to 7. amended to incorporate any conditions imposed on the preliminary development plan approval.

(c) Final subdivision plat or partition map, if the land is to be divided.

(d) Declaration of creation of a planned community as required by O.R.S. 94.550 to 94.780.

(e) Certification by the Public Works Superintendent that public improvements have been installed conformance with applicable standards.

(S) *Acceptance of improvements.*

(1) Before approval of the final development plan, the applicant shall install the essential improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the PUD. The applicant may enter into an agreement with the property owners association, if one is incorporated, to construct non-essential improvements after approval of the final development. Such agreement shall specify the time period within which the required improvements will be completed. Such agreement is subject to the approval of the approving authority and shall be accompanied by an assurance as specified in division (U) of this section.

(2) An applicant may request an extension of time for completion of required improvements. Such extension shall be approved only if changed conditions for which the applicant is not responsible have made it impossible for him to fulfill the agreement within the original time limit(s).

(T) *Performance bond for non-essential improvements.*

(1) To assure full performance of the improvement agreement, an applicant shall file one of the following, to be approved by the City Attorney:

(a) A surety bond executed by a surety company authorized to transact business in the State of Oregon approved by the City Attorney;

(b) A cash deposit with the property owners association; or

(c) Certification or letter of assurance by a bank or other reputable lending institution that money is being held to cover the cost of improvements and incidental expenses, and that said money will be released only upon the direction of the Superintendent of Public Works.

(2) Such assurance of full and faithful performance shall be for a sum determined by the Public Works Superintendent to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final plan, including related engineering, and may include an additional percentage as determined by the Public Works Superintendent to cover any inflationary costs which may be incurred during the construction period to the full and final completion of the project.

(U) The Planning Commission shall act on the application for final development plan approval within 30 days and shall approve the final development plan if the Commission finds:

(1) The applicant has submitted all information and documents required pursuant to divisions (S), (T), and (U) of this section; and

(2) The final development plan is in substantial compliance with the approved preliminary development plan and any conditions imposed by the approving authority. Substantial compliance means that any differences between the final and preliminary plans are "minor amendments," as defined in division (Y) of this section.

(V) *Filing and recording of final development plan.*

(1) After final development plan approval, the applicant shall submit without delay the final development plan for signatures of the following officials in the order listed:

(a) Planning Commission Chair;

(b) City Manager;

(c) Surveyor, in accordance with the provisions of O.R.S. 92.100;

(d) Assessor; and

(e) County Clerk.

(W) The approved final development plan shall be recorded in the County Clerk's office within 30 days of the date of approval.

(X) *Amendments to approved preliminary and final plans.*

(1) *Definitions.*

(a) ***MINOR AMENDMENT.*** A change which:

1. Does not increase residential densities;

2. Does not enlarge the boundaries of the approved plan;

3. Does not change any use:

4. Does not change the general location or amount of land devoted to a specific land use, including open space;

5. Does not eliminate the preservation of a significant landscape feature; and

6. Includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements or common or public open spaces.

(b) ***MAJOR AMENDMENT.*** Any change which does not meet the definition of a ***MINOR AMENDMENT.***

(2) A minor amendment to an approved preliminary or final development plan may be approved ministerially by the City Manager or his designee.

(3) A major amendment to an approved preliminary or final development plan shall be considered a quasi-judicial action, subject to the provisions of §§ 154.170 through 154.191.
(Ord. 590, passed 6-23-2003)

§ 154.042 STEEP SLOPES OVERLAY ZONE (SSO).

(A) *Purpose.* This Steep Slopes Overlay Zone (SSO) is intended to ensure that any development, land use application, or division (partition or subdivision) on lands of steep or hazardous slopes is done without causing danger to life or property either on or adjacent to such development, land use application, or division of land.

(B) *Designation.* Lands designated with this overlay include areas 25% or greater slope and areas known to have landslides or unsuitable slopes.

(C) *Requirements.* Any permit requesting for a building or structure or land use application on land designated as Steep Slopes Overlay Zone shall be accompanied by a written report. Such report shall be done by a licensed engineer or engineering geologist and shall attest to the adequacy of the soils in conjunction with the slope of the proposed building site or development or proposed land use application to support the buildings, structures and accompanying roads, driveways and excavations. The Planning Commission and the City Council shall consider the report and other material when reviewing a permit request in an area zoned Steep Slopes Overlay.

(D) *Procedure.* The Planning Commission at a public hearing shall consider the submitted report, application materials, any testimony offered, and any other permanent material. If the Planning Commission determines that the application is in accord with the purpose of this overlay zone, it shall approve, with or without conditions, the permit requested. The procedure for review and appeal shall be as prescribed in §§ 154.170 through 154.191.
(Ord. 590, passed 6-23-2003)

§ 154.043 LARGE LOT OVERLAY ZONE LLO.

(A) *Purpose*. This large lot overlay zone is intended to be used in combination with another zone to protect lands in and around Wildlife Safari from potentially harmful development impacts associated with more intense urban uses by maintaining a 50 acre minimum lot size.

(B) *Designation*. Lands designated with this overlay include areas around Wildlife Safari where more intense development may pose a threat to the economic and environmental well-being of the City of Winston and Wildlife Safari.

(C) *Requirements*. Lots designated within a large lot overlay zone must maintain a minimum lot size of 50 acres, subject to the conditions of § 154.084. All other requirements of the zone used in combination with the large lot overlay zone shall remain in effect.

(D) *Procedure*. The procedure for review and appeal of any action by the Planning Commission regarding interpretation or enforcement of the requirements of this zone shall be as prescribed in §§ 154.170 through 154.191.
(Ord. 590, passed 6-23-2003)

SUPPLEMENTARY PROVISIONS

§ 154.055 ACCESS.

Every lot or parcel shall abut a street, other than an alley, for a width of at least 25 feet, unless approved as an easement under § 153.11(C).

(A) Limit access points to arterial streets from adjoining property to better define and channel traffic movement.

(B) Any development for which more than six or more off-street parking spaces are required shall be permitted only if the property fronts on, and is served primarily by, a street having a minimum paved width of 24 feet along the entire frontage of the property, and such paved street connects with a collector or arterial street, either directly or via other streets having a minimum paved width of 24 feet.

(C) Where a property fronts a street which has a minimum of 24 feet of paving but is not fully improved to city standards, the property owner shall either improve the street, or subject to the City Manager's determination, shall record an irrevocable offer to participate in the formation of a local improvement district, for the purpose of financing improvements of abutting streets to the minimum standard.

(D) *Access, parking and loading*. With respect to vehicular and pedestrian ingress, egress and circulation, including walkways, interior drives and parking and loading areas, the location and number of access points for normal and emergency uses, general interior circulation, separation of pedestrian, bicycle and vehicular traffic, and arrangement of parking, loading and service areas and driveways shall be reviewed for safety, convenience and mitigation of potential adverse impacts on neighboring properties, on the operation of public facilities, and on the traffic flows of adjacent and nearby streets. (Ord. 590, passed 6-23-2003)

§ 154.056 GENERAL PROVISIONS REGARDING ACCESSORY USES.

An accessory use shall comply with all requirements for a principal use, except as this chapter specifically allows to the contrary, and shall comply with the following limitations:

(A) In all zones, fences and walls may be located within required yards, but shall not exceed four feet in height in the required front yard. No fence or wall shall exceed six feet in height, and shall comply with the clear-vision areas in § 154.057 as applicable.

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet six inches high.

(2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

(3) No owner or person in charge of property shall allow a fence to deteriorate in such a manner creating a hazard affecting the public or persons or property on or near the property.

(B) Regardless of the side and rear yard requirements of the zone, an accessory structure in a residential zone may be built to within five feet of a side or rear property line provided the structure is more than 65 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard, provided the structure is detached from all other buildings by ten feet or more, and provided the structure does not exceed a height of 15 feet and an area of 600 square feet.

(C) Boats, trailers, pickup campers or coaches, motorized dwellings, and similar recreational equipment may be stored, but not occupied, on a lot as an accessory use to the dwelling provided that:

(1) Parking or storage in a front yard or in a street side yard shall be permitted only on a driveway.

(2) Parking or storage shall be at least three feet from an interior side or rear property line.

(D) A guest accommodation may be maintained accessory to a dwelling provided there are no cooking facilities in the guest accommodation.

(E) A single-family dwelling may be permitted as an accessory use to a use permitted in the commercial or industrial zones, provided it is located in the main building.
(Ord. 590, passed 6-23-2003)

§ 154.057 CLEAR-VISION AREAS.

In all residential zones a clear-vision area shall be maintained on the corners of all property at the intersection of two streets. However, the provisions of this section shall not apply to any of the following:

(A) A public utility pole; or

(B) An official street sign, warning sign or signal.

(1) A clear-vision area shall contain no planting, fence except for chain link or woven wire fences described below, wall, structure, or temporary or permanent obstruction exceeding four feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade. Fences constructed of chain link or woven wire may be allowed exceeding four feet where there is no obstruction in or around the fence, and the fence does not obstruct vision. Trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade. Plantings exceeding four feet may be allowed in a clear-vision area as long as the plantings do not obstruct vision.

(2) Regardless of the side and rear yard requirements of the zone, an accessory structure in a residential zone may be built to within five feet of a side or rear property line provided the structure is more than 30 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard, provided the structure is detached from all other buildings by ten feet or more, and provided the structure does not exceed a height of 15 feet and an area of 6,000 square feet.

(3) A single family dwelling may be permitted as an accessory use to a use permitted in the commercial or industrial zones, provided it is located above the ground floor business building.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.058 GRADING.

The purpose of this section is to mitigate, minimize or eliminate the adverse impacts caused by grading, fill and excavation activities on public or private property.

(A) A city-issued grading permit shall be required before the commencement of any filling or grading activities.

(B) Those fill and grading activities proposed to be undertaken and reviewed in conjunction with a land use application, including but not limited to subdivisions, planned unit developments, and partitions, are subject to the standards of this chapter. A separate grading permit is not required.

(C) *Grading permit exemptions*. The following filling and grading activities shall not require the issuance of a grading permit:

(1) Excavation for utilities, or for wells or tunnels allowed under separate permit by other governmental agencies or special districts;

(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit.

(3) Farming practices as defined in O.R.S. 30.930 and farm uses as defined in O.R.S. 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter;

(4) Excavation for cemetery graves;

(5) Sandbagging, diking, ditching, filling or similar work when done to protect life or property during an emergency;

(6) Repaving of existing paved surfaces that does not alter existing drainage patterns;

(7) Maintenance work on public roads performed under the direction of the city, Douglas County or Oregon State Department of Transportation personnel.

(D) *Submittal requirements*. The Superintendent of Public Works may require:

(1) A grading plan for the proposed project prepared by a professional engineer.

(2) A stormwater drainage plan that mitigates on-site drainage prepared by a professional engineer.

(3) For any commercial or industrial development, a geotechnical engineering report prepared by a professional engineer who specializes in geotechnical engineering.

(4) For any residential development that is over 12% slope, a geotechnical engineering report to be prepared by a professional engineer who specializes in geotechnical engineering.

(E) The plans will be considered complete only after review, submittal of any requested revision and upon written final approval by the Superintendent of Public Works.
(Ord. 590, passed 6-23-2003)

§ 154.059 OFF-STREET PARKING REQUIREMENTS.

At the time of erection of a new structure or at the time of enlargement or change in the use of an existing structure, off-street parking spaces shall be provided by the property owner or the developer in accordance with this section, except as otherwise provided. In an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this section. Where square feet are specified, the area measured shall be the gross floor area open to the public, necessary to the function of the particular use of the property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises during the largest shift at peak season, including proprietors.

(A) *Residential.*

	USE	*MINIMUM STANDARD*
a.	One, two or three family dwellings	2 spaces per DU
b.	Multi-family dwelling four or more DU	1½ spaces per DU
c.	Rooming or boarding	1 space for every 2 rooms
d.	Manufactured and/or mobile home	2 spaces per DU
e.	Residential home	1 space for every 2 rooms

(B) *Commercial/residential.*

	USE	*MINIMUM STANDARD*
a.	Motel/hotel	1 space per guest room or suite plus 1 space per each 5 rooms
b.	Residential care center	1 space per employee including the operator plus 1 space per each 5 beds
c.	RV park	1 space per unit

(C) *Institutional.*

	USE	*MINIMUM STANDARD*
a.	Welfare or correctional	1 space per 5 beds institution based on maximum capacity
b.	Residential facility	1 space per 5 beds based on maximum capacity
c.	Hospital	2 spaces per bed based on maximum capacity

(D) *Places of public assembly.*

	USE	*MINIMUM STANDARD*
a.	Church or other place of religious assembly	1 space per 4 seats in the main auditorium based on maximum capacity, or 1 parking space for each 5 occupants based on maximum capacity as calculated under the provision of the Uniform Building Code
b.	Library, reading room, museum, art gallery	1 space per 300 square feet floor area plus 1 space per employee
c.	Pre-school, nursery, day or child care facility, kindergarten	2 spaces per off-street loading and unloading area
d.	Elementary or junior high school	1 space per employee plus off-street loading and unloading area
e.	High school	1 space per employee, plus one space for each 3 students of driving age, plus off-street loading and unloading area
f.	College; commercial school	1 space per seat in classrooms, or 1 parking space per occupant as calculated under the provisions of the Uniform Building Code
g.	Political, civic, social or labor organization meeting halls	1 space per 4 seats based on maximum capacity or 1 space for each 5 occupants based on maximum as calculated in the Uniform Building Code

	USE	*MINIMUM STANDARD*
h.	Other auditorium, meeting	1 space per 4 seats maximum capacity or 1 space for each 5 occupants based on maximum calculated in the Uniform Building Code

(E) *Commercial recreation.*

	USE	*MINIMUM STANDARD*
a.	Stadium, arena, theater	1 space per 3 seats based on maximum capacity or 1 space for each 5 occupants based on maximum capacity as calculated under the provisions of the Uniform Building Code
b.	Bowling alley	5 spaces per lane plus 1 per employee
c.	Dance hall	1 space per 100 square feet of floor area, plus 1 space per 2 employees
d.	Skating rink	1 space per 200 square feet of floor area plus 1 space per 2 employees
e.	Swimming pool facility	1 space per 100 square feet of floor area
f.	Racquet court, athletic	1 space per court, plus 1 space per 100 square feet of exercise area
g.	Other indoor recreation	1 space per 100 square feet facility of floor area
h.	Outdoor recreation	1 space per 500 square feet facility of field or recreation area

(F) *Commercial.*

	USE	*MINIMUM STANDARD*
a.	Grocery stores and retail	1 space per 150 trade shopping centers square feet of floor area
b.	Other retail and specialty	1 space per 300 store or service square feet of floor area

	USE	*MINIMUM STANDARD*
c.	Furniture, appliance or retail	1 space per 500 square feet bulk of floor area
d.	Auto, boat, manufactured home, mobile home, trailer sales	1 space per 1,000 square feet of floor area plus 1 per 2 employees
e.	Bank, professional office and research and development laboratory	1 space per 300 square feet of floor area
f.	Medical and dental office, clinic or laboratory including veterinary clinic and hospitals	1 space per 200 square feet of floor area
g.	Emergency or urgent care clinics	1 space per 100 square feet of floor area
h.	Beauty and barber shop or other personal service	1 space per 100 square feet of floor area
i.	Restaurant, tavern, bar	1 space per 100 square feet of floor area
j.	Drive-in restaurant or other drive-in services	1 space per 4 seats or one space per 200 square feet of floor area, whichever is greater
k.	Mortuary, funeral parlor or mausoleum	1 space per 4 seats based on maximum seating capacity as calculated under the Uniform Building Code
l.	Ambulance or rescue service	1 space per rescue vehicle plus 1 space per employee
m.	Repair garages and automobile service stations	4 parking spaces for each service stall and 1 per 2 gasoline pumps
n.	Truck, trailer and automobile rental	1 space per 500 square feet of floor area and 1 space per employee
o.	Private utility (gas, electric, telephone)	1 space per 500 square feet of floor area plus 1 space per employee
p.	Laundromat and dry cleaning facility	1 space per 300 square feet
q.	Passenger transportation terminal	1 space for each 5 seats based on maximum capacity for each transporter loading and unloading within any half-hour period

(G) *Industrial.*

	USE	*MINIMUM STANDARD*
a.	Manufacturing establishments	1 space per each 500 square feet floor area
b.	Storage, warehouse, wholesale establishment; rail or trucking freight terminal; truck, trailer, or auto storage	1 space per each 500 square feet of floor area plus 1 space per 2 employees
c.	Building or specialty trade contractor office or shop	1 space per 300 square feet of floor area

(H) *Uses not specified.* The parking requirements for buildings and uses not set forth herein shall be determined by the City Manager or his designee, and such determination shall be based upon the requirements for the most comparable building or use specified herein. The decision of the City Manager or his designee may be appealed to the Commission in accordance with the provisions of § 154.188.

(I) *Bicycle facilities.*

(1) (a) Bicycle parking facilities shall be provided as part of new multi-family residential developments of four units or more and new retail, office and institutional development. Bicycle parking facilities shall not be required for existing developments.

(b) The installation of bicycle parking facilities shall occur as follows:

USE	*STANDARD*
Multi-family residential - 4+	1 space per dwelling unit
Retail	1 space per 3,000 sq. ft.
Office	1 space per 1,000 sq. ft.
Institutional	1 space per 1,000 sq. ft.

(2) The installation of public bikeways as part of new subdivisions, multi-family developments, planned developments and for new commercial structures greater than 3,000 sq. ft. within commercial districts shall occur.

(a) As a condition of development approval, public bikeway improvements necessary to develop designated bikeways, in the comprehensive plan, shall be installed along the front of the subject parcel. Bikeway improvements shall meet those standards described in the comprehensive plan and shall be installed under the guidance of the Public Works Department.
(Ord. 590, passed 6-23-2003)

§ 154.060 OFF-STREET LOADING AND DRIVE-UP USES.

(A) *Schools.* A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(B) *Merchandise, materials or supplies.*

(1) Buildings or structures to be built or substantially altered to receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use.

(2) If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this chapter shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

(C) *Drive-up uses.* Drive-up uses shall provide a minimum stacking area clear of the public right-of-way or parking lot aisle from the window serving the vehicles. The stacking area shall not interfere with safe and efficient access to other parking areas on the property. Traffic aisles shall be wide enough to accommodate backing movements where adjacent to parking stalls. Parking areas shall not occur in the stacking area. The following shall apply to drive-up uses:

(1) *Restaurants.* Each lane shall provide a minimum capacity for eight automobiles.

(2) *Banks.* Each lane shall provide a minimum capacity of five automobiles.

(3) *Other drive-up uses.* Each lane shall provide a minimum capacity for two to eight automobiles, as determined by the Director or his designee.

(4) For purposes of this section, an automobile shall be considered no less than 18 feet in length. The driveway shall be at least 12 feet wide.
(Ord. 590, passed 6-23-2003)

§ 154.061 GENERAL PROVISIONS/OFF-STREET PARKING AND LOADING.

The provisions and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building permit shall be issued until plans are presented showing property that is and will remain committed to exclusive use of required off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this chapter. Use of property in violation hereof shall be a violation of this chapter. Should the owner or

occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this chapter to begin or maintain such altered use until the required increase in off-street parking or loading is provided. (Ord. 590, passed 6-23-2003)

§ 154.062 PARKING AREA LOCATION.

Parking areas required by this chapter shall be located on the same lot as the building they are required to serve, or may be located in the immediate vicinity if the following provisions are met:

(A) *Parking area in relation to building.* The nearest point of the parking facility shall be no more than 200 feet from the nearest point of the building that such facility is required to serve; and

(B) *Parking area in relation to street block.* Such off-street parking facility is located entirely within the same block as the building such facility is required to serve.
(Ord. 590, passed 6-23-2003)

§ 154.063 PARKING AREA AND DRIVEWAY DESIGN.

All public or private parking areas, parking garages and public spaces, except those required in conjunction with a single-family or two-family dwelling on a single lot, shall be designed, laid out and constructed in accordance with the provisions of this chapter.

(A) *Driveway specifications.* Groups of three or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive or maneuvering aisle so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. In addition to the specific requirements of this section, service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site.

Driveway Widths*

Principal Use	***Minimum Width***	***Maximum Width***
Residential:		
Single-family or two-family dwellings on a single lot	12 feet	22 feet
Single-family or two-family dwellings, up to two separate lots on a single driveway	20 feet	39 feet
Multiple residential serving three or more dwelling units	20 feet	39 feet

Driveway Widths*

*Principal Use***	*Minimum Width*	*Maximum Width*
Public or professional: (two-way driveway)	20 feet	39 feet
Commercial: (two-way driveway)	20 feet	39 feet
Industrial: (two-way driveway)	20 feet	39 feet

* This measurement is not the same as the curb cut, which is measured at the street right-of-way line.

** Width and design standards for approach roads providing access to large-scale commercial and multi-family residential developments shall be determined during the review process. One-way circulation may be approved at a lesser standard, subject to review by the Superintendent of Public Works, Winston-Dillard Fire District and Oregon State Fire Marshal.

*** Width and design standards for approach roads connecting to a state highway must comply with the State of Oregon standards.

(B) *Driveway maneuvering aisles*. Driveways shall be aligned with maneuvering aisles so as to facilitate safe and convenient ingress and egress.

(C) *Access grades*. Access grades shall not exceed 15% and shall be graded to allow clearance to pass an automobile 18 feet in length.

(D) *Driveway location in relation to intersections*. Access driveway to loading and service areas, and to parking areas having ten or more spaces, shall be located such that the near edge of such driveway is not less than 25 feet from the intersection of a side street right-of-way line or the curb return, whichever is nearer.

(E) *Driveway location in relation to property lines*. Access driveways shall not be located closer than five feet to an interior side property line, except that common access driveways (not exceeding 40 feet in width) to two adjacent properties may be provided at the common property line when a common driveway agreement is executed on a form provided by the City Manager or his designee and recorded with the County Clerk.

(F) *Parking area marking*. Access driveways to parking areas having ten or more spaces shall be clearly marked to indicate one-way or two-way access. Two-way driveways shall have a painted centerline at least two-and-one-half inches in width and at least ten feet in length beginning at the interior edge of the sidewalk; or, where sidewalks are not present, at a point five feet from the curb line; or, where neither sidewalks or curbs are present, at a point five feet from the edge of the paved street surface.

(G) *Driveway location in relation to adjacent driveways*. One-way driveways to parking areas having ten or more spaces shall not be closer than 20 feet to any other one-way driveway, nor closer than 35 feet to any two-way driveway. Two-way driveways to parking area having ten or more spaces shall not be closer than 50 feet from any other two-way driveway, nor closer than 35 feet from any one-way driveway.
(Ord. 590, passed 6-23-2003)

§ 154.064 COMMON PARKING FACILITIES FOR MIXED USES.

In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use, except as provided below.

(A) *Joint use of parking facilities*. The City Manager or his designee may authorize the joint use of parking facilities required by said uses and any other parking facilities, provided that:

(1) The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities is proposed.

(2) The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have parking facilities.

(3) The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the City Manager or his designee as to form and content. Such instrument, when approved as conforming to the provisions of this chapter, shall be recorded in the office of the County Recorder, and copies thereof filed with the City Manager or his designee.
(Ord. 590, passed 6-23-2003)

§ 154.065 PARKING AREA IMPROVEMENTS.

(A) *Surfacing*.

(1) All parking areas, vehicle maneuvering areas and access driveways, including to a single family dwelling on a single lot, shall have a durable, dust-free surfacing of asphaltic concrete, Portland cement concrete, brick, or concrete paver blocks.

(a) In all residential districts, a minimum of two-and-one-half inches asphalt over four inches of aggregate base will be provided or four inches of Portland cement concrete.

(b) In all other districts, either three inches asphalt over four inches aggregate base or a single pavement of five inches of Portland cement concrete is required.

(2) All parking areas, except those in conjunction with a single-family or two-family dwelling on a single lot, shall be graded so as not to drain storm water over the public sidewalk or onto any abutting public or private property.

(B) *Perimeter curb*. All parking areas except those required in conjunction with a single-or two-family dwelling shall provide a curb of not less than four inches in height located at a minimum of five feet from any one property line.

(C) *Lighting*. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be arranged and designed so as to prevent light from adversely affecting any abutting or adjacent residential district.

(D) *Striping*. All parking spaces shall be sufficiently marked with painted stripes or other permanent markings acceptable to the City Manager or designee.

(E) *Wheel bumper*. All parking stalls fronting a sidewalk, alleyway, street, property line, or building shall provide a secured wheel bumper not less than four inches in height, nor less than six feet in length, and shall be set back a minimum of 2½ feet from the front of the stall.
(Ord. 590, passed 6-23-2003)

§ 154.066 PARKING AND LANDSCAPING PLAN SUBMITTAL REQUIREMENTS.

A parking plan, drawn to scale, must accompany site plan review applications. Depending on the nature and magnitude of the development, it may be possible to show the needed parking information on the site plan. The plan must show the following elements in conjunction with the requirements of this chapter:

(A) Delineation of individual parking spaces, including handicapped accessible parking spaces.

(B) Loading areas and docks.

(C) Circulation area necessary to serve spaces.

(D) Location of bicycle and motorcycle parking areas.

(E) Access to streets, alleys, and properties to be served.

(F) Curb cuts.

(G) Abutting land uses.

(H) Grading, drainage, and surfacing details.

(I) Location of lighting fixtures.

(J) Specifications of wheel bumpers.

(K) Proposed number of employees and amount of floor space applicable to the parking requirements for the proposed use.

(L) *Landscape plan.* A plan, drawn to scale, showing:

(1) Type of landscaping, fencing or other screening, including name and height of plant species.

(2) Location and size of landscaped areas on the development site.

(3) Abutting land, driveways and structures.

(4) Plan for underground irrigation system or alternate landscape professional statement.
(Ord. 590, passed 6-23-2003)

§ 154.067 PARKING AREA SCREENING.

(A) All parking areas, including service and access driveways, abutting residentially zoned properties shall be screened along and immediately adjacent to any interior property line.

(1) Single family and two family dwellings are exempt from screening standards.

(2) The placement of screening shall adhere to the clear vision standards in § 154.057.

(3) Screening shall be located at a distance not more than five feet from the interior property line.

(B) *Minimum screening area requirements.* The minimum improvements within a screening area shall consist of the following:

(1) Screening shall consist of either:

(a) One row of evergreen shrubs which will grow at least six feet in height within one year of planting; or

(b) An earth berm combined with specified evergreen plantings consisting of five-gallon shrubs or ten one-gallon shrubs for each 100 lineal feet of required screening area which grows to a height at least six feet within one year of installation
(Ord. 590, passed 6-23-2003)

§ 154.068 PARKING AREA LANDSCAPING AND BUFFERING.

(A) The design of the parking area landscaping shall be the responsibility of the developer and should consider:

(1) Visibility of signage, traffic circulation, comfortable pedestrian access and aesthetics.

(2) Trees shall not be sited as a reason for applying for or granting a variance on placement of signs.

(B) *Application.*

(1) Parking area landscaping and buffering standards shall apply to all outdoor parking areas that provide for five or more spaces.

(2) Or to any paved vehicular use area 3,000 square feet or larger on the same lot or on contiguous tax lots under the same common ownership or use.

(3) Parking area landscaping requirements are limited to 10% of the gross land area.

(C) *Exemptions.*

(1) The parking area landscaping and buffering standards shall be exempt for building additions which increase the size of an existing building by less than 20% of the gross floor area;

(2) Any paved vehicular area which provides fewer than ten spaces shall be exempt from the interior property line buffering and interior parking area landscaping requirements; or

(3) Areas used specifically as a utility storage lot or a truck loading area shall also be exempt from interior parking area landscaping requirements.

(D) *Specifications for trees and plant materials.* Prior to approval of any parking plan, the Superintendent of Public Works shall be provided a list of trees and plant materials proposed for use upon or adjacent to public infrastructure (including but not limited to sidewalks, roads, or utility easements.) The Superintendent may require modifications of the tree or plant materials due to the potential of root damage to infrastructure.

(E) *Parking area buffering.*

(1) *Perimeter buffering.* All parking areas containing more than four parking spaces shall be buffered along street frontage (exclusive of driveways) and interior property lines adjacent to a residential zone with a five-foot wide strip of landscaping materials.

(a) Where screening is required in this section the screening area shall be incorporated into the landscaping strip.

(b) This requirement shall not in any way prohibit joint access driveways between two or more adjacent parking areas.

(2) *Standards.*

(a) At a minimum landscaping per 50 lineal feet of required buffer area shall be provided as follows:

1. One tree at least five feet in height. The tree species shall be approved by the Superintendent of Public Works in order to avoid root damage to pavement and utilities.

2. A five-gallon or eight one-gallon shrubs.

3. The remaining area shall be treated with lawn or other ground cover.

(F) *Interior parking area landscaping.* A minimum of 5% of the total area within the paved parking and maneuvering area or at a ratio of one landscape planter per ten parking spaces, whichever is greater shall be provided within the paved parking lot area, not in adjacent buffer or screening areas. This requirement shall not in any way prohibit a developer from grouping the required interior landscaping area in one or more sections of the parking lot.

(1) *Interior parking area landscaping standards.*

(a) For each 160 square feet of required interior parking area landscaping shall provide a tree at least six feet high. The tree or trees shall be planted in a landscaped area such that the tree trunk is at least two feet from any curb or paved area.

(b) For each 100 square feet of required interior parking area landscaping provide two shrubs.

(c) Planters shall be surrounded by a perimeter curb not less than four inches high. The remaining planter area shall be treated with ground cover.

(d) The tree species shall be reviewed and approved by the Superintendent of Public Works to avoid root damage to pavement and utilities, and damage from droppings on parked cars and walkways.

(e) All landscaped areas must be provided with a piped underground water supply irrigation system, or have verification from a landscape professional that the proposed plant materials do not require irrigation.

(G) *Maintenance of landscaped areas.* It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner, free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.

(H) *Landscape area credit for preservation of existing trees.* A system of landscape area credits has been established as an incentive for property owners and developers to preserve existing trees and to include them in the landscape plan for proposed developments.

(1) *Landscape credit system.* The City Manager or his designee may reduce the number of required interior parking area planters by one for each preserved tree on the development site.

(2) *Limits to landscape area credit.* Landscape credit shall be applied only to the required interior parking area landscaping and credit for preserved trees shall be limited to 60% of the total interior parking area landscaping requirement. Landscape credit shall not be granted for trees preserved within a required riparian habitat.
(Ord. 590, passed 6-23-2003)

§ 154.069 ACCESSIBLE PARKING.

(A) All parking areas for government and public buildings shall provide accessible parking based on the following ratio:

Total Parking Area Spaces	Required Accessible Space
1-25 spaces	1 space
26-50 spaces	2 spaces
51-75 spaces	3 spaces
76-100 spaces	4 spaces
101-150 spaces	5 spaces
151-200 spaces	6 spaces
201-300 spaces	7 spaces

(B) One additional accessible parking space shall be provided for each additional 100 spaces or fractions that are provided thereafter.

(C) For each accessible parking space provided which conforms to the provisions of this section, one parking space, otherwise required by § 154.059, may be eliminated subject to the following limitations:

(1) *Space specifications.* Each accessible parking space shall be at least nine feet wide and shall have an adjacent access aisle. The adjacent aisle shall be at least six feet wide for standard spaces and eight feet wide for "van-accessible" spaces. If one accessible space is provided, it shall be designated "van-accessible." All other spaces may be either "van-accessible" or standard spaces.

(2) *Access aisle.* The aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share an aisle.

(3) *Signs and pavement markings.* A sign shall be posted for each accessible parking space. The sign shall be clearly visible to a person parking in the space and marked with the international symbol of accessibility; indicate that the spaces are reserved for persons with disabled person parking permits and be designed to standards adopted by the Uniform Building Code. The pavement of each accessible parking space shall be clearly marked with the international symbol of accessibility and be designed to standards adopted by the Uniform Building Code.

(D) *Space location.* Each accessible parking space and adjacent aisle shall be situated so as to avoid requiring any person using the space from having to cross or traverse within any access driveway, vehicle maneuvering area or other vehicle traffic lane.

(E) *Ramps.* When accessible parking spaces are provided, safe and convenient curb ramps shall be installed to meet uniform building code specifications. Building design and subsequent activities shall not unreasonably impair access by physically challenged persons to the principal use.
(Ord. 590, passed 6-23-2003)

§ 154.070 VARIANCE FOR PARKING/LANDSCAPING REDUCTIONS.

The City Manager or his designee may reduce the number of parking spaces and landscape area through a variance procedure pursuant to §§ 154.125 through 154.129 for lots 10,000 square feet or less, or lots developed prior to the adoption of this chapter. The City Manager or his designee may grant reductions only if, on the basis of investigation and evidence submitted that a lot is 10,000 square feet or less, or existing developments are unable to meet the parking and landscaping provisions due to existing lot and building configurations.
(Ord. 590, passed 6-23-2003)

§ 154.071 PARKING.

(A) *Parking space.* An off-street enclosed or unenclosed surfaced area of not less than 18 feet by nine feet in size, exclusive of maneuvering and access area permanently reserved for the temporary storage of one automobile.

(B) Plans shall be submitted in sufficient detail so that they may be reviewed and approved by the appropriate reviewing authority.

(C) *Design requirements for parking lots.*

(1) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

(2) Access aisles shall be of sufficient width for all vehicles turning and maneuvering.

(3) Groups of more than four parking spaces shall be served by a driveway so that no backing movement or other maneuvering will be required within a street.

(4) Lighting of the parking area shall be deflected from a residential zone.

(D) Required parking spaces shall be improved and available for use by the time the use to be served by the parking space is ready for occupancy.

(E) *Compact car parking*. The City Manager or his designee may authorize the creation of compact car spaces in any public or private parking area which contains a minimum of ten parking spaces. The number of parking spaces established for compact cars shall be based on the following rationale:

Number of Spaces Required	Percent of Designated Compact Spaces
10-25 spaces	15%
26-50 spaces	20%
51-100 spaces	25%
Over 100 spaces	30%

(F) All compact car parking spaces created under the provisions of this section shall have a minimum of eight feet and shall be clearly identified as compact car spaces, and shall be located in a manner approved by the City Manager or his designee. All other parking spaces, except parallel spaces, shall have a minimum width of nine feet.
(Ord. 590, passed 6-23-2003)

§ 154.072 DEVELOPMENT STANDARDS.

(A) *Surface water drainage*.

(1) Adequate provisions shall be made to ensure property drainage of surface waters, and to prevent soil erosion and flooding. Site drainage provisions shall provide for acceptance of off-site drainage waters, and conveyance of all drainage waters, including crawl space and roof drainage, such that they are discharged off-site at a location and in such a manner that they do not damage off-site properties, do not violate drainage ordinances or laws, and are not increased in volume over natural or pre-project flows without said increase being in conformance with drainage law or first having obtained the approval of the downstream owner(s).

(2) If a development is, or will periodically be, subject to accumulation of surface water or is traversed by a water course, drainage way, channel, stream, creek or river, the applicant may be required to dedicate to the public storm drain easements approved by the Public Works Superintendent to provide for present and future drainage needs of the area, including access for maintenance. Storm drainage facilities shall conform to the standards established by the Public Works Superintendent.

(B) *Underground utilities*. All new development, as defined in this division, shall be served by underground utilities, including, but not limited to, electrical, telephone, cable television and street lighting lines.

(1) For purposes of this section, new development is any new development, either in a single structure or in the sum of all structures constructed on a single lot or parcel, or any enlargement or structural alteration exceeding 1,000 square feet of gross floor area, or any development subject to the requirements of § 154.041 and Chapter 153.

(2) *Exemptions*.

(a) Under special circumstances and conditions, where the City Manager or his designee find that such strict application is impractical due to the location of existing overhead utilities, unusual and special utility requirements of the development, or other conditions beyond the control of the developer, overhead utilities may be permitted.

(b) Whenever overhead utilities are utilized in a development, the City Manager or his designee shall review the proposed location of such overhead utilities, and may require their arrangement and location in such a manner to better carry out the purpose of this section.

(C) *Lighting*. Adequate exterior lighting shall be provided to promote public safety and shall be designated to avoid unnecessary glare upon other properties.

(D) *Screening*. Except in the Industrial Limited (M-L) and Industrial General (M-G), exposed storage areas, utility buildings, machinery, garbage and refuse storage areas, service and truck loading areas, and other accessory uses and structures shall be adequately set back and screened.

(1) Screening may consist of fences, walls, berms and landscaping, or any combination thereof, and which otherwise conforms with the standards established by this chapter.

(E) *Water for domestic use*. All structures containing a plumbing fixture shall be required to use the Winston-Dillard Water District's water supply system as the sole water source. No development shall be permitted which uses a well as a water source for any structure containing a plumbing fixture.

(F) *State and federal permits*. Each development or construction project shall provide documentation on how it complies with all applicable state and federal environmental regulations (Examples of permits include but are not limited to: air quality, noise, non-point pollution control, stormwater, wetland, and fill/removal).
(Ord. 590, passed 6-23-2003)

§ 154.073 SIGNS PURPOSE AND INTENT.

The provisions of this section are made to establish reasonable and impartial regulations for all exterior signs and to further the objectives of the comprehensive plan of the City of Winston; to protect the general health, safety, convenience and welfare; to reduce traffic hazards caused by unregulated signs which may distract, confuse and impair the visibility of motorists and pedestrians; to ensure the effectiveness of public streets, highways and other public improvements; to facilitate the creation of an attractive and harmonious community; to protect property values and to further economic development. (Ord. 590, passed 6-23-2003)

§ 154.074 DEFINITIONS.

For purposes of this subchapter, the following terms and phrases shall have the following meaning. If the general definitions in § 154.002 conflict, the following definitions shall control for purposes of this subchapter.

ILLEGAL SIGN. A sign constructed in violation of regulations existing at the time the sign was built.

INDIRECT ILLUMINATION. A light directed toward a sign so that the beam of light falls upon the exterior surface of the sign and is not flashing.

INFLATABLE SIGN. A sign that is expanded with air or gas and anchored to a structure or the ground.

LOT. A unit of land created by a subdivision of land; the term ***LOT*** is synonymous with the term ***PARCEL*** for the purposes of this chapter.

NONCONFORMING SIGN. A sign meeting all legal requirements when constructed prior to the adoption of this chapter. An illegal sign is not a nonconforming sign.

POLE SIGN. A sign wholly supported by a sign structure in the ground and not exceeding 200 square feet.

PORTABLE SIGN. A sign temporarily fixed to a standardized advertising structure that may be regularly moved from structure to structure at periodic intervals. This sign may be placed no closer than ten feet from the face of the curb and shall comply with all other provisions of this chapter.

PROJECTED IMAGE. An optical appearance of an object projected onto a wall of a building or structure.

PROJECTING SIGN. A sign other than a wall sign that projects from and is supported by a wall of a building or structure.

RESIDENTIAL SIGNS. Signs in residential zones that identify subdivisions or multiple-family complexes.

ROOF SIGN. Any sign erected on a roof or which extends in height above the roofline of the building on which the sign is erected.

SIGN. Any identification, description, illustration, symbol or device, other than a house number, which is placed or affixed directly or indirectly upon a building, structure or land.

SIGN AREA. The area of the sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display together with any material or color forming an integral part of the background of the display or used to differentiate design from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, decorative fence or wall when such fence or wall otherwise meets the requirements of this chapter and is clearly incidental to the display itself.

SIGN FACE. The functional surface of a sign including all sign elements facing in the same direction.

SIGN HEIGHT. The height of a sign shall be the distance from the grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.

SIGN STRUCTURE. Any structure that supports or is capable of supporting a sign. A sign structure may be a single pole and may or may not be an integral part of the building.

WALL SIGN (ATTACHED). A sign attached flat against a wall of a building and parallel to the wall.

WALL SIGN (PAINTED). A sign painted to a wall or a building.

WALL SIGN (PROJECTING). A sign other than a wall sign that projects from and is supported by a wall of a building or structure.
(Ord. 590, passed 6-23-2003)

§ 154.075 OFF-PREMISE SIGN.

No sign advertising a business which is not conducted on the premises, or a commodity or service which is not the primary product, sale or service on the premises, shall be allowed except seasonal agricultural signs and "exempt" signs addressed in § 154.076.
(Ord. 590, passed 6-23-2003)

§ 154.076 EXEMPT SIGNS.

(A) The following signs shall not be subject to the permit requirements of § 154.078, nor subject to the number and type limitations of this subchapter, but shall be subject to all other provisions of this subchapter, and the requirements of this section:

(1) *Directional sign.* A sign giving on-site directional assistance for the convenience of the public, which does not exceed four square feet in area and which does not use flashing illumination.

(2) *Event sign/banner.* An election sign not exceeding 32 square feet, provided the sign is removed within seven days following an election. A temporary non-illuminated sign or banner not exceeding 200 square feet used for a fundraising event solely for charitable purposes, placed by a legally-constituted non-profit organization.

(3) *Flag/pennant.* A governmental flag with or without letters or numbers and other flags and pennants without letters or numbers. Such flags and pennants shall be made of non-rigid material.

(4) *Historical/landmark sign.* A marker erected or maintained by a public authority or by a legally constituted historical society or organization identifying a site, building or structure of historical significance.

(5) *Holiday sign.* A sign or decoration used to commemorate a holiday which is removed within seven days following the holiday period.

(6) *Interior sign.* Any sign which is not visible and not directed to people using a public street or public pedestrian way.

(7) *Mural.* A large picture painted on the wall of a building not advertising a specific business or product.

(8) *Public sign.* A sign erected by a government agency. A public notice or warning required by a valid and applicable federal, state or local law or regulation and an emergency warning sign erected by a public utility or by a contractor doing authorized work in the public way.

(9) *Real estate or construction signs.* Temporary non-illuminated real estate (not more than two per lot) or construction signs not exceeding 32 square feet, provided said signs are removed within 15 days after closing or signing of the sale, lease or rental of the property or within seven days of completion of the project.

(10) *Window sign.* A sign painted or placed upon a window in a non-residential zone.

(B) If the foregoing exemptions conflict with this Chapter 154, Chapter 154 shall govern.
(Ord. 590, passed 6-23-2003)

§ 154.077 PROHIBITED SIGNS.

The following signs are prohibited:

(A) *Abandoned sign.* A sign or a sign structure existing more than 60 days after a business ceases to operate shall be taken down and removed by the owner, agent or person having the beneficial use of the lot upon which such sign may be found.

(B) *Billboard.* A pole sign exceeding 200 square feet of sign area.

(C) *Simulated traffic signs and obstructions.* Any sign which may be confused with or obstruct the view of any authorized traffic signal or device, or extend into the traveled portion of a public street or pedestrian way.

(D) *Vacant lot sign.* Except exempt signs, a sign erected on a lot that has no structures capable of being occupied as a residence or business. Notwithstanding the foregoing, signs otherwise permitted under this subchapter may be placed on a lot improved for off-street parking as provided by this code.

(E) *Vehicular sign.* Any sign written or placed upon or within a parked motor vehicle with the primary purpose of providing a sign not otherwise allowed by this chapter. This does not include any sign permanently or temporarily placed on or attached to a motor vehicle, when the vehicle is used in the regular course of business for purposes other than the display of signs.

(F) *Vision clearance.* Any sign in the clear-vision area as defined in § 154.057.
(Ord. 590, passed 6-23-2003)

§ 154.078 PERMIT PROCEDURES.

Except as provided in this chapter, no sign or sign structure shall be displayed, erected, altered, relocated or replaced until a sign permit has been issued by the City Manager or designee. For the purpose of this chapter, all signs are considered accessory uses of the lot upon which they are located.

(A) Application for a sign permit shall be made by the owner, tenant or authorized agent of the property upon which the sign is to be located. The application shall be approved, denied or referred back to the applicant within ten working days from the date the application was submitted.

(B) *Criteria for permit approval.* A sign permit will be approved if compliance to the following exists:

(1) Conformance to structural requirements and electrical code, if applicable;

(2) Meets location standards; and

(3) Sign allowed in zoning designation.

(C) *Plan requirements.* The application for a sign permit shall be accompanied by a site plan with the following information:

(1) Name, address and telephone number of the owner, tenant or authorized agent of the property upon which the sign is to be located.

(2) Location by legal description (township, range, section, tax lot) and physical address.

(3) Dimensions of the sign and the sign structure and, where applicable, the dimensions of the wall surface of the building to which the sign is to be attached and a current photograph of the building.

(4) Proposed location of the sign in relation to the face of the building, in front of which or above which the sign is to be erected.

(5) Proposed location of the sign in relation to the boundaries of the lot upon which the sign is to be placed.

(D) *Signs exempt from permits.* These exceptions do not relieve the owner of the sign from the responsibility of its erection, maintenance and compliance with the provisions of this chapter or any other law or ordinance regulating same. The following changes do not require a sign permit:

(1) The changing of the advertising copy or message of a painted, plastic face or printed sign only. Except for signs specifically designed for the use of replaceable copy, electrical signs shall not be included in this exception.

(2) The electrical, repainting, cleaning, repair or maintenance of a sign.

(E) *Fees.* The fee for a sign permit shall be as set by Council resolution. The fee for any sign which has been erected without a sign permit shall be double the regular sign fee.

(F) *Building Code compliances.* All signs and sign structures shall comply with the Uniform Building Code and the Oregon Electrical Safety Specialty Code adopted by the City of Winston. All pole signs, attached or projecting wall signs and roof signs will require a building permit in addition to the sign permit. Signs for which a building or electrical permit is required shall be subject to inspection by the city's Building Official or State Electrical Inspector. The Building Official may order the removal of a sign that is not maintained in accordance with this chapter. Signs may be reinspected at the discretion of the Building Official.
(Ord. 590, passed 6-23-2003)

§ 154.079 STANDARDS AND CRITERIA.

(A) *General sign provisions.*

(1) Signs may not project over public property or right-of-way.

(2) All signs shall have a vertical clearance of seven feet above public property.

(3) No signs shall stand or be based in public property without authorization of agency jurisdiction.

(4) Regulatory equipment shall be installed in all illuminated signs to preclude interference with radio and television.

(5) All signs shall be maintained in good repair, and where applicable, in full operating conditions at all times.

(6) Flashing signs or any material that gives the appearance of flashing such as reflective disks are prohibited. Tracer lights are not prohibited.

(7) Commercial signs shall not be located within 50 feet of a residential zoning designation.

(8) External illumination of signs shall be shielded so that the light source elements are not directly visible from property in a residential zoning district which is adjacent to or across a street from the property in the non-residential zoning district.

(9) Signs shall be located not less than six feet horizontally or 12 feet vertically from overhead electrical conductors that are energized in excess of 750 volts. The term ***OVERHEAD CONDUCTORS*** as used in this section refers to an electrical conductor, either bare or insulated, installed above the ground, except when conductors are enclosed in iron pipe or other approved material covering of equal strength.

(10) Signs or sign structures shall not be erected in such a manner that a portion of their surface or supports will interfere with the free use of any fire escape or exit.

(11) Signs shall not obstruct building openings to the extent that light or ventilation is reduced. Signs erected within five feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics.

(B) *Signs in residential zones.* In the RLA, RLB, RLC, RM and RH zones, no sign shall be allowed except the following:

(1) One sign identifying only the name of the owner or occupant of a building, provided such sign does not exceed six inches by 18 inches in size, is unilluminated and shall not be located in a required yard.

(2) One sign identifying only the business name of a home occupation occupying that lot, provided such sign does not exceed one square foot of sign area, is unilluminated and shall not be located in a required yard.

(3) One sign pertaining to the lease or sale of a building or property, provided such sign does not exceed six square feet of sign area.

(4) One identification sign facing the bordering street, not to exceed 16 square feet of sign area, for any permitted or conditional use except residences and home occupations. Such sign shall be solely for the purpose of displaying the name of the institution and its activities or services. It may have indirect illumination but non-flashing and shall not be located in a required yard.

(5) Temporary sign, for one year, advertising a new subdivision, provided such sign does not exceed 32 square feet of sign area, advertises only the subdivision in which it is located, is unilluminated, and is erected only at a dedicated street entrance and within the property lines. Such sign shall be removed if construction on the subdivision is not in progress within 60 days following the date of the sign permit.

(6) The maximum sign height is seven feet.

(C) *Signs in commercial/industrial zones.* In the C-G, C-SH, C-OP, C-H, ML, MG and PR zones, all signs located on a lot shall conform to the following limitations:

(1) Except as provided in division (3) below, for a single business whether on one or more contiguous lots the maximum number of signs requiring a permit is three, one of which may be a pole sign.

(2) Except as provided in division (3) below, for multiple businesses in a shopping center, for multiple businesses sharing common off-street parking facilities or for multiple businesses with the same property owner, all of which are located on one or more contiguous lots, the maximum number of signs requiring a permit is one pole sign per business and one additional sign which may be a portable sign.

(3) When a business or businesses have 200 continuous lineal feet of frontage on one street, the maximum number of signs shall be increased by one sign (pole or portable) for each 100 feet of frontage up to a maximum of four additional signs. Any two of these signs may be combined in a single sign not to exceed 200 square feet in area.

(4) Pole signs shall be placed at least 100 lineal feet apart.

(5) A roof sign may be substituted for one of the allowed pole signs.

(6) Except for attached wall signs, each sign face shall not exceed 100 square feet in area and shall not exceed 35 feet in height.

(7) Attached wall signs shall not exceed 200 square feet in area.

(8) Each business at a new location may have one temporary sign on each street frontage of the lot occupied by that business provided the sign area does not exceed 50 square feet and provided the sign is not displayed for more than 365 days or until the permanent sign is installed, whichever first occurs.

(D) *Signs in agricultural zones.* In the A-O zone, the following criteria for signs apply:

(1) Maximum number of signs requiring a permit is three.

(2) Maximum number of pole signs is one.

(3) Except for attached wall signs, each sign face shall not exceed 50 square feet in area.

(4) Attached wall signs shall not exceed 100 square feet of sign area.

(5) Pole signs shall not exceed 35 feet in height.

(Ord. 590, passed 6-23-2003)

§ 154.080 NONCONFORMING SIGNS.

(A) Except for signs located in A-O, ML and MG zones, any nonconforming pole sign that is greater than 200 square feet shall be reduced to not more than 200 square feet in area or be removed within one year from the approval date of this chapter.

(B) All other non-conforming signs shall be subject to the regulation of structures as provided in §§ 154.160 through 154.164 relating to the continuation of a nonconforming use or structure, the discontinuance of a nonconforming use, the change of a nonconforming use and the destruction of a nonconforming use or structure.

(Ord. 590, passed 6-23-2003)

§ 154.081 EXTERIOR LIGHTING.

The purpose of this provision is to make the lighting used for residential, commercial and public areas appropriate to the need and to keep the light from shining offsite onto adjacent public rights-of-way or private properties. Further, it is to encourage, through regulation of type, kinds, construction, installation, and uses of outdoor electrically powered illuminating devices, lighting practices and systems to conserve energy without decreasing safety, utility, security and productivity while enhancing nighttime enjoyment of property within the city.

(A) *Requirements for installation.* Except as exempted by provisions of this chapter, as of the date of adoption, the installation of outdoor lighting fixtures shall be subject to the provisions of this chapter.

(B) *Shielding*. All nonexempt outdoor lighting fixtures shall have directed shielding so as to prevent direct light from the fixture from shining beyond the property limits where the fixture is installed. This means that a person standing at the adjacent property line would not see the light-emitting source.

(C) *Prohibitions*.

(1) *Laser source light*. The use of laser source light or any similar high intensity light when projected beyond property lines is prohibited, excepting lasers used for construction surveying or any such purposes.

(2) *Searchlights*. The operation of searchlights for purposes other than public safety or emergencies is prohibited, excepting authorization by the City Manager or his designee for special events.

(D) *Exemptions*.

(1) *Nonconformance*.

(a) Outdoor light fixtures lawfully installed prior to and operable prior to the effective date of the requirements of this chapter are exempt from all such requirements except as follows:

1. All replacement of outdoor lighting fixtures, as of the date of adoption, shall be subject to the provisions of this chapter.

2. Until a date five years after the date of the adoption of this chapter.

(b) Airport operations lighting and aircraft navigational beacons as established by the Federal Aviation Administration are exempt from these provisions. All other airport outdoor lighting must conform with this chapter.

(c) Lights of less than 20 watts used for holiday decorations for no more than 45 days are exempt from the requirements of this chapter.

(d) Carnivals and fairs that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this chapter.

(e) Lighting for U. S. flags properly displayed.

(f) Temporary exemptions to the requirements of this chapter for up to five days per calendar year.

(g) Construction lighting necessary for an allowed use are exempt except that permanent installations at dedicated sites must conform to the requirements of this chapter.

(h) Individual light fixtures with lamps of less than 60 watts.
(Ord. 590, passed 6-23-2003)

§ 154.082 MANUFACTURED HOMES.

In addition to the general requirements established for single-family dwellings, manufactured homes shall be subject to the following special requirements:

(A) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet;

(B) The manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 18 inches above grade.

(C) The manufactured home shall have a pitched roof with a slope of at least a nominal three feet in height for each 12 feet in width.

(D) The manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by such a person as the City Manager may direct.

(E) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelop meeting requirements specified by the National Manufactured Housing Construction and Safety Standards Act, in effect at the time the manufactured home was constructed.

(F) Unless inconsistent with the above, the manufactured home and the lot upon which it is sited shall also be subject to all other development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject. Exempt from these standards is the family hardship variance according to § 154.129 allowing the following special requirements for such:

(1) The manufactured home shall enclose a space of not less than 900 square feet and at least 14 feet in width;

(2) The manufactured home may be placed on concrete pads or a crushed rock pad and skirted within 45 days of the placement. It shall be equipped with skirting which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home, unless the manufactured home is anchored to a permanent, continuous concrete or block foundation, or both. Nonporous skirting material shall be such that there are no gaps or openings between the unit and the ground, except for windows and vents. Porous skirting material shall extend from the manufactured home to within, but not closer than, six inches from the ground to prevent dry rot.

(3) No placement permit shall be issued for a manufactured home that does not exhibit the Oregon Department of Commerce "Insignia of Compliance."
(Ord. 590, passed 6-23-2003)

§ 154.083 PROJECTIONS FROM BUILDINGS.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than 24 inches into a required yard.
(Ord. 590, passed 6-23-2003)

§ 154.084 GENERAL EXCEPTIONS TO LOT SIZE REQUIREMENTS.

If a lot or other aggregate of contiguous lots held in a single ownership, as recorded in the office of the County Clerk at the time of the passage of this chapter, has an area or dimensions which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirement of the zone.
(Ord. 590, passed 6-23-2003)

§ 154.085 GENERAL EXCEPTIONS TO YARD REQUIREMENTS.

The following exceptions to the yard requirements are authorized for a lot in any zone:

(A) If there are dwellings on both abutting lots which are within 100 feet of the intervening lot, and the dwellings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

(B) If there is a dwelling on one abutting lot which is within 100 feet of the lot, and this dwelling has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the front yard of the abutting lot and the required front yard depth.
(Ord. 590, passed 6-23-2003)

§ 154.086 GENERAL EXCEPTIONS TO BUILDING HEIGHT LIMITATIONS.

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.087 RIPARIAN HABITAT SETBACKS.

Mature ground cover and trees, wildlife habitats, and the natural contours of identified significant stream banks shall be preserved for distances noted in the following table, measured from the top of the stream bank. Within the required setback area there shall be no structural or physical alteration or development such as clearing, grading parking lots, retaining walls, channel alterations, etc. from the stream bank unless, after consultation with the Oregon Department of Fish and Wildlife, findings are made by the City Manager that a proposed reduction in setback:

(A) Will not have a significant adverse impact on stream bank erosion, water temperature and quality, or wildlife;

(B) Is required for flood control, and actions are taken to mitigate such impacts as much as is possible; or

(C) Is not required for flood control and will include actions as are necessary to prevent or sufficiently mitigate any significant stream bank erosion, adverse impact on water temperature and quality, or wildlife, and such mitigation measures are specified; and

(D) Is not in conflict with any adopted ordinances or plans.

(E) For the purposes of this section, the top of the stream bank shall be as determined by the City Manager acting with the advice of the Department of Fish and Wildlife.

Riparian Habitat Setbacks

	All Residential Zones	All Commercial and Industrial Zones
South Umpqua River	50 feet	50 feet
Lookingglass Creek	50 feet	50 feet
Applegate Creek	50 feet	50 feet
Brockway Creek	50 feet	50 feet

(Ord. 590, passed 6-23-2003)

§ 154.088 BEEKEEPING.

The purpose of this section is to regulate the keeping of bees on residential lots within the City of Winston. This activity is considered to be a conditionally permitted use, subject to the review under §§ 154.115 through 154.119, and subject to the following standards.

(A) *Location, density, and maintenance of colonies.*

(1) The number of colonies is limited to one colony per legal lot, minimum 6,000 sq. ft. of lot area, plus one additional colony per each additional 6,000 sq. ft. of lot area, up to a maximum of eight colonies regardless of lot size. Residential-zoned lots and parcels are limited to one colony total.

(2) Colonies shall be located in the side or rear yard, and set back no less than ten feet from the nearest property line.

(3) Hives shall be placed on property so the general flight pattern of bees does not unduly impact neighboring properties or their inhabitants. If any portion of a hive is located within 30 feet of a public or private property line, as measured from the nearest point on the hive to the property line, a flyaway barrier at least six feet in height shall be established and maintained around the hive. The flyaway barrier shall be located along the property boundary or parallel to the property line, and shall consist of a solid wall, solid fencing material, dense vegetation or combination thereof extending at least ten feet beyond the colony in each direction, so that all honey bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the colony.

(4) Colonies shall be maintained in movable-frame hives with adequate space and management techniques to prevent overcrowding.

(5) Every beekeeper shall maintain a supply of water for the bees located within ten feet of each hive. The water shall be in a location that minimizes any nuisance created by bees seeking water on neighboring property.

(6) Hives shall be actively maintained. Hives not under human management and maintenance shall be dismantled or removed.

(7) In any instance in which a colony exhibits unusually aggressive characteristics or a disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another queen, or the colony will be destroyed.
(Ord. 590, passed 6-23-2003)

§ 154.089 MANUFACTURED HOME PARKS.

(A) *Review required.*

(1) In addition to the general provisions of this chapter, special provisions for the establishment of a manufactured home park or the expansion of an existing manufactured home park are required.

(2) Manufactured home parks shall not be established or expanded without first receiving approval of the Planning Commission. The Planning Commission may grant such approval only after reviewing preliminary site plans for the proposed manufactured home park.

(B) *Information required for preliminary site plan review.* The application for a preliminary site plan review for a manufactured home park shall be filed with the Planning Commission and shall be accompanied by a site plan showing the general layout of the entire manufactured home park and drawn to a scale of not smaller than one inch representing 50 feet. The drawing shall show the following information:

(1) Name of the property owner, applicant and person who prepared the plan.

(2) Name of the manufactured home park and address.

(3) Scale and north point of the plan.

(4) Vicinity map showing relationship of manufactured home park to adjacent properties.

(5) Boundaries and dimensions of the manufactured home park.

(6) Location and dimensions of the mobile home site; each site designated by number, letter or name.

(7) Location and dimensions of each existing or proposed structure.

(8) Location and width of park streets.

(9) Location and width of walkways.

(10) Location of each lighting fixture for lighting the mobile home park.

(11) Location of recreational areas and buildings, and area of recreational space.

(12) Location and type of landscaping plantings, fence, wall or combination of any of these, or other screening materials.

(13) Location of point where manufactured home park water system connects with public system.

(14) Location of available fire and irrigation hydrants.

(15) Location of public telephone service for the park.

(16) Enlarged plot plan of a typical mobile home site, showing location of the pad, patio, storage space, parking, sidewalk, utility connections and landscaping.

(C) *Final site plan and submission requirements.* At the time of application for final approval to construct a new manufactured home park or expansion of an existing manufactured home park, the applicants shall submit copies of the following required detailed plans to the city and appropriate state agencies as required by law or ordinance:

(1) New structures.

(2) Water supply and sanitary sewer facilities.

(3) Electrical systems.

(4) Road, sidewalk and patio construction.

(5) Drainage system.

(6) Recreational area improvements.

(D) *General standards for mobile home park development.*

(1) *Access.* A manufactured home park shall not be established on any site that does not have frontage on or direct access to a publicly owned and maintained street which has a minimum right-of-way width of 60 feet. No park entrance shall be located closer than 100 feet away from any intersection of public streets.

(2) *Park street.* A park street shall connect each mobile home site to a public street or road. The park street shall be a minimum of 30 feet in width, with a surface width of at least 20 feet if no parking is allowed, and 30 feet if parking is allowed on one side only.

(3) *Walkways.* Walkways of not less than three feet in width shall be provided from each mobile home site to any service building or recreational area.

(4) *Paving.* Park streets and walkways shall be paved with a crushed rock base and asphaltic or concrete surfacing, according to the structural specifications established for streets.

(5) *Off-street parking.*

(a) Two parking spaces shall be provided for each mobile home site, either on the site or within 200 feet thereof in the manufactured home park, which shall be not less than nine by 18 feet in size and paved with asphaltic macadam or concrete surfacing.

(b) Guest parking shall also be provided in every manufactured home park, based on a ratio of one parking space for each four mobile home sites. Such parking shall be paved with asphaltic macadam or concrete surfacing, and shall be clearly defined and identified.

(6) *Fencing and landscaping.*

(a) Every manufactured home park shall provide a site obscuring fence, wall, evergreen or other suitable screen/planting along all boundaries of the manufactured home park site abutting public roads or property lines that are common to other owners of property, except for point of egress.

(b) Walls or fences shall be six feet in height. Evergreen plantings used in perimeter screening shall not be less than five feet in height, and shall be maintained in a healthy, living condition for the life of the manufactured home park. No fence, hedge or wall, other than a retaining wall, higher than three feet shall be located within the required clear vision area on a corner lot.

(c) There shall be suitable landscaping provided within the front and side yard setback areas, and all open areas in the manufactured home park not otherwise used.

(7) *Area.*

(a) *Size of manufactured home park site.* No manufactured home park shall be created on a lot or parcel of land containing less than 2½ acres.

(b) *Manufactured home sites.* The average area of all manufactured home sites within a manufactured home park shall not be less than 3,000 square feet per site, and in no case shall any one mobile home site be less than 2,500 square feet.

(c) *Setbacks.* No manufactured home or access thereto shall be located any closer than 25 feet from a park property line abutting a public street or road, five feet from all other park property lines and ten feet from any such areas as a park street, a common parking area, or a common walkway. For setbacks not clearly listed above, the standards found in the Oregon Manufactured Dwelling and Specialty Code applies.

(d) *Spacing.* A manufactured home shall maintain a ten foot separation from an adjoining manufactured home. For spacing standards not clearly listed in this section, the standards found in the Oregon Manufactured Dwelling and Park Specialty Code apply.

(e) *Overnight spaces.* Not more than 5% of the total manufactured home park area may be used to accommodate persons wishing to park their manufactured homes or camping vehicles overnight.

(8) *Other site requirements.*

(a) *Recreational area.* An average of 200 square feet of recreational area shall be provided for each manufactured home site. This area may be in one or more locations in the park, and shall be suitably improved and maintained for recreational purposes.

(b) *Pad improvements.* Manufactured home pads or stands shall be paved with asphaltic or concrete surfacing, or with crushed rock.

(c) *Skirting.* Every manufactured home located on a manufactured home site shall be equipped with skirting which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.

(d) *Accessories.* Accessory structures located on a manufactured home site shall be limited to the normal accessories, such as an awning, cabana, ramada, patio, carport, garage or storage building. No other structural additions shall be built onto or become part of any manufactured home, and no manufactured home shall support any building in any manner.

(e) *Utilities.* Each manufactured home site shall be provided with a connection to a community sanitary sewer system and a community water supply system. All utilities within a manufactured home park shall be underground.

(f) *Storage yards.* Storage yards in parks for boats, campers and recreational vehicle equipment shall be constructed of a dust free all weather surface, and shall be enclosed by a six foot high sight-obscuring decorative fence and gate. Wash racks, if provided, shall be located in a storage yard, with adequate drainage. Except for temporarily locating the same in a storage yard, no manufactured home shall be hauled to and stored in a manufactured home park unless it is properly installed on a lot or site.

(g) *State requirements.* Rules and regulations governing manufactured home facilities as contained in O.R.S. Chapter 446, and "Rules and Regulations Governing the Construction and Statutory Operation of Travelers' Accommodations and Tourist Parks," adopted by the Oregon State Department of Human Resources, Health Division, shall prevail where said provisions are more stringent than those imposed by state law, rules or regulations.
(Ord. 590, passed 6-23-2003)

§ 154.090 STANDARDS FOR AUTO WRECKING YARDS, JUNK YARDS AND AUTOMOBILE TOWING BUSINESSES.

In addition to the general standards of this chapter, special provisions for the establishment and operation of auto wrecking yards, junk-yards and automobile towing businesses are established.

(A) The outdoor storage area of auto wrecking yard, junk yard or automobile towing business shall be fully enclosed by a sight-obscuring fence, free of advertising, maintained in good condition, and not less than six feet in height. All automobiles being stored, wrecked or otherwise, shall be kept inside the fenced area at all times, except that vehicles belonging to customers may be parked outside the fence while at the establishment on business. Vehicles shall not be stored so as to exceed the height of the fence.

(B) All sales, display, storage, repair, or other handling of wrecked automobiles shall occur from within an enclosed building or from within the fenced area. All truck loading or unloading shall occur within the boundaries of the property and shall not obstruct any portion of the public right-of-way. All loading and unloading of trucks transporting wrecked vehicles shall be accomplished within a 24-hour period.

(C) When any portion of an automobile towing business, auto wrecking yard or junk yard abuts a residential zone, supplemental evergreen plantings shall be installed along and adjacent to that portion of the fence abutting said residential opaque screening of at least 75% of the adjacent fence surface within two years of planting. The supplemental planting shall be maintained in good condition at all times.
(Ord. 590, passed 6-23-2003)

§ 154.091 PROPERTY LINE ADJUSTMENT.

The property line between lots or parcels may be adjusted in accordance with this section without the replatting procedures in O.R.S. 92 or the vacation procedures in O.R.S. 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the boundary or property line, not the original line. The City Manager or his designee has authority to approve a property line adjustment.

(A) *Application for property line adjustment.* An application for a line adjustment or elimination shall be filed by the owners of all lots or parcels affected. The application shall be accompanied by an appropriate fee and contain the following information:

(1) Reason for the property line adjustment.

(2) Vicinity map locating the proposed line adjustment or elimination in relation to adjacent subdivisions, partitions, other units of land and roadways.

(3) A plot plan showing the existing boundary lines of the lots or parcels affected by the line adjustment and the approximate location for the proposed adjustment line. The plot plan shall also show the approximate location of all structures within ten feet of the proposed adjusted line.

(B) *Approval for access.* An applicant must obtain written approval from ODOT for an access onto a state highway or written approval from Douglas County Public Works for an access onto a county road.

(C) *No additional units of land; minimum size and setbacks required, exceptions.*

(1) A line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment complies with the requirements of the applicable zone.

(2) A line adjustment is permitted only where existing or planned structures will not encroach within required setbacks as measured from the adjusted line.

(3) A line adjustment for a lot or parcel that is less than the minimum required size before the adjustment and further reduced as a result of the adjustment is permissible provided the applicant provides proof that, for the lot or parcel reduced in size, the parcel has an approved method of sewage disposal.

(D) *Same designation.* The line adjustment shall only be permitted where the sale or transfer of ownership is made between adjacent owners of like designated lands.

(E) *Easements unaffected.* A line adjustment shall have no affect on existing easements.

(F) *Map and monuments required.*

(1) For any resulting lot or parcel ten acres or less, a survey map that complies with O.R.S. 209.250 shall be prepared.

(2) The survey map shall show all structures within ten feet of the adjusted line.

(3) The survey map shall establish monuments to mark the adjusted line.

(G) *Approval and filing requirements.*

(1) Upon determination that the requirements of this section have been met, the City Manager or his designee shall advise the applicant in writing that the line adjustment is tentatively approved.

(a) Prior to final approval, a deed of conveyance conforming to the approved line adjustment shall be recorded with the Douglas County Clerk. A line adjustment deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgments.

(b) Within one year from the date of tentative approval, the applicant shall prepare and submit to the City Manager or designee any map required by division (F) of this section. If no map is required, the applicant shall submit proof that the requirements of the tentative approval have been met. The City Manager shall indicate final approval by endorsement upon the map, if any, or if no map is required the City Manager or designee shall advise the applicant in writing that final approval has been granted.

(c) Once endorsed by the City Manager, the map shall then be submitted to the County Surveyor. When the map is filed, the County Surveyor should indicate the filing information on the map.

1. The survey map and copy of the recorded deed of conveyance shall be filed with the Douglas County Surveyor. When the map is filed, the County Surveyor shall indicate the filing information on the face of the final map.

(d) A line adjustment shall be effective when the map is filed by the County Surveyor and an instrument reference (e.g. Deed or covenant recorded with the County Clerk) is noted on the face of the map. If no map is required, then the line adjustment shall be effective when final approval is granted by the City Manager and an instrument (e.g. Deed and/or covenant) is recorded with the County Clerk.

(e) *Exception for adjustments.*

1. The survey requirements shall not apply to a line adjustment when lots or parcels contain more than ten acres before and after the adjustment.

2. A copy of the recorded deed of conveyance shall be submitted to the City Manager for final approval of the property line adjustment. The City Manager shall notify the applicant in writing of the final approval.
(Ord. 590, passed 6-23-2003)

FLOODPLAIN DEVELOPMENT

§ 154.100 FINDINGS OF FACT.

(A) *Statutory authority.* The State of Oregon has in O.R.S. 197.175, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city does ordain as follows:

(B) *Flood losses resulting from periodic inundation.*

(1) The flood hazard areas of the City of Winston are subject to periodic inundation which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.101 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize those public and private losses due to flooding in specific areas, as described in § 154.100(A), by provisions designed to:

(A) Protect human life and health;

(B) Minimize expenditure of public money and costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Control the alteration of floodplains, stream channels, and natural barriers which help accommodate or channel flood waters;

(E) Minimize prolonged business interruptions;

(F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize blight areas caused by flooding;

(G) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;

(H) Notify potential buyers that the property is in a special flood hazard area;

(I) Notify those who occupy special flood hazard areas that they assume responsibility for their actions; and

(J) Participate in and maintain eligibility for flood insurance and disaster relief.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.102 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

(A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.103 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Winston, Oregon.

(B) *Basis for establishing the areas of special flood hazard.* The special flood hazard areas identified by the Federal Insurance Administration in the scientific and engineering reports entitled "Flood Insurance Study for Douglas County, Oregon and Unincorporated Areas" dated February 17, 2010, with accompanying Flood Insurance Maps, are hereby adopted by reference and declared to be part of this chapter. The Flood Insurance Study and Flood Insurance Rate Maps are on file at 201 NW Douglas Boulevard (City Hall), Winston, Oregon 97496. The best available information for flood hazard area identification as outlined in § 154.104(C)(2), shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under § 154.104(C)(2).

(C) *Coordination with State of Oregon specialty codes.* Pursuant to the requirement established in O.R.S. 455 that the city Building Department administers and enforces the state Specialty Codes, the city does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this chapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

(D) *Compliance.* All development within special flood hazard areas is subject to the terms of this chapter and required to comply with its provisions and all other applicable regulations.

(E) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a penalty defined in § 154.999. Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(F) *Abrogation and greater restrictions.* It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(G) *Severability.* This chapter and the various parts thereof are hereby declared to be severable. If any section, clause, sentence, or phrase of the chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no ways effect the validity of the remaining portions of this chapter.

(H) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(I) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Winston, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.104 ADMINISTRATION.

(A) *Establishment of development permit.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 154.103(B). The permit shall be for all structures including manufactured homes, as set forth in the "definitions", and for all other development including fill and other activities, also as set forth in the "definitions".

(B) *Designation of the Administrator.* The City Manager is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

(C) *Duties and responsibilities of the Administrator.* Duties of the City Manager or his delegated Floodplain Adminstrator shall include, but not be limited to:

(1) *Permit review.* Review all development permits to determine that:

(a) The permit requirements and conditions of this chapter have been satisfied;

(b) All other required local, state, and federal permits have been obtained and approved;

(c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the floodway provisions of § 154.109(B) are met;

(d) Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of § 154.105(D);

(e) Provide to the City Manager the Base Flood Elevation (BFE) freeboard of one foot is applicable to any building requiring a development permit for habitable structures;

(f) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in § 154.002;

(g) Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in § 154.105(F); and

(h) Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

(D) *Use of other base flood data (in A zone).* When base flood elevation data has not been provided (A Zone) in accordance with § 154.103(B), the City Manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer § 154.105.

(1) The following information shall be obtained and maintained and shall be made available for public inspection as needed:

(a) Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with § 154.105(D);

(b) Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of § 154.109(B), and § 154.105(B) are adhered to;

(c) Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement);

(d) Where base flood elevation data are utilized, obtain as-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection;

(e) Maintain all Elevation Certificates (EC) submitted to the City of Winston;

(f) Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with § 154.105(D);

(g) Maintain all floodproofing certificates required under this chapter;

(h) Record and maintain all variance actions, including justification for their issuance;

(i) Obtain and maintain all hydrologic and hydraulic analyses performed as required under § 154.108(E);

(j) Record and maintain all substantial improvement and substantial damage calculations and determinations as required under § 154.109(B); and

(k) Maintain for public inspection all records pertaining to the provisions of this chapter.

(E) *Community boundary alterations.* The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

(F) *Alteration of watercourses.*

(1) Notify adjacent communities, the Department of State Lands, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained;

(3) A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

(4) (a) Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

(b) The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under division (G) of this section. Ensure compliance with all applicable requirements in divisions (F) and (G) of this section.

(5) *Interpretation of FIRM Boundaries*. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) *Appeals*. The Planning Commission, as established by the City of Winston, shall hear and decide appeals and requests for variances from the requirements of this chapter. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

(G) *Requirement to submit new technical data.* A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

(1) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

(a) Proposed floodway encroachments that increase the base flood elevation; and

(b) Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

(2) An applicant shall Notify FEMA within six months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

(H) *Substantial improvement and substantial damage assessments and determinations.* Conduct substantial improvement (SI) (as defined in section § 154.103) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with division (D) of this section. Conduct Substantial Damage (SD) (as defined in § 154.002) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in § 154.104(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

(I) *Floodplain development permit required.* A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in § 154.104(B). The development permit shall be required for all structures, including manufactured homes, and for all other development, as defined in § 154.002, including fill and other development activities.

(J) *Application for development permit.* Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of division (D)(1) of this section.

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.

(3) Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in § 154.107(E) and (F).

(4) Description of the extent to which any watercourse will be altered or relocated.

(5) Base flood elevation data for subdivision proposals or other development when required per division (C) of this section and § 154.106(B).

(6) Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

(7) The amount and location of any fill or excavation activities proposed.

(K) *Variance procedure.* The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

(L) *Conditions for variance.*

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of § 154.106. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

(d) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of § 154.106 are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(M) *Variance notification.* Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with division (D)(1) of this section. (Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.105 PROVISIONS FOR FLOOD HAZARD PROTECTION.

(A) *General standards.* In all areas of special flood hazards the following standards are required:

(1) *Anchoring.*

(a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent floatation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or from tied-to-ground anchors.

(2) *Construction materials and methods.*

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) *Utilities.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(4) *Subdivision proposals.*

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(5) *Review of building permits.* Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (§ 154.104(C)(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

(B) *Specific standards.* In all areas of special flood hazards where the base flood elevation data has been provided as set forth in § 154.103(B), or § 154.104(C)(2) (in A Zone), the following provisions are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than one foot above grade.

(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(d) An attached garage where the garage slab is below the base flood elevation is considered an enclosed area and is also subject to the flood vent requirements.

(2) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to no less than one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

(a) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in § 154.104.

(d) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in divisions (A)(5) or (B)(1) of this section.

(e) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated one foot below that level).

(3) *Recreational vehicles.* All recreational vehicles placed within the floodplain shall be either:

(a) On the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(4) *Manufactured homes.*

(a) All new, replacement or substantially improved manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam (lowest floor) of the manufactured home, as defined in the Oregon Manufactured Dwelling Specialty Code, is elevated to a minimum 12 inches above the base flood elevation (BFE) and securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(b) The manufactured dwelling stand or foundation shall be a minimum of 12 inches above the BFE unless the foundation wall is opened on one side or end so that floodwater cannot be trapped;

(c) The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and,

(d) Electrical cross-over connections must also be 12 inches above BFE, as provided in the Oregon Manufactured Dwelling Specialty Code.

(e) Manufactured homes placed or substantially improved in the floodway shall also comply with the provisions of division (D)(1) of this section.

(5) *Below-grade crawl spaces.* Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in division (b) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

(c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(d) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(e) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(h) The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

(i) For more detailed information refer to FEMA Technical Bulletin 11-01.

(C) *Before regulatory floodway*. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(D) *Floodways*. Located within areas of special flood hazard established in division (A), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Except as provided in division (3) below, prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If division (D)(1), is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(3) Projects for stream habitat restoration may be permitted in the floodway provided the projects have been approved by the U.S. Army Corps of Engineers, Oregon Department of State Lands, or the Oregon Department of Fish and Wildlife, as appropriate.
(Ord. 590, passed 6-23-2003)

§ 154.106 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards*. In all areas of special flood hazards areas, the following standards shall be adhered to:

(1) *Alteration of watercourses*. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with § 154.104(F).

(2) *Anchoring*.

(a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) All manufactured homes shall be anchored per § 154.107(D).

(3) *Construction materials and methods*.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(4) *Water supply, sanitary sewer, and on-site water disposal system.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(5) *Electrical, mechanical, plumbing, and other equipment.*

(a) Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level, utility units can be placed at or above BFE, or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

(b) If replaced as part of a substantial improvement shall meet all the requirements of this section.

(6) *Tanks.*

(a) Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

(b) Above-ground tanks shall be installed at or above the base flood level utility units can be placed at or above BFE, or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

(B) *Subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) shall:

(a) Be consistent with the need to minimize flood damage;

(b) Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and

(c) Have adequate drainage provided to reduce exposure to flood hazards.

(3) All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, base flood elevation data.

(C) *Review of building permits.*

(1) When base flood elevation data has not been provided in accordance with § 154.104(D), the local Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer § 154.104. All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) must meet the requirements of § 154.106(B).

(2) Base flood elevations shall be determined for development proposals that are five acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided base level engineering data, and photographs of past flooding, etc. where available. Unless an Oregon registered professional engineer certifies to the City of Winston and other agencies, which will require a permit for the proposed development that the cumulative effect of the proposed development and anticipated development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(D) *Structures located in multiple or partial flood zones.* In coordination with the State of Oregon Specialty Codes:

(1) When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

(2) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(E) *Specific standards.* In all areas of special flood hazards, where the base flood elevation data has been provided as set forth in § 154.103(B), or § 154.104(D), the following provisions are required: These specific standards shall apply to all new construction and substantial improvements in addition to the general standards contained in this chapter.

(F) *Flood openings*. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

(1) Enclosed areas below the base flood elevation, including crawl spaces shall:

(a) Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;

(b) Be used solely for parking, storage, or building access;

(c) Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:

(d) A minimum of two openings;

(e) The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls; and

(f) The bottom of all openings shall be no higher than one foot above grade.

(g) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.

(h) All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable by the Douglas County Building Department.
(Ord. 21-692, passed 3-1-2021)

§ 154.107 PROVISIONS FOR CONSTRUCTION IN THE FLOODPLAIN.

(A) *Residential construction*. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation. Enclosed areas below the lowest floor shall comply with the flood openings requirements in § 154.106(F). The lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) An attached garage where the garage slab is below the base flood elevation is considered an enclosed area and is also subject to the flood vent requirements.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other non-residential structure shall:

(1) Have the lowest floor, including basement elevated at or above the base flood elevation (BFE), or, together with attendant utility and sanitary facilities:

(a) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in § 154.104(D).

(d) Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in § 154.106(F).

(e) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated one foot below that level.

(C) *Recreational vehicles.* Recreational vehicles placed on sites are required to:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) Meet the requirements of § 154.107(D), including the anchoring and elevation requirements for manufactured homes.

(D) *Manufactured homes.*

(1) New or substantially improved manufactured homes supported on solid foundation walls shall be constructed with flood openings that comply with § 154.109(B);

(2) The bottom of the longitudinal chassis frame beam shall be at or above base flood elevation; and

(3) (a) The manufactured home shall be anchored to prevent flotation collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and

(b) New or substantially improved manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques);

(4) Electrical crossover connections shall be a minimum of 12 inches above base flood elevation (BFE) as provided in the Oregon Manufactured Home Specialty Code;

(5) All new, replacement or substantially improved manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the bottom of the longitudinal chassis frame beam (lowest floor) of the manufactured home, as defined in the Oregon Manufactured Home Specialty Code, is elevated to a minimum 12 inches above the base flood elevation (BFE) and securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement;

(6) The manufactured home stand or foundation shall be a minimum of 12 inches above the BFE unless the foundation wall is opened on one side or end so that floodwater cannot be trapped; and

(7) Manufactured homes placed or substantially improved in the floodway shall also comply with the provisions of § 154.106(A)(2).

(E) *Garages*. Attached garages may be constructed with the garage floor slab below the base flood elevation (BFE) in riverine flood zones, if the following requirements are met:

(1) If located within a floodway the proposed garage must comply with the requirements of § 154.109(B);

(2) The floors are at or above grade on not less than one side;

(3) The garage is used solely for parking, building access, and/or storage;

(4) The garage is constructed with flood openings in compliance with § 154.106(F)(1)(g), to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;

(5) The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;

(6) The garage is constructed in compliance with the standards in § 154.106; and

(7) The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(8) Detached garages must be constructed in compliance with the standards for appurtenant structures in § 154.107 or nonresidential structures in § 154.106(B) depending on the square footage of the garage.

(F) *Appurtenant (accessory) structures*. Relief from elevation or floodproofmg requirements for residential and non-residential structures in riverine (non-coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

(1) Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in § 154.109(B);

(2) Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;

(3) In compliance with State of Oregon specialty codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;

(4) The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;

(5) The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(6) The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in § 154.106(F);

(7) Appurtenant/accessory structures shall be located and constructed to have low damage potential;

(8) Appurtenant/accessory structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with § 154.106(A)(4).

(9) Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
(Ord. 21-692, passed 3-1-2021)

§ 154.108 BELOW-GRADE CRAWL SPACES.

(A) Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

(B) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in this section. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(C) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entiy and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

(D) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(E) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(F) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

(G) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(H) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(I) The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used. For more detailed information refer to FEMA Technical Bulletin 11-01.

(J) *For riverine (non-coastal) special flood hazard areas with base flood elevations.* In addition to the general standards shall apply in riverine (non-coastal) special flood hazard areas with base flood elevations (BFE): Zones A1-A30, AH and AE.
(Ord. 21-692, passed 3-1-2021)

§ 154.109 BEFORE REGULATORY FLOODWAY.

(A) In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(B) *Floodways.* Located within areas of special flood hazard established in § 154.106(A), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

(2) Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

(3) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

(4) If the requirements of this section are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of § 154.106.

(5) Projects for stream habitat restoration may be permitted in the floodway provided the projects have been approved by the U.S. Army Corps of Engineers, Oregon Department of State Lands, or the Oregon Department of Fish and Wildlife, as appropriate.
(Ord. 21-692, passed 3-1-2021)

CONDITIONAL USE PERMIT

§ 154.115 PURPOSE.

A conditional use in an activity which is basically similar to the uses permitted in a particular zone, but which may not be entirely compatible with the permitted uses. Therefore, a conditional use must be reviewed to ensure that it is, or can be made to be compatible with the other permitted uses in the zone.
(Ord. 590, passed 6-23-2003)

§ 154.116 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

Conditional uses listed in this chapter may be permitted, enlarged, or altered in accordance with the standards and procedures set forth in §§ 154.116 through 154.118.

(A) In permitting a conditional use or the modification of a conditional use, the City Manager may impose, in addition to those standards and requirements expressly specified by this chapter, additional conditions which are considered necessary to protect the public health, safety, or general welfare of the surrounding area or the city as a whole. These conditions may include:

(1) Increasing the required lot size or yard dimension;

(2) Limiting the height of buildings;

(3) Controlling the location and number of vehicle access points;

(4) Increasing the street width;

(5) Increasing the number of required off-street parking spaces;

(6) Limiting the number, size, location, and lighting of signs;

(7) Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property;

(8) Designating sites for open space;

(9) Measures to control noise, vibrations, odors, or similar nuisances;

(10) Limitations on time of day certain activities may be conducted;

(11) A time period in which a proposed use shall be developed;

(12) A limit of total duration of use or activity;

(13) Posting of a performance bond of up to the value of the improvement in order to assure that the other conditions of the permit are satisfied;

(14) A contractual agreement to assure that the subject property will participate in the cost of future street and public facility improvements which benefit the subject property; and

(15) Other conditions as deemed necessary.

(B) In the case of a use existing prior to the effective date of this chapter and clarified in this chapter as a conditional use, a change in use or in lot area or an alteration of a structure shall conform with the requirements for issuance of a conditional use permit.

(C) The City Manager shall approve, deny or return the request for revising, if the conditional use request requires further review and study. Denied applications cannot be resubmitted within 12 months after date of denial, unless documentation or evidence is provided, which demonstrates the applicant has mitigated or addressed all the points for the basis of denial.

(D) Upon request, the City Manager may extend the variance authorization for up to one year. An extension request must be submitted to the City Manager, in writing, prior to the expiration of such approval, stating the reason(s) why an extension should be granted.
(Ord. 590, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 154.117 PROCEDURE FOR TAKING ACTION ON A CONDITIONAL USE APPLICATION.

A property owner may initiate a request for a conditional use by filing an application with the City Manager, using the procedures and forms prescribed pursuant to § 154.177, and paying a nonrefundable filing fee.
(Ord. 590, passed 6-23-2003)

§ 154.118 TIME LIMIT ON A PERMIT FOR A CONDITIONAL USE.

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless substantial construction or conditions of approval pursuant thereto has taken place. Substantial construction shall mean construction of the permanent, main building structure beyond the stage of exterior walls and roof to such a degree that the estimated value of the structure exceeds 75% of the estimated building value as determined for construction permit purposes. On request, authorization may be extended for an additional period not to exceed one year.
(Ord. 590, passed 6-23-2003)

§ 154.119 REVOCATION OF A PERMIT FOR A CONDITIONAL USE.

(A) Any permit for a conditional use may be revoked by the City Manager or Planning Commission for violation of any conditions of issuance or other ordinances or regulations.

(B) Before the Planning Commission may act on such a revocation, it shall hold a public hearing thereon. The revocation of a conditional use by the City Manager may be appealed to the Planning Commission. The revocation of a conditional use by the Planning Commission may be appealed to City Council.

(C) Within five days after a decision has been rendered with reference to the revocation, the City Manager shall provide the applicant with written notice of the decision.
(Ord. 590, passed 6-23-2003)

VARIANCES

§ 154.125 AUTHORIZATION TO GRANT OR DENY VARIANCES.

Variances from the requirements of this chapter may be authorized where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, conditions found necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter, may be attached.
(Ord. 590, passed 6-23-2003)

§ 154.126 CIRCUMSTANCES FOR GRANTING A VARIANCE.

A variance may be granted only in the event that all of the following circumstances exist:

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(C) The variance would not be materially detrimental to the purposes of this chapter, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.

(D) The variance requested is the minimum variance which would alleviate the hardship.
(Ord. 590, passed 6-23-2003)

§ 154.127 PROCEDURE FOR TAKING ACTION ON A VARIANCE APPLICATION.

(A) The property owner may initiate a request for a variance by filing an application with the City Manager, using the procedure and forms prescribed pursuant to § 154.177 and paying a nonrefundable filing fee.

(B) A variance may be approved or denied if the application is not tabled for further review and study. Denied applications cannot be resubmitted within 12 months after date of denial, unless documentation or evidence is provided, which demonstrates the applicant has mitigated or addressed all the points for the basis of denial.
(Ord. 590, passed 6-23-2003)

§ 154.128 TIME LIMIT ON A PERMIT VARIANCE.

Authorization of a variance shall be void after one year unless substantial construction or conditions of approval pursuant thereto has taken place. On request, the variance authorization period may be extended up to one year.
(Ord. 590, passed 6-23-2003)

§ 154.129 FAMILY HARDSHIP VARIANCE (TEMPORARY USE OF MOBILE HOME).

Pursuant to the procedures specified in § 154.127, the temporary placement of a mobile home may be authorized on a lot as a second dwelling for the purpose of alleviating a family hardship if the following criteria are met.

(A) The second dwelling shall be for the purpose of providing housing for a family member who, because of a condition relating to the age, illness or other infirmity of themselves or another family member, must reside in a separate dwelling on the same lot as the principal dwelling.

(B) The second dwelling shall conform in all respects to the standards and specifications prescribed by this chapter, including, but not limited to size, setbacks and skirting requirements.

(C) The second dwelling shall be properly connected to water, electrical, sewer and other utilities, and all required permits for the placement of the second dwelling and for its connection to utilities shall be obtained. In the event the property is not served by public sewers and no public sewer is within 300 feet of the property, a subsurface sewage disposal system may be used subject to approval by the Oregon Department of Environmental Quality.

(D) Temporary placement of a second dwelling as provided for in this section shall be limited to a specified period not to exceed two years unless upon a subsequent application by the property owner an extension is granted.

(E) Authorization shall be supported by written findings which describe the nature of the hardship, including the names of the family members occupying the second dwelling, their relationship to the property owner, a brief description of the condition which is causing the hardship, and the time period for which the temporary placement of the second dwelling is authorized.

(F) Prior to the issuance of a placement permit for a second dwelling, a development agreement for the approved hardship placement shall be completed and filed with the City Manager. A copy of the development agreement shall be submitted with, and made a part of, the application for the placement permit.

(G) Upon expiration of the time period for which the temporary placement of a second dwelling has been authorized, or when the condition which warranted the authorization no longer exists, or upon revocation of such authorization as provided for in § 154.130, the property owner shall have 30 days in which to remove the temporary dwelling from the property, unless a properly filed application for an extension is made. If an extension is authorized, the property owner shall, within ten days of such extension, return a copy of the approved extension to the City Manager.
(Ord. 590, passed 6-23-2003)

§ 154.130 REVOCATION OF AUTHORIZATION.

(A) Authorization for the temporary placement of a second dwelling as provided for in § 154.129 may be revoked by the approving authority (City Manager or the Planning Commission) upon finding that the conditions which warranted the authorization no longer exist, or upon finding that the applicant has misrepresented the facts upon which the authorization had been granted.

(B) An initial approval by the City Manager, may be revoked by the City Manager. The revocation decision by the City Manager may be appealed to the Planning Commission. An initial approval by the Planning Commission may be revoked by the Planning Commission. The revocation decision by the Planning Commission may be appealed to City Council.

(C) The City Manager shall provide the property owner with written notice of the revocation decision. The notice shall also state that within 15 days from the date of the revocation decision of the City Manager or Planning Commission shall become effective unless a review of the decision is submitted within 14 days from the date of the written decision. The notice shall state that any review must be submitted pursuant to § 154.188 regarding a decision of the City Manager or § 154.189 regarding a decision of the Planning Commission.
(Ord. 590, passed 6-23-2003)

AMENDMENTS

§ 154.140 PURPOSE.

This subchapter provides the substantive requirements for quasi-judicial amendments of the comprehensive plan. Procedural provisions for such plan amendments, unless otherwise provided by this subchapter, are set forth in §§ 154.170 through 154.191. A quasi-judicial amendment is a change in the Comprehensive Plan Future Land Use Map for a particular parcel or limited number of parcels of land.
(Ord. 590, passed 6-23-2003)

§ 154.141 AUTHORIZATION TO INITIATE AMENDMENTS.

An amendment to the text of the comprehensive plan or the Future Land Use Map, this chapter or to the zoning map, and an amendment to any of the land use regulation ordinances, may be initiated by the City Council, the city Planning Commission, or by the application of the property owner. The request by a property owner for an amendment shall be accompanied by a filing fee and shall be accomplished by filing an application with the City Manager or his designee using the procedures and forms prescribed pursuant to § 154.177.
(Ord. 590, passed 6-23-2003)

§ 154.142 APPLICATION AND HEARING DATES.

All quasi-judicial plan amendment applications shall be filed with the City Manager or his designee at least 60 days prior to the hearing date. Application shall be made on forms provided by the City Manager or his designee and shall be accompanied by the required fee. Once the City Manager or his designee has deemed the application complete, the Planning Commission shall schedule and conduct a public hearing on the proposed amendment following the procedures described in § § 154.179 through 154.188. Quasi-judicial plan amendment hearings shall be scheduled and conducted only on regular meeting dates scheduled in the months of April and October.
(Ord. 590, passed 6-23-2003)

§ 154.143 APPLICATION FORM, CONTENT, AMENDMENT STANDARDS.

(A) The City Manager or his designee shall prescribe forms for applications for quasi-judicial plan amendments which, when completed, shall be sufficient to describe the nature and effect of the proposed amendment.

(B) The application shall address the following requirements, which shall be the standard for amendment:

(1) That the amendment complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission, pursuant to O.R.S. 197.240, or as revised pursuant to O.R.S. 197.245. If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal as provided in Statewide Planning Goal 2, Part II. Compelling reasons and facts shall be given why an exception should be adopted, including:

(a) Why the proposed use should be provided;

(b) What alternative locations within the area could be used for the proposed use;

(c) What are the long-term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the goal or permitting the proposed use; and

(d) How the proposed use will be compatible with other adjacent uses.

(2) That the amendment complies with applicable policies of the comprehensive plan.

(3) That there is a public need for a change of the kind in question.

(4) That such need will be best served by changing the plan designation of the particular piece of property in question as compared with other available property.

(C) Applications for quasi-judicial plan amendments may be combined with an application, on the same property, for an administrative action. If a combined application is made, the time periods in this subchapter shall apply, even if such periods conflict with time periods set forth in §§ 154.170 through 154.191.
(Ord. 590, passed 6-23-2003)

§ 154.144 NOTICE.

(A) At least 20 days prior to the hearing by the city Planning Commission, notice thereof shall be given as provided in § 154.180.

(1) Notice for hearings involving zone changes and comprehensive plan amendments shall also be given by publication in a newspaper of general circulation in the area affected at least 20 days prior to the date of the hearing.

(B) If the application proposes an exception to a goal as described in § 154.143(B)(1), such exception shall specifically be noted in the notice.

(C) A ten day notice of the City Council public hearing shall be provided to all parties of quasi-judicial decisions.

(D) A notice of the City Council public hearings involving legislative zone changes and comprehensive plan amendments shall also be given by publication in a newspaper of general circulation in the area affected at least ten days prior to the date of the hearing.
(Ord. 590, passed 6-23-2003)

§ 154.145 PUBLIC HEARING BY PLANNING COMMISSION.

(A) The city Planning Commission shall conduct a public hearing upon the proposed plan amendment, and, if the proposed amendment is combined with an application for administrative action, the Commission shall conduct any required hearing at the same time. The hearing shall be conducted pursuant to the provisions of §§ 154.170 through 154.191.

(B) The City Planning Commission shall hear and consider all evidence, comments and recommendations presented by the applicant or his authorized agent; the public or any other body; the County Planning Commission; and the City Manager or his designee.

(C) After the close of the hearing, the Commission shall recommend approval, conditioned approval or denial of the application and shall adopt findings of fact supporting its recommendation.
(Ord. 590, passed 6-23-2003)

§ 154.146 PUBLIC HEARING BY CITY COUNCIL.

(A) Within 30 days of the decision of the Commission, a public hearing shall be scheduled before the City Council.

(1) The City Council shall conduct a public hearing within 60 days of the decision of the Planning Commission upon all matters heard by the Commission under this subchapter.

(B) If a notice of review is filed with the City Manager or his designee, the City Council shall conduct a hearing pursuant to §§ 154.170 through 154.191.

(1) If there is no request for review of the Commission's action, the City Council may adopt the findings and conclusions, and initial decision at the required public hearing.

(2) If the City Council elects to review the Commission's initial decision, either on its own motion or otherwise pursuant to § 154.189, notice of the hearing shall be given pursuant to §§ 154.170 through 154.191.

(C) The public hearing shall be confined to the record of the proceeding before the Commission, which shall include those matters contained in § 154.143, and, in addition, argument by the parties or their legal representatives at the time of review before the City Council.
(Ord. 590, passed 6-23-2003)

§ 154.147 DECISION OF CITY COUNCIL.

After the close of the hearing, the City Council shall adopt, amend, deny or remand to the Commission the application heard by it, and shall adopt written findings of fact and a decision supporting its action.
(Ord. 590, passed 6-23-2003)

§ 154.148 CONDITIONS OF APPROVAL.

In granting a plan amendment, the City Council or city Planning Commission may, in addition to any other requirements of this chapter, impose additional conditions which it considers necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include:

(A) Increasing the required lot size or yard dimension;

(B) Limiting the height of buildings;

(C) Controlling the location and number of vehicle access points;

(D) Increasing the street width;

(E) Increasing the number of required off-street parking spaces;

(F) Limiting the number, size, location, and lighting of signs;

(G) Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property;

(H) Designating sites for open space; and

(I) Other conditions as necessary.
(Ord. 590, passed 6-23-2003)

§ 154.149 APPEAL.

Appeal of the final action of the City Council relative to an application for a quasi-judicial plan amendment may be pursued in the manner prescribed by statute.
(Ord. 590, passed 6-23-2003)

§ 154.150 RECORD OF AMENDMENTS.

The City Recorder shall maintain records of amendments to the text and zoning map of this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.151 LIMITATION.

No application of a property owner for an amendment to the text of this chapter or to the zoning map shall be considered by the Planning Commission within the one year period immediately following a previous denial of such a request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.
(Ord. 590, passed 6-23-2003)

NONCONFORMING USES

§ 154.160 CONTINUATION OF A NONCONFORMING USE OR STRUCTURE.

Subject to the provisions of §§ 154.160 through 154.163, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended. A nonconforming structure which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.161 DISCONTINUANCE OF A NONCONFORMING USE.

If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.162 CHANGE OF NONCONFORMING USE.

If a nonconforming use is replaced by another use, the new use shall conform to this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.163 DESTRUCTION OF NONCONFORMING USE OR STRUCTURE.

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to the extent exceeding 80% of its fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform to this chapter. In the case of a nonconforming residential use, the structure may be restored and the occupancy or use of such structure which existed at the time of such destruction may be resumed, provided that the restoration is commenced within a period of one year and is diligently pursued to completion.
(Ord. 590, passed 6-23-2003)

§ 154.164 EXPANSION OF NONCONFORMING RESIDENTIAL USE.

In order to alleviate possible hardships created by a nonconforming residential use, such structures may be increased in floor space by an amount not to exceed 25% of the floor space used for a nonconforming residential use at the time of the passage of this amendment or at the time the use becomes nonconforming, whichever is the later event. Such nonconforming residential use may be

extended to the new area so created. The expansion of nonconforming residential use may be granted only once to any parcel of land existing at the time of the passage of this amendment or at the time the use becomes nonconforming, whichever is the later event. Such expansions must conform to all other city ordinances and codes.
(Ord. 590, passed 6-23-2003)

DEVELOPMENT APPROVAL PROCEDURES

§ 154.170 PURPOSE.

The purpose of this chapter is to establish procedures for approval of development required by this chapter, appeals from aggrieved persons and parties, and review of any decision by a higher authority.
(Ord. 590, passed 6-23-2003)

§ 154.171 REVIEW PROCESS.

An application for development approval required by this chapter shall be processed by quasi-judicial public hearing or administrative action, pursuant to applicable sections of this chapter. Quasi-judicial hearings shall be held on all regulations, except that hearings shall not be held in those matters the City Manager has authority to act upon, unless appealed pursuant to the provisions of this chapter.
(Ord. 590, passed 6-23-2003)

§ 154.172 FORM OF PETITIONS, APPLICATIONS AND APPEALS.

Petitions, applications, and appeals provided for in this chapter shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the size and relationship on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this chapter. In the matter of residential facilities, the residential facility application shall also be accompanied by a copy of the state licensing application.
(Ord. 590, passed 6-23-2003)

§ 154.173 AUTHORIZATION OF SIMILAR USES.

The City Manager may permit in a particular zone a use not listed in this chapter provided the use is of the same general type as the uses permitted there by this chapter. However, this section does not authorize the inclusion, in a zone where it is not listed, a use specifically listed in another zone which is of the same general type and is similar to a use specifically listed in another zone.
(Ord. 590, passed 6-23-2003)

§ 154.174 COORDINATION OF DEVELOPMENT APPROVAL.

(A) The City Manager shall be responsible for the coordination of all development applications and decision making procedures, and shall approve developments when proper application is made and the proposed development is in compliance with the provisions of this chapter and the City of Winston comprehensive plan. Before approving any development, the City Manager shall be provided with information by the applicant sufficient to establish full compliance with the requirements of this chapter.

(B) After an application has been submitted, no building permit for the proposed use shall be issued until final action has been taken. Following final action on the application, the issuance of a building permit shall be in conformance with the provisions of this chapter, and any conditions of development approval.
(Ord. 590, passed 6-23-2003)

§ 154.175 WHO MAY APPLY.

(A) An application for development approval may be initiated by one or more of the following:

(1) The owner of the property which is the subject of the application;

(2) The purchaser of such property who submits a duly executed written contract or copy thereof;

(3) A lessee in possession of such property who submits written consent of the owner to make such application; or

(4) Resolution of the City Council.

(B) Any of the above may be represented by an agent who submits written authorization by his principal to make such application.
(Ord. 590, passed 6-23-2003)

§ 154.176 PRE-APPLICATION CONFERENCE.

An applicant shall request a pre-application conference prior to submitting a request for development approval. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this chapter, provide for an exchange of information regarding applicable elements of the comprehensive plan and development requirements, arrange such technical and design assistance as will aid the applicant, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The requirements of this section may be waived at the discretion of the City Manager.
(Ord. 590, passed 6-23-2003)

§ 154.177 APPLICATION.

Application for development approval shall be made pursuant to applicable sections of this chapter on forms provided by the city. An application shall be complete, contain the information required by these regulations, and address the appropriate criteria for review and approval of the request. All applications shall be accompanied by the required fee.

(A) The City Manager shall check an application for completeness as per this section. The Manager shall notify the applicant of any missing materials within 30 days of receipt of the application. The applicant shall have 180 days from the date the applicant was informed what materials were missing to submit the missing materials. The application shall be deemed complete when all required materials are received, when 180 days have expired since the applicant was notified of the missing material(s) or on the 31st day after submittal of any incomplete application if the applicant has submitted a written statement that the missing materials will not be submitted.

(B) *Concurrent processing*. Any application for discretionary permits applied for under this chapter or under Chapter 153 of this code, for one development, at the applicant's request shall be processed concurrently.

(C) *Time limit on decisions*. The final decision, including any appeals to the City Council, on any applications for discretionary permits applied for under this chapter or under Chapter 153 of this code, shall be made within 120 days of the date the application(s) is (are) deemed complete. The 120 days applies only to the decisions wholly within the authority and control of the city and not to plan and land use regulation decisions required to be forwarded to the Director of the Department of Land Conservation and Development under O.R.S. 197.610(1). The 120-day period may be extended at the request of the applicant.

(D) *Review*. Approval or denial for an application shall be based upon the comprehensive plan and standards and criteria that were applicable for that land use regulation at the time the application was first submitted.

(1) Denied applications cannot be resubmitted within 12 months after the date of the final order on the action denying the application, unless documentation or evidence is provided, which demonstrates the applicant has mitigated or addressed all the points for the basis of denial.

(E) An applicant whose application has not been acted upon finally within the 120 days after the application was deemed complete by the City Manager may seek a writ of mandamus to compel issuance of the permit or zone change application or a determination that the appeal would violate the city's plan or land use regulations.
(Ord. 590, passed 6-23-2003)

§ 154.178 FEE TO ACCOMPANY ANNEXATION PETITIONS.

At the time of filing any annexation petition, the petitioner shall deposit with the city an annexation fee. Upon presentation of the petition the City Manager shall review it and determine whether an election may be required for the petition. This fee shall be used to pay expenses to the city in processing the annexation application, including but not limited to, reasonable charge for staff time, election expenses, engineering, and posting or publication costs. If, at the conclusion of the annexation process, any balance is left remaining after payment of the above expenses, the remainder shall be refunded to the applicant.
(Ord. 590, passed 6-23-2003)

§ 154.179 LAND USE ACTIONS.

(A) *Ministerial actions*. The City Manager shall have the authority to review the following applications as ministerial actions, and shall follow the procedures provided by this chapter to accomplish such review.

(1) Issuance of building permits and mobile home placement permits.

(2) Issuance of sign permits.

(3) Property line adjustments.

(4) Family hardship variance (temporary use of mobile home).

(B) *Administrative actions*.

(1) The City Manager shall have the authority to review the following applications as administrative actions, and shall follow the procedures provided by this chapter to accomplish such review. The following applications shall be processed as administrative actions:

(a) Conditional use permit.

(b) Variance.

(c) Land partition.

(2) The Planning Commission shall be provided with a copy of administrative land use decisions. The Planning Commission may at a regular meeting, if within the appeal period, request a public hearing on the decision. Any hearing shall be scheduled for the next regular meeting which allows a ten day notice to the applicant and others who participated in the action. If no hearing is requested by the Planning Commission then the decision shall be final unless otherwise appealed as provided in this chapter.

(C) *Quasi-judicial actions*. Within 45 days after accepting a completed application for quasi-judicial action pursuant to this section of this chapter, the City Manager shall act upon, or cause a hearing to be held upon, the application, unless such time limitation is extended with the consent of the applicant. The following matters shall be heard by the Planning Commission, pursuant to the procedures established in this subchapter.

(1) Zone change;

(2) Planned unit development;

(3) Subdivision preliminary plat;

(4) Mobile home park preliminary plan review;

(5) Comprehensive plan map amendment;

(6) Review of annexation petition;

(7) Review of an administrative action requested within the appeal period;

(8) Appeals of a decision by the City Manager;

(9) Matters referred to the Commission by the City Manager or City Council; and

(10) Review of historic structures or sites alteration or demolition.

(Ord. 590, passed 6-23-2003)

§ 154.180 NOTICE.

(A) At least 20 days prior to the date of a quasi-judicial public hearing under § 154.179(C), and within 60 days of receipt of an administrative action under § 154.179(B), notice shall be sent by mail to: The applicant and all owners of record of the property which is the subject of the applications; all owners of property within 150 feet of the property; applicable utility providers, Oregon Department of Transportation Region 3; Douglas County Planning Department; Douglas County Public Works Department; Umpqua Transit; and Oregon State Historic Preservation Office (SHPO).

(B) Mobile home park tenants shall be noticed in writing at least 20 days, but not more than 40 days prior to the hearing date, for a proposed re-zone of the park within which they reside.

(C) The records of the Douglas County Assessor's office shall be used for notice required by this chapter. Persons whose names and addresses are not on file at the time of the filing of the application need not be notified of the action. The failure of a property owner to receive notice shall not invalidate the action if a good-faith attempt was made to notify all persons entitled to notice.

(D) Any person who requests, in writing, and pays a fee established by the city, shall be entitled to receive copies of notices for administrative actions, either on an urban area wide or site-specific basis, as specified by such person.
(Ord. 590, passed 6-23-2003)

§ 154.181 CONTENTS OF NOTICE.

(A) Notice of an application given pursuant to § 154.180 shall include the following information:

(1) The name of the applicant.

(2) A description of the subject property, reasonably calculated to give notice as to its actual location, and for the purpose of this section, shall include, but not be limited to the tax map designations of the Douglas County Assessor's office.

(3) The nature of the application.

(4) The scheduled date and time of the public hearing.

(5) The deadline for filing comments on the application.

(6) A statement explaining the standards and procedures for establishing party status as provided in § 154.182.

(7) List the applicable criteria from this chapter and the plan that apply to the application at issue.

(8) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the approving authority an opportunity to respond to the issue precludes appeal based on that issue.

(9) Include the name of a city representative to contact and the telephone number where additional information may be obtained.

(10) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.

(11) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.

(12) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
(Ord. 590, passed 6-23-2003)

§ 154.182 ESTABLISHMENT OF PARTY STATUS.

(A) In order to have standing under this chapter, a person shall be recognized as a party by the Planning Commission. Party status, when recognized as by the Planning Commission establishes the right of the person to be heard, either orally or in writing, and pursue a review or appeal under this chapter.

(B) A written request for establishment of party status shall be made at least seven days before the date set for a quasi-judicial public hearing by any person filing with the City Manager a written statement regarding the application being considered. Such statement shall include:

(1) The name, address and telephone number of the person filing the statement;

(2) How the person qualifies as a party;

(3) Comments which the party wishes to make with respect to application under consideration; and

(4) Whether the person desires to appear and be heard at the hearing.

(C) Five or more days before the date set for a public hearing, the City Manager shall mail the applicant a copy of any statements that have been filed to date.

(D) Other persons may be granted party status by the Planning Commission at the time of the public hearing upon a finding that the person requesting party status is specially, personally, adversely and substantially affected by the subject matter. The burden for showing that party status should be granted shall rest with the person requesting party status.
(Ord. 590, passed 6-23-2003)

§ 154.183 HEARING PROCEDURE.

(A) In the conduct of a public hearing, the Planning Commission shall have the authority, pursuant to the provisions of this chapter, to:

(1) Dispose of procedural requirements or similar matters.

(2) Determine for the record those persons who have standing in the subject matter and rule on requests for granting party status.

(3) Rule on offers of proof and relevancy of evidence and testimony.

(4) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross-examination of witnesses and rebuttal testimony.

(5) Take such other action appropriate for conduct commensurate with the nature of the hearing.

(6) Grant, deny, or in appropriate cases, attach conditions to the matter being heard.

(B) In the event the applicant or his authorized representative is not present at the time set for the hearing, the Planning Commission may postpone the matter to a later time or date. Upon receipt of a signed written statement by the applicant or his authorized representative requesting that the hearing be conducted in his absence the Planning Commission may, at its discretion, proceed with the hearing as otherwise provided for in this chapter.

(C) The applicant or any party wishing to subpoena witnesses to a hearing may do so by application to the City Manager. Such subpoenas shall be enforceable upon proper completion and inclusion of those fees applicable to civil cases in the Douglas County Circuit Court. Payment of fees and services shall be the responsibility of the party desiring such service.

(D) *Order of procedure.* Unless otherwise specified, the Planning Commission shall:

(1) At the commencement of the hearing, read a statement to those in attendance that:

(a) Lists the applicable substantive criteria;

(b) States that testimony and evidence must be directed toward the applicable criteria in the plan or this chapter which the person believes to apply to the decision; and

(c) States that failure to raise an issue with sufficient specificity to afford the approving authority and the parties an opportunity to respond to the issue precludes appeal based on that issue.

(2) Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing.

(3) Recognize parties to hearing.

(4) Prior to taking any action at the hearing, all members of the Planning Commission shall disclose the content of any significant pre-hearing or ex parte contacts with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex parte disclosure.

(5) Request the City Manager to present the introductory report of the City Manager and explain any graphic or pictorial displays which are a part of the report. Request the City Manager to read findings and recommendations, if any, and provide such other information as may be requested by the Planning Commission.

(6) Allow the applicant to be heard first, on his behalf or by representative.

(7) Allow parties or witnesses in favor of the applicant's proposal to be heard.

(8) Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.

(9) Upon failure of any party to appear, the Planning Commission may take into consideration written material submitted by such party.

(10) Allow the parties to offer rebuttal evidence and testimony, and to respond to any additional evidence. The scope and extent of rebuttal shall be determined by the Chairman.

(11) Conclude the hearing.

(E) Questions may be asked at any time by members of the Planning Commission. Questions by the parties or City Manager may be allowed by the President upon request. Upon recognition by the President questions may be submitted directly to the witnesses or parties. The witnesses or parties shall be given a reasonable amount of time to respond solely to the questions.

(F) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearings. When the Chair reopens the record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

(G) At the conclusion of the hearing, the Planning Commission shall either make a decision and state findings which may incorporate findings proposed by any party, or the City Manager, or may take the matter under advisement. The Planning Commission may request proposed findings and conclusions from any party to the hearing. The Planning Commission, before finally adopting findings and conclusion, may circulate the same in the proposed form to the parties for written comment. All actions taken by the Planning Commission pursuant to adopting findings and conclusions which support the decision of the Planning Commission shall not be final until reduced to writing and signed by the Chairman. The Planning Commission shall grant, deny, or in appropriate cases, attach conditions to the proposal being heard, and the City Manager shall notify by mail the parties of the decision.

(H) *General conduct of hearing*. The following rules apply to the general conduct of the hearing:

(1) No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.

(2) No person shall testify without first receiving recognition from the President and stating his full name and address.

(3) No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence. Formal rules of evidence as used in courts of law shall not apply. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs.

(4) Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing, shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing.
(Ord. 590, passed 6-23-2003)

§ 154.184 QUASI-JUDICIAL HEARINGS/CHALLENGES TO IMPARTIALITY.

(A) Any party to a matter to be heard under this chapter and any member of the approving authority or of the City Council may challenge the qualification of any other member of that authority or body to participate in the hearing and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger as the basis for the challenge.

(1) Except for good cause shown, the challenge shall be delivered by personal service to the City Recorder and the person whose qualification is challenged, not less than 48 hours preceding the time set for the hearing.

(2) The challenge shall be made a part of the record of the hearing.

(B) No member of the approving authority or of the City Council may discuss or vote on a matter when:

(1) Any of the following has a direct or substantial pecuniary interest in the matter: the member or his or her spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any organization in which the member is then serving as an officer or director or has so served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning a prospective partnership, employment or other business affiliation.

(2) The member owns all or a portion of the property that is the subject of the matter before the approving authority or City Council or owns abutting or adjacent property.

(3) The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially. This includes matters where by past conduct or statements the member: has a bias which in the exercise of sound judgment the member cannot vote upon the matter impartially and without prejudice to the substantial rights of the challenging party; owes a present or future fiduciary duty to one of the parties; shares the member's residence with a party which has a pecuniary interest in the matter; or has a personal bias or prejudice against a party.

(C) Because of the importance of preserving public confidence in decisions made by the approving authority or City Council, a member of that authority or body may elect to abstain from a particular hearing when in fact the member is not disqualified but simply desires to avoid the mere appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgment. A member who feels that abstention may be necessary or desirable under this section shall seek the advice of the authority or body and then state the member's decision and the reasons therefore.

(D) No other officer or employee of the city who has a financial or other private interest in a matter before the approving authority or City Council may participate in discussion of the matter with, or give an official opinion on the matter to, the authority or body without first declaring for the record the nature and extent of that interest.

(E) At the commencement of the hearing on a matter, members of the approving authority or of the City Council shall reveal all significant pre-hearing and ex parte contacts they have had about the matter. If the contacts have not impaired the member's impartiality, the member shall so state that fact and participate or abstain in accordance with division (D) of this section and with the member's own judgment.

(F) Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the approving authority or City Council and abstains from discussion and from voting on the matter as a member of the authority or body.

(G) Whenever the qualifications of a member of the approving authority or of the City Council are challenged, the presiding officer of the authority or body shall give precedence to the challenge by first giving the challenged member an opportunity to respond and then, if necessary, putting the challenge to the authority or Board for decision.

(H) Disqualification for reasons set forth in divisions (A), (B), (C), or (E) of this section may be ordered by a majority of the approving authority or City Council. The member who is the subject of the motion for disqualification may not vote on the motion.

(I) If all members of the body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after stating their reasons for abstention or disqualification, shall by so doing be re-qualified and proceed to resolve the issues.

(J) A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless he or she has reviewed the evidence received.
(Ord. 590, passed 6-23-2003)

§ 154.185 OFFICIAL NOTICE.

(A) The Planning Commission may take official notice of the following:

(1) All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.

(2) The comprehensive plan and other officially adopted plans, ordinances, rules and regulations.

(B) Matters officially noticed need not be established by evidence, and may be considered by the Planning Commission in the determination of the application.
(Ord. 590, passed 6-23-2003)

§ 154.186 RECORD OF PROCEEDING.

(A) A verbatim record of the proceeding shall be made. It shall not be necessary to transcribe testimony except as provided for in § 154.189. In all cases, the tape, transcript of testimony or other evidence of the proceedings shall be part of the record.

(B) All exhibits received shall be marked so as to provide identification upon review.

(C) A complete record of the hearing, including all exhibits received, shall become part of the official records of the city and shall be maintained in accordance with state laws.
(Ord. 590, passed 6-23-2003)

§ 154.187 DECISION.

(A) The Planning Commission may approve the application, deny the application, or grant approval subject to special conditions necessary to carry out the purpose and intent of this chapter.

(B) The Planning Commission shall make its decision upon the close of its hearing or upon continuance of the matter to a specified date.

(C) The City Manager shall send a copy of the Planning Commission's final written decision to all parties to the proceeding within seven days of said decision, and shall at the same time, file a copy of the Planning Commission's final order in the official records of the city.
(Ord. 590, passed 6-23-2003)

§ 154.188 APPEALS OF CITY MANAGER DECISION.

(A) Any administrative action by the City Manager pursuant to § 154.179(B) shall be subject to review by the Planning Commission.

(B) Any person or entity who would have been entitled to notice, or a person who is adversely affected or aggrieved by the City Manager's decision, may file a timely written statement to appeal a decision of the City Manager relative to an administrative action. In the conduct of an appeal hearing, the Planning Commission shall establish that the appellant is qualified as a party as defined by this chapter, or the appeal shall not be heard and the contested decision shall become final.

(C) The Planning Commission may review the action of the City Manager upon its own motion by resolution filed within 14 days of the City Manager's decision, or upon receipt of a notice of appeal as prescribed herein. For the purpose of this section, an appeal shall be filed with the City Manager no later than 14 days following the date of the decision or action of the City Manager.

(D) Every notice of appeal shall contain:

(1) A reference to the application sought to be appealed.

(2) The date of the final decision on the action.

(3) A statement as to how the petitioner qualifies as a party.

(4) The specific facts from the record of the hearing which form the basis of the petitioner's request for review.

(E) The appeal shall be accompanied by the required fee.

(F) At least 20 days prior to the date of the Planning Commission meeting, the City Manager shall give notice as provided by § 154.180(A) of the time and place of the meeting to all parties to the case.

(G) Members of the Planning Commission shall neither:

(1) Communicate, directly or indirectly, with any party or representative in connection with any issue related to the appeal except upon notice and opportunity for all parties to participate; nor

(2) Take notice of any communication, reports, staff memoranda, or any other materials prepared in connection with the particular case, unless the parties are afforded an opportunity to review the material so noticed.

(H) During the course of the review, the City Manager shall first present to the Planning Commission the decision and the reasons for such action. The appellant then may present its argument and may call witnesses to give additional testimony.

(I) Appeal of an administrative decision to the Planning Commission shall be conducted as a new hearing without prejudice.

(J) The review shall be accomplished in accordance with the provisions of this chapter. The Planning Commission may continue the appeal hearing to a specified time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Planning Commission, no additional notice need be given of continued hearings if the matter is to be continued to a specific date.

(K) The majority of the Planning Commission shall act upon appeal within 30 days of filing thereof, unless such time limitation be extended with the consent of the applicant; provided that, unless otherwise ordered by the Planning Commission, the City Manager shall forward such appeals in the order in which they are filed.

(L) Any person wishing to subpoena or depose witnesses to an appeal may do so by application to the City Manager not less than seven days prior to the hearing, and by showing that the witness resides in Oregon, is unable or unwilling to appear, and his testimony is material and relevant. Such subpoenas or depositions shall be enforceable, upon proper completion and inclusion of those fees applicable to civil cases in the Douglas County Circuit Court.

(M) All evidence offered may be received. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. All evidence received shall become a part of the record of the hearing.

(N) The Planning Commission may affirm, reverse or modify the action of the City Manager and may reasonably grant approval subject to conditions necessary to carry out the purpose and intent of this chapter.

(1) For all cases, the Planning Commission shall make a decision based upon the findings and conclusions from the record of the hearing.

(2) The Planning Commission shall make its decision upon the close of its hearing, or upon continuance of the matter to a specific date.

(3) The City Manager shall send a copy of the Planning Commission's final written decision to all parties to the appeal within seven days of said decision and shall, at the same time, file a copy of the Planning Commission's final order in the records of the city.
(Ord. 590, passed 6-23-2003)

§ 154.189 REVIEW OF THE DECISION OF THE PLANNING COMMISSION.

Fifteen days from the date of the written decision of the Planning Commission, the decision shall become effective, unless review is sought pursuant to this section.

(A) *Review of the decision of the Planning Commission.*

(1) Shall be made by the City Council upon any party filing a notice of review with the City Manager within 14 days of the filing of the written decision sought to be reviewed. Review by the City Council shall be conducted pursuant to § 154.190.

(2) May be made by the City Council on its own motion passed within 14 days of the filing of the written decision sought to be reviewed. Review by the City Council shall be conducted pursuant to § 154.190.

(B) Notice of the time and place of the review, together with any notice of review filed, shall be mailed to all parties at least 14 days prior to the date of review by the City Council.

(C) A record of the review shall be made and shall be the same as that required at the hearing before the Planning Commission, pursuant to § 154.186.

(D) Every notice of review shall contain:

(1) A reference to the decision sought to be reviewed;

(2) The date of the decision sought to be reviewed;

(3) A statement as to how the petitioner qualifies as a party; and

(4) The specific facts from the record of the hearing which form the basis of the petitioner's request for review.

(E) Except when filed by the City Council, a notice of review shall be accompanied by the required fee.

(1) If the City Council does not desire a transcript, the applicant or any party may request a transcript. Any such transcript request shall be paid for by the person requesting it in the manner provided in this section. The estimated cost of the transcript shall be specified by the City Manager. Within five days of such estimate, the person making the request for a transcript shall deposit the estimated cost with the City Manager. Any deposit excess shall be returned to the depositing person.

(2) If a transcript is desired by the City Council, the costs shall be borne by the city.
(Ord. 590, passed 6-23-2003)

§ 154.190 REVIEW BY THE CITY COUNCIL.

(A) The review of the Planning Commission's decision by the City Council shall be confined to the record of the original hearing, which will include the following:

(1) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and recorded or considered by the Planning Commission as evidence.

(2) All materials submitted by the City Manager to the Planning Commission with respect to the application.

(3) The transcript of the hearing, if desired by the City Council, or the tape recording of the hearing or other evidence of the proceedings before the Planning Commission.

(4) The written findings, conclusions and decision of the Planning Commission.

(5) Argument by the parties and/or their legal representatives on the record is permitted pursuant to § 154.183 at the time of review by the City Council.

(B) Review by the City Council upon appeal by a party shall be limited to the facts from record of the hearing which forms the basis of the petitioner's request for review. New materials or testimony containing facts which were not made part of the original hearing shall not be received.

(C) The City Council may affirm, reverse or modify the action of the Planning Commission, and may approve or deny the request, or grant approval subject to special conditions necessary to carry out the purpose and intent of this chapter.

(1) For all cases, the City Council shall make a decision based upon the findings and conclusions from the record of the original hearing.

(2) The City Council shall enter such findings, conclusions and final orders upon the close of its hearings or upon continuance of the matter to a specific time.

(3) The City Council shall, within seven days of its final order, cause copies of its final written order to be sent to all parties participating in the review before it.

(D) The City Council may remand the matter to the Planning Commission if it is satisfied that testimony or other evidence could not have been presented at the initial hearing. In deciding such remand, the City Council shall consider and make findings and conclusions:

(1) That substantial prejudice to parties resulted;

(2) That material, relevant and competent evidence at the time of the initial hearing was unavailable through no lack of diligence of the party offering such testimony and evidence; or

(3) That surprise to opposing parties occurred.

(E) Only those members of the City Council reviewing the record may act on the matter reviewed. The agreement of a majority of those reviewing is necessary to amend, reverse or remand the action of the Planning Commission. Upon failure of a majority of those reviewing to agree, the decision of the Planning Commission shall stand.

(F) City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided in O.R.S. 197.830.
(Ord. 590, passed 6-23-2003)

§ 154.191 AMENDMENTS TO LAND USE ACTIONS.

(A) *Definitions.*

MINOR AMENDMENT. A change which:

(a) Does not increase the intensity of the approved land use;

(b) Does not change the general location or amount of land devoted to an approved land use; or

(c) Includes only minor shifting of established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.

MAJOR AMENDMENT. Any change which is not a minor amendment.

(B) *Approval of minor amendments.* A minor amendment to an approved ministerial, administrative or quasi-judicial land use action may be approved by the City Administrator.

(C) *Approval of major amendments.* Approval of a major amendment to an approved land use action requested within two years of the date of decision (or, within the extension period for the decision if an extension has been authorized) shall be a land use action subject to the provisions of §§ 154.170 through 154.191.
(Ord. 590, passed 6-23-2003)

REMEDIES

§ 154.200 ALTERNATIVE REMEDY.

In case a structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or land is, or is proposed to be, used in violation of this chapter, the structure or land thus in violation shall constitute a nuisance. The city may as an alternative to other remedies that are legally available for enforcing this chapter, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, join, temporarily or permanently, abate, or remove the unlawful location, construction, maintenance repair, alteration or use.
(Ord. 590, passed 6-23-2003)

HISTORICAL REVIEW

§ 154.210 REVIEW FOR REGISTERED HISTORIC RESOURCES.

The purpose of this historic preservation provision is to preserve, protect, maintain and enhance those historic resources which represent or reflect elements of the cultural, social, economic, political and architectural history. Historic resources are the sites, buildings, structures, objects, natural features or specific districts that relate to events or conditions of our past. Protected resources will provide educational value, enjoyment and economic diversification as well as beautification of the city and enhancement of property values. This section is intended to allow the city to review development or demolition proposals to ensure that registered historic resources are preserved.
(Ord. 590, passed 6-23-2003)

§ 154.211 HISTORIC RESOURCES.

For the purposes of this section, historic resources are those within the Douglas County Historic Resource Register and the National Register of Historic Places.
(Ord. 590, passed 6-23-2003)

§ 154.212 EXTERIOR REMODELING OR ALTERATION OF HISTORIC STRUCTURES.

Upon receipt by the Planning Department of all building permit requests for exterior alteration of a historic building, the City Manager or his designee shall within 15 working days, review the permit application for compliance with the requirements of § 154.214 and shall refer the request to the Winston Planning Commission and schedule a hearing to review the permit request. The Planning Commission shall review the permit request and shall:

(A) Initiate review within 30 working days of the date the completed permit application was submitted to the Planning Department. The applicant shall be notified of the time and place of the review and be encouraged to be present. A failure to initiate review within 30 working days shall be considered as an approval of the application.

(B) Direct the City Manager or his designee to submit to the Douglas County Building Department a statement of development approval if the Planning Commission finds the proposed alterations to be in compliance with § 154.214.

(C) Initiate one of the following if the Planning Commission finds the proposed alterations to be in non-compliance with § 154.214:

(1) Approve the application subject to compliance with conditions which will bring the application into conformance with § 154.214; or

(2) Place up to a 60-day delay from the date of the hearing action on issuance of a building permit for the proposed alteration to provide additional time for gathering information, to further evaluate the proposal or to identify alternatives for the owners; or

(3) Provide the applicant with information concerning local, state and federal preservation programs so that the applicant may gain knowledge of alternatives available to him.
(Ord. 590, passed 6-23-2003)

§ 154.213 DEMOLITION OF HISTORIC STRUCTURES OR NEW CONSTRUCTION OF HISTORIC SITES.

(A) Upon receipt from the Planning Department of request for demolition of a historic building or new construction on historical sites on which no structure exists, the City Manager or his designee shall schedule a hearing before the Planning Commission to review the request. However, if the structure for which the demolition permit request has been filed has been damaged in excess of 70% of its assessed value due to fire, flood, wind, or other action of God, a demolition permit may be approved by the City Manager or his designee after ratification by the Planning Commission. If the Planning Commission does not ratify a demolition permit, then the City Manager or his designee shall schedule a hearing before the Planning Commission to review the demolition request. A failure to initiate review within 30 working days shall be considered as an approval of the application.

(B) The Planning Commission may delay the issuance of the demolition permit or building permit for up to 60 days from the date of the hearings action by the Planning Department. The Planning Commission's decision shall be based upon consideration and completion of the following factors:

(1) Reasonable efforts shall be made by the Planning Commission to provide the owner of the structure with possible alternatives for demolition, including information concerning local, state and federal preservation programs;

(2) Reasonable effort shall be made by the Planning Commission to maintain the historic structure by an acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project. (A demonstrated lack of private and public funding for the above is sufficient cause to allow demolition).

(3) Consideration shall be given to the guidelines listed in § 154.214.

(4) The Planning Commission shall seek assistance through referrals from at least the following agencies and organizations: the State Historic Preservation Office, the Douglas County Museum, the Douglas County Historic Resource Review Committee and the Umpqua Historic Preservation Society.

(C) Following review, the Planning Commission may grant or deny the request for issuance of a building permit or demolition permit.

(D) The City Manager or his designee shall file a memorandum of the decision in the records of the Planning Department and shall send a copy to the applicant by mail.

(E) The decision of the Planning Commission is final unless a written appeal from the property owner is received by the City Manager or his designee within 14 days after the date on which the decision was filed.
(Ord. 590, passed 6-23-2003)

§ 154.214 GUIDELINES FOR EXTERIOR ALTERATION OF A HISTORIC BUILDING.

Affirmative findings shall be documented addressing the following guidelines based upon their relative importance.

(A) *Retention of original construction.* All original exterior materials and details shall be preserved to the maximum extent possible.

(B) *Height.* Additional stories may be added to a historic building if:

(1) The added height complies with requirements of the building and zoning codes.

(2) The added height does not exceed that which was traditional for the style of the building.

(3) The added height does not alter the traditional scale and proportions of the building style.

(4) The added height is visually compatible with adjacent historic buildings.

(C) *Bulk.* Horizontal additions may be added to historic buildings provided that:

(1) The bulk of the additions does not exceed that which was traditional for the building style.

(2) The addition maintains the traditional scale and proportion of the building style.

(3) The addition is visually compatible with adjacent historic buildings.

(D) *Visual integrity of structure.* The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.

(E) *Scale and proportion.* The scale and proportion of altered or added building elements, the relationship of voids to solids (windows to walls) shall be visually compatible with traditional architectural character of the historic building.

(F) *Materials and texture.* In-kind materials and textures shall be used in the alteration or addition of historic structures. Exterior alteration or addition shall follow the requirements of the Secretary of Interior's Standards for historic preservation projects and the Historic Preservation League of Oregon's Rehab Oregon Rights Manual.

(G) *Signs, lighting and other appurtenances.* Signs, exterior light, and other appurtenances, such as walls, fences, awnings, and landscaping shall be visually compatible with the traditional architectural character of the historic building.
(Ord. 590, passed 6-23-2003)

§ 154.999 PENALTY.

A person violating a provision of this chapter shall, upon conviction, be punished by imprisonment for not more than 30 days or by a fine of not more than $300, or both. A violation of this chapter shall be considered a separate offense for each day the violation continues.
(Ord. 590, passed 6-23-2003)