CITY OF WINSTON, OREGON

CODE OF ORDINANCES

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Editor's note:

Charter amendments, see Table of Special Ordinances (TSO)

CHARTER OF THE CITY OF WINSTON, OREGON

PREAMBLE

We, the people of Winston, Oregon, in order to avail ourselves of self-determination in municipal affairs to the fullest extent now or hereafter possible under the constitutions and laws of the United States and the state of Oregon, through this charter confer upon the city the following powers, subject to the following restrictions, prescribe for it the following procedures and governmental structure, and repeal all previous charter provisions of the city.

CHAPTER I

NAMES AND BOUNDARIES

Section 1. Title of Charter. This charter may be referred to as the 2011 Winston Charter.

Section 2. Name of City. The city of Winston, Oregon continues under this charter to be a municipal corporation with the name City of Winston.

Section 3. Boundaries. The city includes all territory within its boundaries as they now exist or hereafter are modified pursuant to state law. The custodian of the city's records shall keep an accurate, current description of the boundaries and make a copy of it available for public inspection in the city during regular city office hours.

CHAPTER II

POWERS

Section 4. Powers of the City. The City has all powers that the constitutions, statutes and common law of the United States and of the state of Oregon now or hereafter expressly or implied grant or allow the city, as fully as though this charter specifically enumerated each of those powers.

Section 5. Construction of Powers. In this charter, no specification of a power is exclusive or restricts authority that the city would have if the power were not specified. The charter shall be liberally

construed, so that the city may exercise fully all its powers possible under this charter and under United States and Oregon law. All powers are continuing unless a specific grant of power clearly indicates the contrary.

CHAPTER III

FORM OF GOVERNMENT

Section 6. Distribution of Power. Except as this charter prescribes otherwise and as the Oregon Constitution reserves municipal legislative power to the voters of the city, all powers of the city are vested in the council.

Section 7. Council. The council consists of a mayor nominated and elected at large and four councilors, nominated and elected by wards with boundaries fixed by ordinance. In case of one or more vacancies in the council, the council shall consist of the council members whose offices are not vacant. There shall be two wards. Two councilors shall be nominated and elected from each of the two wards. To qualify for council office, each councilor shall reside in the ward from which he or she is nominated and elected and shall continue to reside in such ward throughout the term of his or her office.

The ward boundaries in effect at the time of adoption of this charter shall remain in effect until changed by ordinance. Within three months after an official census or census estimate indicates that the boundaries deny equal protection of the laws, the council shall rectify the boundaries so as to accord equal protection of the laws.

Section 8. Councilors. The term of office of a councilor in office or elected to office when this charter is adopted is the term of office for which the councilor has been elected or appointed before adoption of the charter or for which the councilor is elected at the time of adoption of the charter.

At each general election after the adoption, one councilor shall be elected from each ward, each for a four-year term to replace those councilors whose terms expire at the end of that year.

Section 9. Mayor. The term of office of the mayor in office when this charter is adopted continues until the beginning of the first odd-numbered year after that time. At the general election when this charter is adopted and at each subsequent general election, a mayor shall be elected for a two-year term.

Section 10. Terms of Office. The term of office of an elective officer who is elected at a general election begins at the first council meeting of the year immediately after the election and continues until the successor to the office assumes the office.

Section 11. Appointive Offices. A majority of the council shall appoint and may remove a city manager. The majority may:

(1) Create, abolish and combine additional appointive offices and,

(2) Except as the majority prescribes otherwise, fill such offices by appointment and vacate them by removal.

CHAPTER IV

COUNCIL

Section 12. Rules. The council shall prescribe rules to govern its meetings and proceedings.

Section 13. Meetings. The council shall meet in the city regularly at least once a month at a time and place designated by the council's rules, and may meet at other times in accordance with the rules.

Section 14. Quorum. A majority of the council constitutes a quorum for its business, but a smaller number of the council may meet and compel attendance of absent councilors as prescribed by council rules. Electronic attendance is allowed in accordance with state law.

Section 15. Record of Proceedings. A record of council proceedings shall be kept and authenticated in accordance with state law.

Section 16. Mayor's Functions at Council Meetings.

(1) When present at council meetings the mayor shall:

(a) Preside over the deliberations of the council,

(b) Preserve order,

(c) Enforce council rules, and

(d) Determine the order of business under the rules.

(2) Notwithstanding subsection (1) of this section, the mayor may temporarily cease to chair a council meeting and delegate the functions described in subsection (1) to another council member.

(3) The mayor is a voting member of the council.

Section 17. Council President.

(1) At its first meeting after this charter takes effect and at its first meeting of each odd-numbered year, the council shall elect a president from its councilors.

(2) The President shall function as mayor when the mayor is:

(a) absent from a council meeting, or

(b) unable to function as mayor.

(c) When functioning as mayor the president shall have just one vote as usual.

Section 18. Vote Required. Except as this charter otherwise provides, the express concurrence of a majority of the council members and constituting a quorum is necessary to decide affirmatively a question before the council.

CHAPTER V

POWERS AND DUTIES OF OFFICERS

Section 19. Mayor. The mayor shall, with the consent of the council, appoint:

(1) Members of committees established by Ordinance or council rules, and,

(2) Other persons required by the council to be so appointed.

Section 20. Municipal Court & Judge.

(1) If the council creates the office of municipal judge and fills it by appointment, the appointee shall hold, within the city at a place and time that the council specifies, a court known as the Municipal Court for the city of Winston, Douglas County, Oregon.

(2) Except as this charter or city ordinance prescribes to the contrary, proceedings of the court shall conform to general laws of this state governing justices of the peace and justice courts.

(3) All area within the city and, to the extent provided by state law, area outside the city is within the territorial jurisdiction of the court.

(4) The municipal court has original jurisdiction over every offense that an ordinance of the city, or applicable state law, makes punishable. The court may enforce forfeitures and other penalties that such ordinances or laws prescribe.

(5) The municipal judge may:

(a) Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;

(b) Order the arrest of anyone accused of an offense against the city or state;

(c) Commit to jail or admit to bail anyone accused of such an offense;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;

(f) Penalize contempt of court;

(g) Issue process necessary to effectuate judgments and orders of the court;

(h) Issue search warrants; and

(i) Perform other judicial and quasi-judicial functions prescribed by ordinance or state law.

(6) The council may authorize the municipal judge to appoint municipal judges pro tem for terms of office set by the judge or the council.

(7) Not withstanding this section, the council may transfer some or all of the functions of the municipal court to an appropriate state court.

Section 21. Manager.

(1) The manager is the administrative head of the city government.

(2) A majority of the council shall appoint and may remove the manager. The appointment shall be without regard to political considerations and solely on the basis of executive and administrative qualifications.

(3) The manager need not reside in the city or the state when appointed, but promptly thereafter shall become, and during his or her tenure of office remain, a resident of the city.

(4) Upon accepting the appointment, the manager shall furnish the city a bond in an amount and with a surety approved by the council. The city shall pay the bond premium.

(5) The manager shall be appointed for a definite or an indefinite term and may be removed by the council at its pleasure. As soon as is practicable after a vacancy occurs in the office, the council shall fill the vacancy by appointment.

(6) The manager shall:

(a) Attend all council meetings unless excused by the council or mayor;

(b) Keep the council advised of the affairs and needs of the city;

(c) See that the provisions of all ordinances are administered to the satisfaction of the council;

(d) See that all terms of franchises, leases, contracts, permits and privileges granted by the city are fulfilled;

(e) Appoint, supervise and remove all employees of the city in accordance with adopted personnel rules and union contracts,

(f) Organize and reorganize the departmental structure of city government;

(g) Prepare and transmit to the council an annual city budget;

(h) Act as purchasing agent for the city subject to expenditure limitations established by ordinance and state law;

(i) Supervise city contracts;

(j) Supervise operation of all city owned public utilities and property; and

(k) Perform other duties as the council prescribes consistently with this charter.

(7) The manager may not control:

(a) The council;

(b) The municipal judge in the judge's judicial functions; or,

(c) Except as the council authorizes, appointive offices of the city whom the manager does not appoint.

(8) The manager and other personnel whom the council designates may sit with the council, but may not vote on questions before it. The manager may take part in all council discussions.

(9) When the manager is absent from the city, the manager shall name an acting manager in their absence. When the manager is temporarily disabled from acting as manager, or when the office of manager becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except the manager pro tem may appoint and remove personnel only with the approval of the council.

(10) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decision regarding city property or contracts. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss, or suggest anything with the manager relating to city business.

CHAPTER VI

PERSONNEL

Section 22. Qualifications.

(1) An elective officer shall be a qualified elector under the state constitution and shall have resided in the city during the 12 months immediately before being elected or appointed to the office. In this subsection "city" means area inside the city limits at the time of the election or appointment.

(2) No person may be a candidate at a single election for more than one elective city office.

(3) An elective officer may be employed in a city position that is substantially volunteer in nature.

(4) Except as subsection (3) of this section provides to the contrary, the council is the final judge of the election and qualifications of its members.

(5) The qualifications of appointive officers of the city are whatever the council prescribes or authorizes, except as this charter provides to the contrary regarding the manager's qualifications.

Section 23. Reimbursement. The council shall prescribe a plan for reimbursing city personnel, including employees, and elected and appointed personnel, for expenses that they incur in serving the city. No elected personnel, however, may receive compensation for serving in that capacity.

Section 24. Compensation and Merit System. The council shall prescribe a schedule of salaries and compensation for employees. Subject to all collective bargaining agreements between the city and one or more groups of its employees, the city council shall prescribe rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff and dismissal of city employees, all of which shall be based on merit and fitness.

Section 25. Political Rights. By ordinance the council may affirm the right of city personnel to participate in political activities and may limit those activities to the extent necessary for orderly and effective operation of the city government; except to the extent that those rights are protected by statutory and constitutional law.

CHAPTER VII

ELECTIONS

Section 26. State Law. Except as this charter or a city ordinance prescribes to the contrary, a city election shall conform to state law applicable to the election.

Section 27. Oath. Before assuming city office, an officer shall take an oath or shall affirm that he or she will faithfully perform the duties of the office and support the constitution and laws of the United States and of the state of Oregon.

Section 28. Nominations. A person may be nominated in a manner prescribed by general ordinance or state law to run for an elective office of the city.

Section 29. Vacancies; Occurrence. The office of a member of the council becomes vacant:

(1) Upon the incumbent's:

(a) Death, or

(b) Adjudicated incompetence, or

(c) Recall from the office; or

(2) Upon declaration by the council of the vacancy in case of the incumbent's:

(a) Failure, following election or appointment to the office, to qualify for the office within 10 days after the time for his or her term of office to begin,

(b) Absence from the city for 30 days without the council's consent or from all meetings of the council within a 60-day period,

(c) Ceasing to reside in the city, or in the required ward, if applicable,

(d) Ceasing to be a qualified elector under state law,

(e) Conviction of a public offense punishable by loss of liberty, or

(f) Resignation from the office.

Section 30. Vacancies; Filling. A vacancy in the council shall be filled by appointment by a majority of the council within 60 days of the date the office becomes vacant. The appointee's term of office runs from the time of his or her qualifying for the office after the appointment and until expiration of the term of the predecessor who has left the office vacant. During a council member's disability to serve on the council or during a member's absence from the city, a majority of the other council members may by appointment fill the vacancy pro tem.

CHAPTER VIII

ORDINANCES

Section 31. Ordaining Clause. The ordaining clause of an ordinance shall be "The City of Winston ordains as follows:".

Section 32. Adoption by Council.

(1) Except as subsection (2) of this section allows adoption at a single meeting and subsection (3) of this section allows reading by title only, an ordinance shall be fully and distinctly read in open council meeting on two different days before being adopted by the council.

(2) Except as subsection (3) of this section allows reading by title only, the council may adopt an ordinance at a single meeting by the express unanimous votes of all council members present, provided the ordinance is read first in full and then by title.

(3) A reading of an ordinance may be by title only if:

(a) No council member present at the reading requests that the ordinance be read in full and

(b) At least two business days before the reading:

(i) A copy of the ordinance is provided for each council member,

(ii) Copies of the ordinance are available for public inspection in the office of the custodian of city records, and

(iii) Notice of their availability is given by written notice posted at the city hall.

(4) An ordinance read by title only has no legal effect if it differs substantially from its terms as it was filed prior to the reading unless each section so differing is read fully and distinctly in open council meeting before the council adopts the ordinance.

(5) Upon adoption of an ordinance, the ayes and nays of the council members shall be entered in the record of council proceedings.

(6) Within three business days of adoption of an ordinance, the presiding officer shall sign it and the custodian of city records shall endorse it with its date of adoption and endorser's name and title of office.

Section 33. Effective Date. A non-emergency ordinance takes effect on the thirtieth day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as adopted.

CHAPTER IX

PUBLIC IMPROVEMENTS

Section 34. Procedure.

(1) The procedure for making, altering, vacating or abandoning a public improvement shall be governed by general ordinance or, to the extent not so governed, by applicable state law. Proposed action on a public improvement that is not declared by two-thirds of the council present to be needed at once

because of an emergency shall be suspended for six months upon remonstrance by owners of a majority of the property to be specially assessed for the improvement. A second such remonstrance suspends the action only with the consent of the council.

(2) In this section "owner" means the record holder of legal title or, as to land being purchased under a land sale contract that is recorded or verified in writing by the record holder of legal title, the purchaser.

Section 35. Special Assessments. The procedure for fixing, levying and collecting special assessments against real property for public improvements or other public services shall be governed by general ordinance.

CHAPTER X

MISCELLANEOUS PROVISIONS

Section 36. Debt. The city's indebtedness may not exceed debt limits imposed by state law. A city officer or employee who creates or officially approves indebtedness in excess of this limitation is jointly and severally liable for the excess. A charter amendment is not required to authorize city indebtedness.

Section 37. Continuation of Ordinances. Insofar as consistent with this charter, and until amended or repealed, all ordinances in force when the charter takes effect retain the effect they have at that time.

Section 38. Repeal. All charter provisions adopted before this charter takes effect are hereby repealed.

Section 39. Severability. The terms of this charter are severable. If a part of the charter is held invalid, that invalidity does not affect another part of the charter, except as the logical relation between the two parts requires.

Section 40. Time of Effect. This charter takes effect January 1, 2011.

TITLE I: GENERAL PROVISIONS

Chapter

CHAPTER 10: RULES OF CONSTRUCTION; GENERAL PENALTY

Section

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the City of Winston shall be designated as the Code of the City of Winston or this code and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule*. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions*. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION or ***MUNICIPALITY.*** The City of Winston, Oregon.

CODE, THIS CODE or ***THIS CODE OF ORDINANCES.*** This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. Douglas County, Oregon.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words ***SWEAR*** and ***SWORN*** shall be equivalent to the words ***AFFIRM*** and ***AFFIRMED***.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or ***DEPARTMENT.*** An officer, office, employee, commission or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER*** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or ***FOLLOWING.*** Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or ***SUBSCRIPTION.*** Includes a mark when the person cannot write.

STATE. The State of Oregon.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have ***SUBCHAPTERS***.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) ***AND or OR.*** Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force, unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of that chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. 0Example: (Ord. 161, passed 5-13-1960; Ord. 170, passed 1-1-1970; Ord. 180, passed 1-1-1980; Ord. 185, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example:
(O.R.S. 192.410)

(2) If a statutory cite is set forth as a statutory reference following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This city shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference:
Inspection of public records, see O.R.S. 192.420

(C) If a section of this code is derived from the prior compilation of ordinances of the city, the prior compilation number shall be indicated in the history by "(1993 Code, Comp. No. ___)."

§ 10.99 GENERAL PENALTY.

(A) *Classification of offenses*. Any offense mentioned in any city ordinance or any violation of any city ordinance, which is not specifically classified as a crime, constitutes a violation. Each day in which a violation is caused or permitted to remain constitutes a separate violation.

(B) *General penalty; violations*. A violation of any ordinance of the city which does nol have a prescribed penalty is punishable by a fine not exceeding $250. Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.

(C) *General penalty; crimes*. An offense specifically classified as a crime which does not have a prescribed penalty is punishable by a fine not exceeding $2,500 and imprisonment not exceeding one year.

(D) *State law*. No penalty imposed by any city ordinance shall exceed the penalty imposed by state and federal law for the same offense.
(1993 Code, Comp. No. 4-21) (Ord. 502, passed 6-6-1994)

TITLE III: ADMINISTRATION

Chapter

CHAPTER 30: GOVERNMENT AND ADMINISTRATION

Section

City Council Operation and Procedure

Administration

CITY COUNCIL OPERATION AND PROCEDURE

§ 30.01 ROLES, RESPONSIBILITIES AND RESPECT.

(A) These rules are designed to describe the manner in which City Council members, including the Mayor, should treat one another, city staff, constituents and others they come into contact with in representing the city. While it is understood that there may be times when the Council members may "agree to disagree" on contentious issues, the constant and consistent theme throughout all of these guidelines is "respect."

(B) Every effort should be made to be cooperative and to respect the contributions made by each individual to the community. All Council members have equal votes. No Council member has more power than any other Council member and all should be treated with equal respect. Council members must recognize that they act collectively as a governing body during properly noticed public meetings.

Members must recognize that they do not have authority to make decisions or take individual actions on behalf of the City Council unless expressly directed to do so by the City Council.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.02 AUTHORITY, PURPOSE OF ADOPTION OF RULES.

(A) *Authority*. These rules are adopted pursuant to § 12 of the City Charter of 2011, which allows the Council to exercise all powers necessary or convenient for the conduct of its municipal affairs.

(B) *Purpose*. These rules are adopted for the purpose of providing guidance for Council action, providing fair and open deliberation on all questions before the Council, expediting Council business and ensuring good relations between the Council and the city staff.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.03 PRESIDING OFFICER.

(A) *Presiding officer*. The Mayor, or in the absence of the Mayor, the Council President, shall be the presiding officer at all meetings. The Council President shall be elected at the first regular meeting in January of each odd-numbered year. In the case of the absence of the Mayor and the Council President, the City Recorder shall call the meeting to order and the Council shall elect a Chairperson by majority vote.

(B) *Powers and duties*. The presiding officer shall conduct all meetings, preserve order, enforce the rules of the Council and determine the order and length of discussion during public hearings. He or she shall vote on all questions before the Council. He or she may second, but not make, a motion for Council action.

(C) *Signing the documents*. The presiding officer shall sign all approved records of proceedings of the Council. He or she shall have no veto power and shall sign all ordinances passed by the Council within three days after their passing. Upon the approval of the Council, he or she shall endorse all bonds for licenses, contracts and proposals. All documents shall be attested to by the City Recorder.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.04 MEETINGS.

(A) *Regular meetings*. Regular meetings shall be held on the first and third Monday of each month at 7:00 p.m. in the Council Chambers at City Hall. Regular meetings may be held at a different place by giving appropriate notice at least 24 hours in advance. The Council shall hold a meeting at least twice each month, and in the event that the first or third Monday of the month is a legal holiday, the meetings will be held on the Tuesday immediately following each holiday. The two meetings per month rule may be waived.

(B) *Special meetings*. The Mayor may, at his or her own discretion, or at the request of two members of the Council shall, call a special meeting of the Council for a time not less than 24 hours after notice is given. No general legislation may be considered at a special meeting except that for which the meeting is called. Emergency meetings must meet state statutes for notification and justification.

(C) *Executive sessions*. All meetings shall be held in compliance with current state statutes concerning public meeting laws pertaining to executive sessions. A motion or notice calling for an executive session shall identify the specific statutory authorization. Media representatives will be allowed to attend executive sessions, but the Council may require that certain information shall not be disclosed. Final action on any matter discussed in executive session must be taken at an open meeting. The Mayor shall determine who may be admitted to an executive session according to state law.

(D) *Quorum*. A majority of members of the Council shall constitute a quorum for its business, but a smaller number may meet and compel the attendance of absent members, if necessary. Members attending electronically will count toward a quorum.

(E) *Agenda*. Documents to be submitted to the Council shall be delivered to the City Manager or City Recorder no later than 12:00 noon on the third working day preceding a regular meeting and no later than 24 hours prior to a special meeting. Copies of the agenda will be distributed to each Councilor, the Mayor, the City Manager, the City Recorder, the City Attorney and the DHS student representative prior to any regular meeting. In addition, copies of the printed agenda will be made available to the public at the meeting. Agenda items may be added at the request of the Mayor, any Councilor or the City Manager.

(F) *Staff attendance*. Unless excused by the Council, the City Manager, and City Recorder or designee, shall attend all regular meetings and special meetings as requested. In the event a staff member is unable to attend a particular meeting, an alternate may attend. The City Attorney and department heads may also be requested to attend appropriate meetings.

(G) *Minutes*. All meetings shall be recorded, and the recording of all open meetings shall be made available for public examination in the office of the City Recorder. The Recorder shall have written minutes of all open regular and special meetings prepared, which shall be approved by the Council and made available for public inspection. Written minutes shall include the names of all Councilors present or absent; all motions, resolutions, ordinances and measures proposed and their disposition; the results of all votes, with the name of each dissenting Councilor, unless the vote is unanimous; the substance of the discussion; and any matter and reference to any documents discussed. Minutes shall be signed by the presiding officer. While all meetings are recorded, the City Recorder is authorized to recycle recordings after a two-year period has elapsed, or as allowed by state law.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.05 DUTIES AND PRIVILEGES OF COUNCILORS.

(A) *Attendance at meetings*. Members are expected to attend all meetings.

(1) Members unable to attend shall notify the presiding officer in advance of the meeting of their reason for absence. In the event a member is absent from a meeting, the presiding officer shall determine whether the absence will be excused, with concurrence of the Council. No member may leave during a meeting without the consent of the presiding officer.

(2) Attendance by electronic means is allowed, but not to preside the meeting.

(3) The presiding officer may compel attendance by any reasonable means.

(B) *Seating arrangement*. Members shall occupy seats in the Council Chamber assigned to them by the Mayor. New Councilors will occupy the seats of the individuals they replaced unless instructed otherwise.

(C) *Right to speak*. Members shall have the right to speak on any matter properly before the Council and shall not be interrupted unless called to order by the presiding officer, or unless another member raises a point of order or personal privilege.

(D) *Dissents and protests*. Any member shall have the right to express dissent from or protest against any ordinance or resolution and have the reasons therefor entered in the minutes in summary form.

(E) *Right of appeal*. Any Councilor may appeal a ruling of the presiding officer and the ruling may be overruled by majority vote.

(F) *Decorum; practice civility and decorum in discussions and debate*. During Council meetings, Council members shall preserve order and decorum and shall neither by conversation nor by otherwise delay or interrupt the proceedings. Councilors shall confine their remarks to the question under debate and avoid all personal attacks and indecorous language. Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even as Council may "agree to disagree" on contentious issues. Council members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff or the public.

(G) *Personal privilege*. A Councilor may interrupt another Councilor and address the Council on a question of personal privilege in cases where the member's integrity, character or motives are questioned, if the presiding officer recognizes the privilege. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Council, board or commission members, their opinions and actions.

(H) *Ethics*. Councilors shall review and observe the requirements of the State Ethics Law (current O.R.S.) dealing with use of public office for private financial gain. Councilors shall give public notice of any potential conflict of interest and the notice will be reported in the meeting minutes. In addition

to matters of financial interest, Councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the Council.

(1) This general obligation includes the duty to refrain from:

(a) Disclosing confidential information or making use of special knowledge or information before it is made available to the general public;

(b) Making decisions involving business associates, customers, clients and competitors;

(c) Repented violations of Council rules;

(d) Appointing relatives, clients or employees to boards and committees;

(e) Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends;

(f) Seeking employment of relatives with the city;

(g) Actions benefitting special interest groups at the expense of the city as a whole;

(h) Expressing an opinion, which is contrary to the official position of the Council, without stating that the opinion is theirs alone; and

(i) Attempting to influence, except in Council meetings, the Manager in the appointment, discipline or removal of personnel.

(2) In general, Councilors shall conduct themselves so as to bring credit upon the government of the city by respecting the rule of law, ensuring non-discriminatory delivery of public services, keeping informed concerning the matters coming before the Council and abiding by all decisions of the Council, whether or not the member voted on the prevailing side.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.06 VOTING.

(A) *Requirement*. Except as the City Charter otherwise provides, the concurrence of majority of the members of the Council shall be necessary to decide any question before the Council. Each Councilor must vote on all questions before the Council decides unless the member has a conflict of interest, which might disqualify the member from voting.

(B) *Statement of the question*. Immediately prior to the vote, the presiding officer shall restate the question. Following the vote, the presiding officer shall announce whether the question carried or was defeated. The presiding officer may also publicly state the effect of a vote for the benefit of the audience.

(C) *Roll call vote*. At request of any Councilor, or the Mayor, any question shall be voted on by roll call. The Mayor shall instruct the City Recorder to call the roll.

(D) *Tie vote*. In the case of a tie vote on any proposal, the proposal shall be considered failed.

(E) *Changing vote*. A Councilor may change his or her vote only if the action is taken immediately following the last vote cast and prior to the time that the result of the vote is announced.

(F) *Motion to reconsider*. A motion to reconsider any action may be made only at the same meeting where the action was taken by a Councilor on the prevailing side of the question. Any Councilor may make a new motion on the same question at any subsequent meeting.

(G) *Record of votes*. Unless the vote is unanimous, the vote shall be entered in the minutes. (Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

§ 30.07 ORDINANCES AND RESOLUTIONS.

(A) *Preparation and introduction*. All ordinances shall be prepared under the supervision of the City Attorney and shall be approved as to form by the City Attorney. Ordinances and resolutions may be introduced by the Mayor, a member of the Council, the City Manager, the City Attorney or any department head.

(B) *Distribution of copies*. Whenever possible, copies of a proposed ordinance or resolution shall be made available for public inspection one week prior to the first meeting they are to be considered. The City Recorder shall make sufficient copies for distribution with the agenda packets and for posting for public inspection at the time the ordinance or resolution is considered.

(C) *Reading of resolutions and ordinances*.

(1) Resolutions shall be adopted by a majority vote of the Council.

(2) Ordinances are normally adopted over the course of two meetings. The ordinance is read by title only as the first reading at the first meeting for which it appears on the agenda. It will again be read by title only as a second reading at the second meeting for which it appears on the agenda. Then a motion to adopt with a quorum of positive responses is necessary to adopt the ordinance.

(a) The Council may adopt an ordinance at a single meeting by the express unanimous votes of all Council members present, provided the ordinance is read first in full and then by title, or it may be read twice by title only if no Council member present at the reading requests that the ordinance be read in full, and at least two business days before the reading:

1. A copy of the ordinance is provided for each Council member;

2. Copies of the ordinance are available for public inspection in the office of the custodian of public records; and

3. Notice of their availability is given by written notice posted at City Hall.

(b) An ordinance read by title only has no legal effect if it differs substantially from the version that was distributed prior to the reading unless each section so differing is read fully and distinctly in open Council meeting before the Council adopts the ordinance. Upon the adoption of an ordinance, the ayes and nays of the Council members present shall be entered in the record of Council proceedings. Within three business days of adoption of an ordinance, the Mayor shall sign it and the custodian of city records shall endorse it with its date of adoption and endorser's name and title of office.

(D) *When ordinances and resolutions take effect*. An ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. However, an ordinance may provide a later time for it to take effect; and in case of emergency, it may take effect immediately. The nature of emergency shall be entered into the minutes. Resolutions shall be effective upon adoption.

(E) *Notice of ordinance*. All ordinances shall be posted for ten working days after the date of adoption in a conspicuous place in City Hall.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.08 PROCEDURE AT MEETINGS.

(A) *Order of business*.

(1) All regular meetings shall have the following order of business:

(a) Call to order and pledge of allegiance;

(b) Public hearing (if any);

(c) Approval of City Council minutes;

(d) Accept minutes of board, commissions and committees;

(e) Reports of boards, commissions, committees and DHS student;

(f) Department report;

(g) Old business;

(h) New business;

(i) Matters of private citizens;

(j) Announcements; and

(k) Adjournment.

(2) The order of business may be changed by the presiding officer or upon majority vote of the remaining Councilors.

(B) *Discussion of business.*

(1) The right to discuss the business before the Council is reserved exclusively for Councilors, the Mayor, the City Manager, the City Attorney, the City Recorder and the DHS student representative with the following exceptions:

(a) Public hearings;

(b) Employee complaints; and

(c) Matters of private citizens on the agenda.

(2) The presiding officer may recognize any individual for discussion of any matter before the Council.

(C) *Motion procedure.* When a motion is moved and seconded, it shall be stated by the presiding officer for debate. A motion once made may not be withdrawn by the mover without the consent of the Councilor seconding it and the approval of the presiding officer. The presiding officer may rule an improper motion out of order or, if the question involves two or more propositions, divide it into two separate questions. No Councilor shall be allowed to speak more than once on a particular question until every other Councilor has had an opportunity to do so.

(D) *Motions to postpone or table.* A motion to postpone may be debated and amended and may specify a time when the question will be considered. A motion to table precludes all amendments or debate and if the motion prevails, consideration of the question may be resumed only upon the motion of a member voting with the majority.

(E) *Motions to recess or adjourn.* A motion for recess shall provide a time not to exceed 15 minutes, and shall always be in order and is not debatable.

(1) A motion to adjourn shall be in order at any time except:

(a) When repeated without intervening discussion;

(b) When made to interrupt another member;

(c) When the previous question has been called for; or

(d) When a vote is being taken.

(2) A motion to adjourn is debatable only as to time of adjournment. When the meeting agenda includes one or more public hearings scheduled, meetings may be adjourned no later than 11:00 p.m. If there are not public hearings scheduled, meetings may be adjourned no later than 10:00 p.m. However, the adjournment time may be extended by majority vote.

(F) *Point of order.* Any member may raise a point of order at any time and the presiding officer shall determine all points of order, subject to the right of any Councilor to appeal the decision to the full Council.

(G) *Procedure in absence of rule.* In the absence of a rule to govern a point or procedure, reference shall be made to accepted practice in parliamentary bodies. Disputes involving procedural matters shall be settled by references to *Robert's Rules of Order, Revised.*

(H) *Effect and suspension of rules.* The rules in this section are procedural only and the failure to strictly observe them shall not invalidate any action taken. Any rule contained in this section may be temporarily suspended at any meeting by majority vote of the whole Council.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.09 COMMUNICATION WITH COUNCIL.

(A) *Oral communication.* Comments from persons other than the Mayor, the Council, the City Manager, the City Attorney and the City Recorder will be entertained only during the part of the agenda where public comments are permitted or at the discretion of the presiding officer. The person addressing the Council shall first ask to be recognized, then give his or her name and address for the record. All remarks shall be directed to the whole Council and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent or slanderous. The order in which audience comments are received is left to the discretion of the presiding officer, subject to these rules. The presiding officer may request that a spokesperson be selected for a group of persons wishing to speak.

(B) *Written communications.* Written communications addressed to the Council shall be forwarded to the Council by submission to the City Manager prior to the meeting to be placed with the agenda materials or by submission to the presiding officer during the meeting. The presiding officer shall announce the submission of any written communications and reference shall be entered in the minutes.

(C) *Public hearings.* Public hearings include all items on the agenda on which the public has a right to be heard by law. The order of presentation of testimony at public hearings is as follows:

(1) Staff report;

(2) Out of meeting disclosures and conflict of interest disclosures;

(3) Statement of applicant (may be omitted if the applicant is the city);

(4) Public statements in opposition;

(5) Public statements in favor;

(6) Public statements in general;

(7) Council questions and comments; and

(8) Applicant's final remarks.

(D) *Remainder of hearing*. Following the presentation of testimony, the presiding officer will open the floor for a motion to close the public hearing. Once the motion has been seconded and passed by majority vote of the Council members present, the presiding officer shall ask for discussion among the Councilors. At this point no further testimony or evidence will be accepted without the approval of the presiding officer. All public hearings shall be conducted in a fair and open manner; however, the presiding officer may set and enforce reasonable time limits for speakers.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013)

§ 30.10 MISCELLANEOUS.

(A) *Council–staff relations*. Councilors shall respect the separation between policy-making and administration by:

(1) Positive interaction with all staff and sharing of questions and concerns with department heads is welcomed. In order to not disrupt staff operations, Councilors are requested to address all inquiries and requests for information from staff, which will take staff more than 30 minutes to comply, to the City Manager and allow sufficient time for response. At the discretion of the Manager, inquiries may be forwarded to the full Council for consideration;

(2) Limiting individual contacts with employees so as not to influence staff decisions or recommendations or undermine the authority of supervisors or prevent the full Council from consideration;

(3) Honoring the confidentiality of discussions with the City Attorney;

(4) Attempting to work together with the staff as a team in a spirit of mutual confidence and support; or

(5) Recognizing outstanding employee service.

(B) *Complaints*. Complaints concerning city policies shall be addressed to and heard by the Council. Complaints concerning actions of city boards shall be referred to the particular body for

comment. All complaints with respect to the management of the city or the actions of any city employee shall be referred to the City Manager for action. The Manager may be requested to provide the Council a written report of the resolution of the complaint. In all instances deemed appropriate by the Council, the Council may investigate or cause to be investigated, through a formal hearing or otherwise, administration of any department.

(C) *Committee appointments*. Appointments to all boards, commissions and committees shall be made in accordance with applicable state law and city ordinance. In the absence of a law or ordinance, appointments shall be made by the Mayor with the concurrence of the Council. The following rules shall govern all appointments:

(1) All boards, commissions and committees shall be balanced, insofar as possible, between the different economic, social geographic, racial, sex and age groups in the city;

(2) Insofar as practicable, all boards, commissions and committees shall contain a variety of philosophies among the different members;

(3) Individuals possessing a special area of expertise that would be of direct benefit to a board, commission or committee should be given special consideration;

(4) Individuals being considered must be willing to dedicate, at a minimum, two nights per month to the board, commission or committee on which they serve;

(5) Any individual or group is encouraged to submit an application for consideration to the Mayor, Council members or City Manager;

(6) Reappointments to a board, commission or committee must reapply and shall be considered in accordance with these guidelines, together with the type of service the individual has already given to the city and his or her stated willingness to continue;

(7) Appointees must be, and remain, in compliance at all times with all ordinances, bylaws, charter provisions, or state or federal laws; and

(8) No individual should be considered for appointment to a position on any board, commission or committee where a conflict of interest may result.

(9) No appointee shall be appointed a member on more than one board, commission or committee at a time, with the exception of the Budget Committee.
(Ord. 648, passed 9-7-2010; Ord. 651, passed 12-20-2010; Ord. 657, passed 1-7-2013; Ord. 18-679, passed 6-4-2018; Ord. 22-703, passed 4-18-2022)

§ 30.11 MODIFICATION OF COUNCIL RULES.

The Council shall review its rules at least once every four years. Amendments shall be adopted by a majority vote. The Council has an obligation to be clear and simple in its procedures and consideration of the questions coming before it. The Council rules are not intended to replace or supersede any applicable federal or state laws or regulations, city ordinance or policies, or provisions of the City Charter.
(Ord. 648, passed 9-7-2010; Ord. 657, passed 1-7-2013)

ADMINISTRATION

§ 30.25 CITY MANAGER; ADDITIONAL DUTIES.

(A) Any and all rights, powers and duties belonging to, assigned to or delegated to the City Administrator under any existing city ordinances are hereby assigned, delegated and prescribed as duties to be performed by the City Manager pursuant to the 2011 City Charter; and further, wherever the term "City Administrator" is called for or prescribed to be used in a document, the term "City Manager" shall be used in place thereof and recognized as fully effective in place thereof.

(B) The matters contained herein concern the public welfare and safety and it is necessary that this section take effect concurrent with the 2011 City Charter. This section shall become effective January 1, 2011.
(Ord. 651, passed 12-20-2010)

CHAPTER 31: CITY DEPARTMENTS AND ORGANIZATIONS

Section

Police Department

Police Reserve

Economic Development Board

Winston Public Library and Library Board

Cross-reference:

Park Board, see Ch. 93

CONTRACT REVIEW BOARD

§ 31.001 FINDINGS.

(A) The 2003 State Legislature adopted HB 2341 (2003 Oregon Laws, Chapter 794) ("the Public Contracting Code"). O.R.S. Chapters 279A, 279B and 279C together constitute the Public Contracting Code. In accordance with HB 2341, the Attorney General adopted model rules ("the model rules") to implement the Public Contracting Code. The Public Contracting Code allows the city to adopt contracting rules in areas not covered by the Public Contracting Code or the model rules.

(B) O.R.S. 279B.085 and 279C.355 authorize a contracting agency, upon adoption of appropriate findings, to establish special selection, evaluation and award procedures for, or exempt from competition, the award of a specific contract or classes of contracts.

(C) The classes of contracts identified in § 31.003 should be exempt from the competitive procurement requirements of the Public Contracting Code because strict compliance with competitive procurement requirements will result in useless expense without furthering the public policy of encouraging competition.

(D) The classes of public improvement contracts identified in § 31.003 should be exempt from the competitive bidding requirements of the Public Contracting Code because:

(1) It is unlikely that the exemption will encourage favoritism in the awarding of public improvement contracts or substantially diminish competition for public improvement contracts;

(2) The awarding of public improvement contracts under the exemption will result in substantial cost savings to the contracting agency or, if the contracts are for public improvements described in O.R.S. 279A.050(3)(b), to the contracting agency or the public;

(3) The informal solicitation procedure for these classes of contracts requires the contracting agency to solicit at least three written price quotes. The awarding of the contracts will take price into consideration among other factors;

(4) The informal solicitation process provides the following benefits:

(a) Reduction in staff time;

(b) Reduced bidding expenditure;

(c) Elimination of bid bond requirement and small cost of quote preparation as compared to bid preparation will result in lower quotes; and

(d) Flexibility in timing of solicitations will allow solicitation to be made during construction season when projects can be used as fill-in projects for otherwise busy contractors. This should result in lower pricing from contractors.

(5) The process requires competition because the award considers price among other factors. The size of the job makes it unlikely that contractors from outside the area would submit bids if the job was advertised;

(6) If the lowest price quote is not selected, the reasons for the award based on other factors must be recorded. This prevents selection based on favoritism. Willingness of any particular contractor to submit a quote will depend on the contractor's schedule at the time of the solicitation. It is unlikely that the same contractor will be able to submit a quote for every solicitation. The ability of the contracting agency to obtain quotes for projects with short lead times will depend on the schedules of contractors and therefore the contracting agency will not be able to obtain quotes from the same contractors over and over again; and

(7) Section 132 of Chapter 794, Oregon Laws, 2003 created this class of contracts as a special award class under the State Public Contracting Code; however, the class expires on June 30, 2009. By adopting this classification as a Contract Review Board exemption, the statutory classification will be protected from automatic repeal.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.002 ADOPTION OF RULES.

The following (hereinafter "these rules") shall be public contracting rules for the city. Except as provided within these rules, public contracting by the city shall be governed by the Public Contracting Code and the model rules. The City Council is the city's Contract Review Board (Board). Except as otherwise provided in these rules, the powers and duties of the Contract Review Board will be exercised by the City Council and the powers and duties given or assigned to contracting agencies will be exercised by the City Council. The City Council may, through formal action, from time to time delegate its powers to conduct certain procurements to various members of its staff.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.003 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All words and phrases not defined herein shall have the meanings ascribed to them in the Public Contracting Code or in the model rules.

CONTRACTING AGENCY. The city and includes any person authorized by the City Council to conduct a procurement on behalf of the city.

PERSONAL SERVICES CONTRACT. A contract for services that require specialized technical, artistic, creative, professional or communication skills or talent, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the service depends on attributes that are unique to the service provider, other than contracts for an architect, engineer, land surveyor or provider of related services as defined in O.R.S. 279C.100. Contracts for personal services include but are not limited to the following contracts or classes of contracts:

(1) Accountants and auditors;

(2) Appraisers;

(3) Computer consultants;

(4) Lawyers;

(5) Insurance consultants;

(6) Training consultants;

(7) Investigators; and

(8) Management system consultants.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.004 EXEMPTIONS FROM COMPETITIVE PROCUREMENT.

The following contracts and classes of contracts are exempt from the competitive procurement requirements of the Public Contracting Code and the model rules and may be awarded as provided herein, or otherwise in any manner which the contracting agency deems appropriate, including by direct appointment or purchase.

(A) *Contracts up to $5,000.* Any procurement of goods or services or any combination thereof not exceeding $5,000 may be awarded in any manner deemed practical or convenient by the contracting agency, including by direct selection or award. Staff of the contracting agency are authorized to conduct procurements on behalf of the contracting agency for goods or services or combinations thereof not exceeding $1,000. Additional procurements shall be approved by the City Council. Procurements shall not be artificially divided or fragmented so as to constitute a smaller procurement than specified in this section.

(B) *Equipment repair.* Contracts for equipment repair or overhauling may be awarded without competition, provided the service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing.

(C) *Sole source contracts.* Contracts for goods or services which are available from a single source may be awarded without competition.

(D) *Renewals.* Contracts that are being renewed in accordance with their terms are not considered to be newly awarded contracts and are not subject to competitive procurement procedures.

(E) *Temporary extensions or renewals.* Contracts for the temporary extension or renewal of a single period of one year or less of an expiring and non-renewable or recently expired contract, other than a contract for public improvements, are not subject to competitive procurement procedures.

(F) *Contracts required by emergency circumstances.*

(1) *In general.* When an official with authority to enter into a contract on behalf of the contracting agency determines that immediate execution of a contract within the official's authority is necessary to prevent substantial damage or injury to persons or property, the official may execute the contract without competitive selection and award, but, where time permits, the official shall attempt to use competitive price and quality evaluation before selecting an emergency contractor.

(2) *Reporting.* An official who enters into an emergency contract shall, as soon as possible, in light of the emergency circumstances, document the nature of the emergency, the method used for selection of the particular contractor and the reason why the selection method was deemed in the best interest of the contracting agency and the public; and notify the City Council of the facts and circumstances surrounding the emergency execution of the contract.

(3) *Emergency public improvement contracts*. A public improvement contract may only be awarded under emergency circumstances if the contracting agency has made a written declaration of emergency. Any public improvement contract award under emergency conditions must be awarded within 60 days following the declaration of an emergency unless the contracting agency grants an extension of the emergency period. Where the time delay needed to obtain a payment or performance bond for the contract could result in injury or substantial property damage, the contracting agency may waive the requirement for all or a portion of required performance and payment bonds.

(G) *State law exemptions*. There shall be an exemption for any other contract or class of contracts exempted by the Public Contracting Code or the model rules.

(H) *Other exemptions adopted in future*. There shall be an exemption for any other contract or class of contracts expressly exempted from competitive procurement requirements pursuant to procedures permitted by the Public Contracting Code or the model rules.

(I) *Public improvements*. Public improvement contracts estimated by the contracting agency not to exceed $100,000, or not to exceed $50,000 in the case of a contract for a highway, bridge or other transportation project, may be awarded by competitive quotes under the following procedures.

(1) The contracting agency shall informally solicit at least three price quotes from prospective contractors. If three prospective contractors are not available, then fewer quotes may be solicited, and the contracting agency shall maintain records of the attempts to obtain quotes.

(2) The contracting agency shall award the contract to the prospective contractor whose quote will best serve the interests of the contracting agency, taking into account price and other applicable factors, such as experience, specific expertise, past record of performance and conduct, availability, familiarity with local area and access to local resources, project understanding, contractor capacity and contractor responsibility. If the contract is not awarded on the basis of the lowest price, the contracting agency shall make a written record of the basis for the award.

(3) A procurement may not be artificially divided or fragmented to qualify for the informal contract award procedures provided by this section.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.005 PERSONAL SERVICES CONTRACTS RULES.

Personal services contracts (other than a personal services contract for an architect, engineer, land surveyor or provider of related services) are subject to the rules established by this section.

(A) All personal services contracts shall contain all contract provisions mandated by state law. These provisions may be incorporated in the personal services contract by reference to state law, unless state law provides otherwise. The attorney for the contracting agency when requested will prepare model contract provisions for use in personal services contracts.

(B) The following procedures shall be observed in the selection of personal services contractors.

(1) For personal services contracts involving an anticipated fee of $20,000 or less per annum, the contracting agency may negotiate a contract for those services with any qualified contractor the contracting agency selects.

(2) For personal services contracts involving an anticipated fee of more than $20,000 per annum, the contracting agency shall solicit prospective contractors who shall appear to have at least minimum qualifications for the proposed assignment, notify each prospective contractor in reasonable detail of the proposed assignment and determine the prospective contractor's interest and ability to perform the proposed assignment.

(3) The contracting agency may arrange for any or all interested prospective contractors to be interviewed for the assignment by an appropriate employee or by an interview committee.

(4) Following a review of the qualifications and interview, where conducted, of the interested prospective contractors, the contracting agency shall select the prospective contractor and shall prepare a personal services contract.

(C) Some or all of the following criteria shall be considered in the evaluation and selection of a personal services contractor:

(1) Experience in the type of work to be performed;

(2) Familiarity with the local area and access to local resources;

(3) Capacity and capability to perform the work, including any specialized services within the time limitations for the work;

(4) Educational and professional record, including past record of performance on contracts with governmental agencies and private parties with respect to cost control, quality of work, ability to meet schedules and contract administration, where applicable; and

(5) Any other factors relevant to the particular contract.

(D) The above provisions regarding selection procedures and criteria do not apply to renewals, amendments or modifications of existing personal services contracts.

(E) The selection procedures described in this section may be waived by the contracting agency at its discretion where an emergency exists that could not have been reasonably foreseen and requires a prompt execution of a contract to remedy the situation that there is not sufficient time to permit utilization of the selection procedures.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.006 DISPOSITION OF SURPLUS PERSONAL PROPERTY.

Disposition of surplus personal property may be made, at the discretion of the contracting agency, under provisions of the Public Contracting Code or the model rules or under the provisions of this section.

(A) Surplus property is property owned by the contracting agency, such as office furniture, computers, equipment and vehicles, but excluding real property, that the contracting agency determines is surplus and no longer useful to the contracting agency.

(B) Surplus property may be sold or disposed of in any manner deemed appropriate by the contracting agency, including but not limited to the informal solicitation of bids, or through an auction, including an online auction, or the contracting agency may authorize the property to be donated, or to be destroyed. The contracting agency has the discretion whether or not to advertise the sale of surplus property in a newspaper of general circulation.

(C) All proceeds of sale shall be paid to the contracting agency's General Fund.

(D) All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind, including but not limited to warranties of title or fitness for any purpose. Upon receiving payment for the personal property from the purchaser, a person or company conducting the sale shall execute an appropriate bill of sale, which shall recite that the sale is without warranty, as provided in this division (D).
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

§ 31.007 NEGOTIATIONS.

If bids or quotes are solicited for a public improvement contract, and all bids or quotes exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the project budget under the following procedures.

(A) Negotiations will begin with the lowest responsive and responsible bidder or proposer. If negotiations are not successful, then the contracting agency may begin negotiations with the second lowest responsive, responsible bidder or proposer, and so on.

(B) Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount.

(C) A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation or bid documents.

(D) The contracting agency will adhere to the provisions of O.R.S. 279C.340 in applying this section.
(1993 Code, Comp. No. 1-11) (Ord. 606, passed 6-20-2005)

CITY PLANNING COMMISSION

§ 31.020 ESTABLISHMENT.

There is hereby created a City Planning Commission for this city.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.021 MEMBERS; TERMS; QUALIFICATIONS; VACANCIES; REMOVAL.

The City Planning Commission shall consist of seven members, not less than six of whom shall be residents of the city. Not more than one of the members may be a resident of the urban growth area outside the city. Members of the Planning Commission shall be appointed by the City Council for a term of four years. No member shall be an employee or officer of the city, but the City Building Inspector and City Manager shall be entitled to sit with the Commission, take part in its discussion, but shall not have the right to vote. A member may be removed by the City Council, after hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the City Council for the unexpired term of the predecessor in office. No more than two members shall be engaged principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation, that is engaged principally in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of occupation, business, trade or profession.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 427, passed 9-19-1988; Ord. 442, passed 9-5-1989; Ord. 651, passed 12-20-2010)

§ 31.022 OFFICERS.

The City Planning Commission, at its first meeting, shall elect a President and a Vice President, who shall be members appointed by the City Council, and who shall hold office during the pleasure of the Commission.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.023 COMPENSATION.

Members of the City Planning Commission shall receive no compensation. The City Planning Commission shall elect a Secretary, who need not be a member of the Commission. The Secretary shall keep an accurate record of all proceedings of the Commission, and the Commission shall, on October 1 of each year, make and file with the City Council a report of all of the transactions of the Commission.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.024 QUORUM.

A majority of the Planning Commission shall constitute a quorum. The City Planning Commission may make and alter rules and regulations for its government and procedure consistent with the laws of the state and with the City Charter and ordinances, and shall meet at least once a month at times and places as may be fixed by the Commission. Special meetings may be called at any time by the President or by three members by written notice served upon each member of the Commission at least 24 hours before the time specified for the proposed meeting.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.025 EMPLOYMENT OF STAFF.

The City Planning Commission shall have power and authority to employ consulting advice on municipal problems, a Secretary and any clerks as may be necessary, and to pay for their services and for any other expenses as the Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Commission, out of funds as are theretofore placed at the disposal of the Commission by the City Council.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.026 POWERS AND DUTIES GENERALLY.

It shall be the duty of the City Planning Commission, and it shall have the power, except as otherwise provided by law, to recommend and make suggestions to the City Council and to all other public authorities concerning the laying out, widening, extending, parking and locating of streets, sidewalks and boulevards, the establishment of setback lines, the relief of traffic congestion, the betterment of housing and sanitation conditions and the establishment of zones and districts limiting the use, height, area and bulk of buildings and structures; to recommend to the City Council and all other public authorities plans for the regulation of the future growth, development and beautification of the municipality in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with the future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper service to all public utilities and transportation facilities; to do and perform any and all other acts and things necessary or proper to carry out the provisions of this subchapter; and, in general, to study and to propose any measures as may be advisable for the promotion of the public interest, health, moral, safety, comfort, convenience and welfare of the city and of the area within the urban growth boundary.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.027 REVIEW OF PLANS.

All maps, plats and replats of land laid out in building lots and the streets, alleys or other portions of the same intended to be dedicated for public use or for the use of purchasers or owners of lots fronting

thereon and located within the city limits, and all plans or plats for vacating or laying out, widening, extending, parking and locating streets or plans for public buildings shall first be submitted to the City Planning Commission by the City Engineer or other proper municipal officer; and a report thereon from the Commission secured in writing before approval shall be given by the proper municipal official.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.028 APPROVAL OF PLANS.

All plans, plats or replats of land laid out in lots or plats within the city, including streets, alleys and other portions of the same intended to be dedicated land to public use outside the limits of the city but within the urban growth boundary shall first be submitted to the Planning Commission and approved by it before they shall be recorded.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.029 AMENDMENT OF ZONING AND LAND USE REGULATIONS.

The authority to establish, amend or repeal zoning and land use regulations as provided for in § 31.026, and as enumerated in the zoning ordinance and the subdivision ordinance, shall rest with the City Council.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.030 RECOMMENDATION ON LOCATION OF STRUCTURES.

The City Planning Commission may make recommendations to any person, copartnership, corporation or public authority with reference to the location of buildings, structures or works to be erected, constructed or altered by or for the person, copartnership, corporation or public authority; provided, however, the recommendation shall not have the force or effect of a law or ordinance, except when so prescribed by the laws of the state or by public authority having charge of the construction, placing or designing of buildings or other structures and improvements may call upon the City Planning Commission for a report thereon.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.031 GIFTS, BEQUESTS AND THE LIKE.

The City Council may receive gifts, bequests or devises of property to carry out any of the purposes of this act, and shall have control and disposition over the same.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974; Ord. 442, passed 9-5-1989)

§ 31.032 ADDITIONAL AUTHORITY.

The City Planning Commission shall also have all the powers which are now or may hereafter be given to it under the general laws of the state.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.033 RECOMMENDATIONS IN WRITING.

All recommendations made to the Council by the Commission shall be in writing.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

§ 31.034 EXPENDITURE OF FUNDS.

The City Planning Commission shall have no authority to make any expenditure on behalf of the city or to obligate the city for the payment of any sums of money except as herein provided, and then only after the City Council of the city shall have first authorized the expenditures for that purpose from time to time by appropriate ordinance (or resolution), which ordinance (or resolution) shall provide the administration method by which funds shall be drawn and expended.
(1993 Code, Comp. No. 1-5) (Ord. 166, passed 1-21-1974)

URBAN RENEWAL AGENCY AND PLAN

§ 31.045 DESIGNATION.

(A) Based upon the findings marked Exhibit A, attached to Ordinance 623 and incorporated by reference as fully set forth herein, the City Council of this city, hereinafter referred to as the city, hereby finds and declares that blighted areas, as defined in O.R.S. 457.010, exist within the city.

(B) The City Council declares and recognizes that there is a need for an Urban Renewal Agency to function within the city.

(C) Pursuant to O.R.S. 457.045(3), all of the rights, powers, duties, privileges and immunities granted to and vested in an Urban Renewal Agency by the laws of this state shall be exercised by and vested in the City Council of this city; provided, however, that any act of the governing body acting as the Urban Renewal Agency shall be and shall be considered the act of the Urban Renewal Agency only and not of the City Council.

(D) The corporate name of the agency provided by this section shall be and the agency shall be known as "The Urban Renewal Agency of the City of Winston."

(E) The term of office of each member of the Urban Renewal Agency shall be concurrent with each member's individual term of office as a member of the City Council.
(Ord. 623, passed 10-23-2006)

§ 31.046 URBAN RENEWAL PLAN.

(A) *Findings*.

(1) The area described in the City Urban Renewal Plan is blighted.

(2) Rehabilitation and redevelopment is necessary to protect the public health, safety or welfare of the city.

(3) The City Urban Renewal Plan conforms to the city's Comprehensive Plan as a whole and provides an outline for accomplishing the projects that the City Urban Renewal Plan proposes.

(4) Provisions have been made to house displaced persons within their financial means and in accordance with state statutes.

(5) No real property has been identified for acquisition at this time, and therefore no findings of necessity have been made at this time.

(6) The adoption and carrying out of the Urban Renewal Plan is economically sound and feasible.

(7) The city shall assume and complete any activities prescribed it by the Urban Renewal Plan.

(8) The City Council hereby incorporates by reference the City Urban Renewal Plan, attached to Ordinance 624 as Exhibit A, as support for its above-mentioned findings.

(9) The City Council further relies on the report on the City Urban Renewal Plan, attached to Ordinance 624 as Exhibit B, which is incorporated by reference, the report of the Planning Commission, the public hearing and the entire record before the City Council in this matter.

(B) *Conclusions*. The City Council hereby adopts and approves the City Urban Renewal Plan, pursuant to the provisions of O.R.S. Chapter 457, and directs the City Recorder to publish notice of the adoption of this section in accordance with the requirements of O.R.S. 457.115.
(Ord. 624, passed 12-18-2006; Ord. 670, passed 6-1-2015)

TRAFFIC AND PUBLIC SAFETY COMMITTEE

§ 31.060 ESTABLISHMENT.

There is hereby created and established a Traffic and Public Safety Committee.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.061 MEMBERSHIP.

The Committee shall consist of four voting members of the community at large and a generally non-voting Chair, also from the community at large, who may vote only in the event of a tie and is selected by the voting members. The Committee shall also consist of non-voting ex officio members, which may include the City Manager, Chief of Police, Superintendent of Public Works, City Attorney, Municipal Judge, Superintendent of Schools and any other individuals as the voting members may direct. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Committee. All voting members and the Chair shall be appointed by the Mayor with confirmation by the City Council. The Chief of Police shall serve as Secretary to the Committee.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 651, passed 12-20-2010; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019; Ord. 21-695, passed 3-15-2021)

§ 31.062 TERM.

(A) The initial term of the members shall be as follows: Chairperson for two years; two members for three years; and two members for two years.

(B) Thereafter, all terms shall be for three years. All terms shall expire on December 31 of the appropriate year.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.063 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Three voting members of the Committee shall constitute a quorum. The Committee shall make any rules, regulations and procedures as it deems necessary; but all the rules, regulations and procedures shall be consistent with the laws of this state, the City Charter and city ordinances. The Committee shall meet as needed.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.064 COMPENSATION.

Voting members of the Committee shall receive no compensation for services rendered, but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.065 POWERS AND DUTIES.

(A) In general, the Committee shall act in an advisory capacity to the City Council and the City Manager in the creation, development and implementation of official traffic safety activities.

(B) In addition, the powers and duties of the Committee shall include but not be limited to the following:

(1) To serve in a liaison capacity between the city and the State Traffic Safety Committee in developing the statewide highway program and in meeting the National Highway Safety Program standards;

(2) To develop and recommend coordinated traffic safety programs;

(3) To recommend traffic safety priorities for the city;

(4) To review and recommend project applications for funding;

(5) To provide research and information to the city;

(6) To promote public acceptance of city traffic programs;

(7) To foster public knowledge and support of traffic law enforcement and traffic engineering problems and needs;

(8) To cooperate with the public and private school systems in promoting traffic safety education programs;

(9) To make recommendations to the City Council, as the road authority, concerning the restrictions on highway use, grounds, procedures and penalties as specified in O.R.S. 810.030, as amended; and

(10) The city's Traffic and Public Safety Committee shall be responsible for ruling on Public Safety Fee appeals per § 35.116(A), (B), (C), (D), (E) and (G).
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 651, passed 12-20-2010; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.066 REPORTS.

The Committee shall submit copies of its minutes to the City Council, and shall in February of each year make and file an annual report of its activities with the City Council, and any other reports as from time to time may be requested of it by the City Council.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

§ 31.067 LIFE.

The Committee shall continue in existence for as long as the Public Safety Fee is in place.
(1993 Code, Comp. No. 1-14) (Ord. 464, passed 11-5-1990; Ord. 658, passed 10-21-2013; Ord. 19-683, passed 6-17-2019)

POLICE DEPARTMENT

§ 31.080 CRIMINAL RECORD CHECKS.

(A) In order for the city government to operate effectively, persons selected for employment or as a public service volunteer with the city must have the highest degree of public trust and confidence.

(B) All city employees and public service volunteers represent the city to its citizens. Many city employees and volunteers have responsibilities to regulate and maintain public health and safety. Some city employees have the ability and authority to bind the city contractually, have access to public lands and property, and possess access to privileged and proprietary information submitted to the city in confidence.

(C) There is a need to protect youths from harmful or dangerous encounters and to that end a review of the criminal records of those who volunteer with youth in the city is necessary and appropriate.

(D) Tow truck drivers interact with the public in stressful situations (accidents, disabled vehicles and the like) in which they can be taken advantage of by the tow truck driver. Therefore, it is necessary and appropriate that the tow truck driver's criminal record history is reviewed.

(E) Liquor license applicants are required to apply to the city for recommendation to the State Liquor Control Commission (OLCC) in their licensing process. It is necessary and appropriate that these applicants' criminal record history is reviewed in the city's recommendation process.

(F) All applicants for employment and appointed volunteers with the city will be required to authorize the city to conduct a criminal offender information check through the OSP LEDS system.

(G) A member of the Police Department trained and authorized to perform criminal history checks through the LEDS system will conduct the check on the prospective employee or volunteer and orally report to the Human Resources Department that the applicant's records indicates "no criminal record" or "criminal record." If the applicant's record is reported as "criminal record," the city will, under OAR 257-010-0025, request a written criminal history report from the OSP Identification Services Section. Human Resources will make the written criminal history record available to the appropriate official for his or her consideration in making the selection.

(H) The written criminal history record on persons that are not hired or appointed as a volunteer will be retained in accordance with the requirements of OAR 166-200-0090 for a period of three years and thereafter will be destroyed. The criminal history record of applicants and volunteers with a criminal history that are hired or appointed will become a part of the confidential personnel files of that employee or volunteer. Access to confidential personnel files is limited to only authorized persons who have an official need to access the files that is sanctioned by law or regulation.

(I) Nonprofit organizations serving youth in the community, including but not limited to youth baseball, youth basketball, youth soccer and youth football organizations, may request that the Police Department perform criminal history checks. Subject to workload priorities and staff availability, the Police Department may perform criminal record checks on the prospective youth volunteers. The Police Department shall confirm only if a criminal record exists, without any detail of the record. The youth volunteer organization may request criminal record history directly with the State Police pursuant to state statute and administrative rule.

(J) Criminal history checks of contracted tow truck drivers and liquor and other license applicants shall be performed by the Police Department.
(Ord. 630, passed 4-2-2007)

POLICE RESERVE

§ 31.095 ESTABLISHMENT.

There shall be established in the city a volunteer police reserve for the city, as hereinafter noted.
(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960)

§ 31.096 AUTHORITY OF COUNCIL.

The City Council of this city shall have full power and control of the police reserve.
(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960)

§ 31.097 CHIEF OF POLICE.

The Chief of Police shall have general supervision and control of the police reserve subject to the ultimate control of the City Council.
(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960; Ord. 397, passed 4-6-1987)

§ 31.098 QUALIFICATIONS FOR POLICE RESERVE.

The police reserve of the city shall consist of persons over the age of 21 years, of good moral character; and qualifications shall be as they as may be adopted by resolution covering the qualification of the officers. General rules and regulations as to the application and qualification of the police reserve, hours of work, method of pay, if any, and other provisions covering the control of the body shall be as promulgated by the Chief of Police and approved by resolution of the City Council. Each person who shall apply for and be accepted as a police reserve officer of the city shall, before assuming any duties, take and subscribe the following oath of office:

> I,_____, being first duly sworn on oath, say that I will support the laws and Constitution of the United States of America, and the Constitution and laws of the State of Oregon; and that I will, to the best of my ability, support and enforce and carry out, when on duty as a police reserve officer of the City of Winston, all ordinances of the City of Winston to the best of my ability, so help me, God.

(1993 Code, Comp. No. 1-2) (Ord. 64, passed 1-4-1960; Ord. 441, passed 9-5-1989)

ECONOMIC DEVELOPMENT BOARD

§ 31.125 ESTABLISHMENT.

There is hereby created and established an Economic Development Board.
(Ord. 21-696, passed 4-5-2021)

§ 31.126 MEMBERSHIP.

(A) *Members*. The Board shall consist of six voting members of the community at large and a generally non-voting Chair, also from the community at large, who are citizens or business owners and a generally non-voting Chair, also from the community at large, who is a citizen or business owner. The Board shall also consist of non-voting ex officio members such as the City Manager and any other individuals as the voting members may direct. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Board. All voting members and the Chair shall be appointed by the Mayor with confirmation by the City Council.

(B) *Unexcused absences*. In the event of three consecutive absences from the regularly scheduled meetings of the City Economic Development Board, the Mayor shall declare that position vacant and may fill the position as per division (A) of this section.
(Ord. 21-696, passed 4-5-2021; Ord. 21-700, passed 6-22-2022)

§ 31.127 TERMS.

The initial terms of the members shall be as follows: Chair for two years, beginning with the first meeting in January of even-numbered years; three members for one year; three members for two years. Thereafter, all terms shall be for three years. All terms, except the Chair, shall expire on January 31 of the appropriate year.
(Ord. 21-696, passed 4-5-2021)

§ 31.128 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Four voting members of the Economic Development Board shall constitute a quorum. The Board shall make rules, regulations, and procedures as it deems necessary, but all the rules, regulations and procedures shall be consistent with the laws of the state of Oregon, the City Charter and city ordinances. The Board shall meet at least once per month on the second Wednesday of the month at 12:00 noon or as otherwise determined by the Board and approved by the Council.
(Ord. 21-696, passed 4-5-2021)

§ 31.129 COMPENSATION.

Members of the Board shall receive no compensation for services rendered but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.
(Ord. 21-696, passed 4-5-2021)

§ 31.130 POWERS AND DUTIES.

In general, the Board shall act in an advisory capacity to the City Council and the City Manager in developing and implementing economic and tourism initiatives and activities.

(A) To review activities and funding potential from the city's Urban Renewal Agency.

(B) Make recommendations on requests from citizens or businesses for tourism grants from the city's Transient Room Tax funds.

(C) Track new economic development within the city.

(D) Review and make recommendations to City Council on economic development grants.

(E) Look for economic development activities to support the business community.

(F) Look for economic development opportunities such as potential new businesses.

(G) Work with other economic development partner agencies for the betterment of the Douglas County and State of Oregon economic base.
(Ord. 21-696, passed 4-5-2021)

§ 31.131 REPORTS.

The Board shall submit copies of its minutes to the City Council and shall, in June of each year, make and file an annual report of its activities to the City Council; and any other reports as from time to time may be requested of it by the City Council. The format of all reports to City Council shall be made at the discretion of the Economic Development Board.
(Ord. 21-696, passed 4-5-2021)

§ 31.132 LIFE OF BOARD.

The Economic Development Board shall continue in existence as long as directed to do so by the Mayor and City Council.
(Ord. 21-696, passed 4-5-2021)

§ 31.133 RULES AND REGULATIONS.

To be developed by the Economic Development Board and approved by the City Council.
(Ord. 21-696, passed 4-5-2021)

WINSTON PUBLIC LIBRARY AND LIBRARY BOARD

§ 31.140 WINSTON PUBLIC LIBRARY ESTABLISHED.

(A) A public library is hereby established for the City of Winston Public Library under the provisions of O.R.S. 357.400 to 357.621.

(B) The public library shall be financed through the use of general fund monies, revenue obtained from the operation of the library, grants, gifts, donations and bequests received and designated to be used for library purposes, and any tax levies that may be authorized by the electors.

(C) The Friends of the Winston Library shall be the public agency responsible for providing and making freely accessible to all residents in the city library and information services suitable to persons of all ages.
(Ord. 20-685, passed 4-20-2020)

§ 31.141 LIBRARY BOARD.

(A) The Friends of the Winston Library Public Library Board is hereby created. The Board shall consist of five members to be nominated by the Mayor from a list of candidates submitted by the Friends of the Winston Library and appointed and confirmed by the City Council.

(B) The term of office of the Board members shall be two years and their terms shall commence on July 1 in the year of their appointment. The terms of office shall be staggered so that the terms of not more than two Board members will expire in the same year. Of the first five Board members appointed, two members shall initially hold office for one year, two members for two years, and one for three years. At the expiration of the term of any members of such Board, the City Council shall appoint a new member or may reappoint a member for a term of three years. If a vacancy occurs during a term of office, the governing body shall appoint a new member for the unexpired term.

(C) Members of the Board shall receive no compensation for their services but may be reimbursed for expenses incurred in the performance of their duties.
(Ord. 20-685, passed 4-20-2020)

§ 31.142 BOARD ORGANIZATION.

(A) The Library Board shall elect a Chairperson from its members.

(B) The Library Board shall elect a Library Board Secretary from its members who shall keep the record of its actions.

(C) The Library Board shall elect a Library Treasurer from its members who shall keep the financial records of the library.

(D) The Board may establish and amend rules and regulations for its government and procedure consistent with the laws of the State of Oregon and with the charter, ordinances, resolutions, and regulations of the City of Winston.

(E) The Board shall meet at least ten times each year and at such other times as it may provide by its rules.
(Ord. 20-685, passed 4-20-2020)

§ 31.143 LIBRARY BOARD GENERAL POWERS.

(A) In accordance with the Friends of the Winston Library's "Library Operations Agreement" with the city, the Library Board shall have powers and duties as follows:

(1) The Library Board shall make rules and policies for the efficient and effective operation of the library, its services and programs.

(2) The Library Board Treasurer shall create an annual budget.

(3) The Library Board shall determine the acceptance, use, or expenditure of any real or personal property or funds donated to the library under § 31.144, or make recommendations for the purchase, control, or disposal, of real and personal property necessary for the purposes of the library as indicated in the provisions of (City and County IGA).

(4) The Library Board shall make recommendations for the selection of sites for public library buildings or for location of library facilities.

(5) When the city agrees to fund activities or purchases, the Library Board shall review and recommend to the City Council terms for contracts and working relationships with private and public agencies regarding library services.

(6) The Library Board shall approve an annual report to the State Library and to the City Council submitted in a timely manner on a form supplied by the State Library.

(7) The Library Board shall develop and recommend to the City Council long-range plans for library service, consistent with city priorities and with state, regional and national goals for libraries.
(Ord. 20-685, passed 4-20-2020)

§ 31.144 ACCEPTANCE OF GIFTS FOR LIBRARY PURPOSES.

Gifts of any real or personal property or fund donated to the library and accepted by the governing body shall be administered in accordance with each gift's terms, and all property or fund shall be held in the name of the Friends of the Winston Library.
(Ord. 20-685, passed 4-20-2020)

§ 31.145 INTERNAL ADMINISTRATIVE POLICIES AND PROCEDURES.

(A) The Friends of the Winston Library shall be the fiscal and internal administrative agent for the Winston Public Library and the library shall operate in conformance with city administrative procedures including those pertaining to the following:

(1) Receipt, disbursement, and accounting for monies.

(2) Maintenance of general books, cost accounting records, and other financial documents.

(3) Budget administration.

(B) The City Manager shall be the fiscal and internal administrative agent for the Winston Public Library Space within the Winston Community Center and the library shall operate in conformance with city administrative procedures for operation and maintenance of city owned furniture, equipment and within the library.
(Ord. 20-685, passed 4-20-2020)

§ 31.146 PROHIBITED ACTIONS AND PENALTIES.

(A) It shall be unlawful for any person to willfully or maliciously detain any library materials belonging to the Winston Public Library for 30 days after notice in writing from the library staff that the library material is past due. The notice shall bear upon its face a copy of O.R.S. 357.975 and 357.990.

(B) Violation for willful detention of library materials is punishable upon conviction by a fine of not less than $25 nor more than $250. Such conviction and payment of the fine shall not be construed to constitute payment for library material, nor shall a person convicted under this section be thereby relieved of any obligation to return such material to the library.
(Ord. 20-685, passed 4-20-2020)

CHAPTER 32: CITY POLICIES

Section

Personal Property Disposition

Public Records

PERSONAL PROPERTY DISPOSITION

§ 32.01 CUSTODY OF PROPERTY.

Whenever any personal property other than motor vehicles is taken into custody of any department by reason of seizure, abandonment or for any other reason, the personal property shall be turned over to and held by the Police Department at the expense and risk of the owner or person lawfully entitled to possession thereof.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.02 DISPOSITION OF PROPERTY.

(A) *Surrender to true owner.* Within 60 days after the property is taken into possession, except when confiscated or held as evidence, the owner or person lawfully entitled to possession may reclaim the same upon application to the Police Department, submission of satisfactory proof of ownership or right to possession, and payment of charges and expenses, if any, incurred in the storage, preservation and custody of the property.

(B) *Rights and duties of finders.* In the event the value of found property is $25 or more as determined by the Chief of Police, disposition of the property shall be in the manner prescribed by state law. If the value of found property is less than $25 as determined by the Chief of Police, it may be returned to the finder if, following the posting of notice for 30 days as prescribed in division (C) of this section, the property remains unclaimed.

(C) *Posting of notice.* Prior to disposition of found property as provided for herein, the Chief of Police shall cause to be posted in at least three public places within the city a notice stating the general description of the property, a brief explanation of how the property came into the possession of the Police Department, notice of the city's intent to dispose of the property if unclaimed by its rightful owner within 30 days of the date of posting of the notice and instructions for making application to the Police Department to claim the property.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975; Ord. 447, passed 10-2-1989; Ord. 561, passed 11-2-1998)

§ 32.03 SALE PROCEDURE.

(A) At any time after the 30-day period, the Chief of Police shall cause to be sold at a public sale any unclaimed property and any property which has been confiscated and not ordered destroyed, except property held as evidence and except for firearms. In the case of firearms the Chief of Police shall cause the same to be appraised by a licensed gun dealer and placed on display in an authorized firearms dealership for sale by sealed bid in the manner prescribed by this section. Notice of the sale shall be given once by posting a notice of sale in six public places within the city at least ten days before the date of sale, giving the time and place of sale and generally describing the property to be sold and, in the case of firearms, describing the minimum bid acceptable which shall be equal to the appraised value. All sealed bids for firearms shall be delivered by the bidder to the firearms dealer prior to the time of sale. Bids shall be opened and read aloud at the time and place stated in the notice and in the presence of the Chief of Police or his or her designee. Upon the sale of a firearm in the manner prescribed by this section, the firearms dealer shall be paid a consignment fee equal to 15% of the sale price of the firearm.

(B) Except for the sale of firearms as provided for above, all sales of property shall be for cash to the first person meeting the terms of the sale; provided, however, that any person appearing at or prior to the sale and proving ownership and the right to possession thereto shall be entitled to reclaim the property upon the payment of charges and expenses incurred by the city in storage, preservation, appraisal and custody of the property and the costs of advertising the same for sale. Any buyer or bidder at the sale of a firearm shall comply with all state and federal laws concerning purchase thereof.

(C) If, at the time of sale, no offer meeting the terms of the sale is made or, in the case of a firearm, all bids are for less than the appraised value, the Chief of Police may suspend the sale of the property and the property shall become the property of the city as compensation for the costs incurred, or the property may be held for sale at a future date or, if of no use or value to the city, the property shall be disposed of in a manner as the City Manager directs.

(D) Proceeds of a sale shall be first applied to the payment of the costs of sale and the expense incurred in the preservation, storage, appraisal and custody of the property and the balance, if any, shall be credited to the General Fund of the city.

(E) Sales shall be without the right of redemption.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975; Ord. 243, passed 4-17-1978; Ord. 447, passed 10-2-1989; Ord. 651, passed 12-20-2010)

§ 32.04 CERTIFICATION OF TITLE.

At the time of the payment of the purchase price, the Chief of Police shall execute a certificate of sale in duplicate, the original to be delivered to the purchaser and a copy to be kept on file in the office of the City Recorder, which certificate shall contain the date of sale, the consideration paid, a brief description of the property and a stipulation that the city does not warrant the condition or title of property other than the return of the purchase price in case the title is for any reason invalid.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.05 DANGEROUS OR PERISHABLE PROPERTY.

Any property coming into the possession of the Chief of Police which he or she determines to be dangerous or perishable may be disposed of immediately, without notice, in a manner as he or she determines to be in the public interest.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

§ 32.06 SCOPE.

This subchapter shall apply to all personal property, except motor vehicles, now or hereafter in custody of the city.
(1993 Code, Comp. No. 1-6) (Ord. 193, passed 10-1-1975)

PUBLIC RECORDS

§ 32.20 ADOPTION OF CITY RECORDS MANAGEMENT MANUAL AND RETENTION SCHEDULE.

The city adopts the following by reference and each is incorporated and made part of this section:

(A) The 1991-1992 City Records Management Manual prepared in cooperation by the State Archives Division of the Office of Secretary of State of Oregon and the State Association of Municipal Recorders; and

(B) The 1992 City Records Retention Schedule as produced by State Archives Division of the Office of Secretary of State of Oregon in cooperation with the State Association of Municipal Recorders. (1993 Code, Comp. No. 1-15) (Ord. 481, passed 11-19-1992)

CHAPTER 33: ELECTION PROCEDURES

Section

Initiative and Referendum

INITIATIVE AND REFERENDUM

§ 33.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY ELECTIONS OFFICER. The City Recorder for the city.

ELECTOR. A person who is qualified to vote in the city.

EMERGENCY ELECTION. An election held as provided by O.R.S. 221.230(2) when the Council finds that to avoid extraordinary hardship to the community it is necessary to hold an election sooner than the next available election date specified in O.R.S. 221.230(1).

MEASURE. A legislative enactment by the Council that is not necessary for the immediate preservation of the public peace, health and safety; a part of that enactment; or a proposed legislative enactment for the city. The term includes municipal ordinance, a charter amendment or any other legislative enactment within the power of the city to adopt.

PETITION. An initiative or referendum petition for ordering a measure to be submitted to the electors.

PROSPECTIVE PETITION. The information, except the ballot title information, signatures and other identification of petition signers, required to be contained in a completed petition.

REGULAR ELECTION. A city election held at the same time as a primary or general biennial election for election of state and county officers.

SPECIAL ELECTION. An election held on a date specified in O.R.S. 221.230(1) that is not a regular election.

WRITE. To write, type or print.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.02 COMPLETE PROCEDURE.

This subchapter provides a complete procedure for the electors to exercise initiative and referendum powers.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.03 INITIATIVE PROPOSAL.

An initiative measure shall be proposed by filing with the city elections officer a completed petition that meets the requirements of this subchapter and orders the measure to be submitted to the electors.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.04 REFERENDUM PROCEDURE.

A measure shall be referred by:

(A) Filing with the City Elections Officer a completed referendum petition that meets the requirements of this subchapter; or

(B) Submission of the measure to the electors by the Council.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.05 TIME FOR REFERRING MEASURE BY PETITION.

A completed referendum petition for a measure, including the required signatures, must be filed with the City Elections Officer within 30 days after the Council enacts the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.06 TIME FOR REFERRAL BY COUNCIL.

The Council may refer a measure only at the session at which it enacts the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.07 PROSPECTIVE PETITION.

(A) A prospective petition shall be in the form prescribed by the Secretary of State.

(B) Prior to its circulation, a copy of the prospective petition shall be deposited with the City Elections Officer with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.08 ELECTIONS OFFICER DUTIES.

When a copy of a prospective petition is deposited with the City Elections Officer, the officer shall:

(A) Check the form for compliance with § 33.07;

(B) Advise the person depositing it whether it complies with § 33.07 and, if it does not, how to make it comply;

(C) Provide a sample petition form prescribed by the Secretary of State, if one has not already been obtained; and

(D) Stamp the date and time on the prospective petition, if it complies with § 33.07, and send a copy to the City Attorney for preparation of the ballot title.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.09 BALLOT TITLE PREPARATION.

(A) The ballot title for a measure ordered by the Council or proposed to be ordered by petition shall be prepared and in the hands of the City Elections Officer within ten working days after the Council orders the submission or after a copy of the prospective petition is deposited with the Officer.

(B) When the Council orders submission of a measure to the electors or when a prospective petition is deposited with the City Elections Officer, the Officer shall send a copy of the measure to the City Attorney, who shall prepare the ballot title and return it to the Officer. If the city has no attorney or the City Attorney is unable to prepare the ballot title within the time required, the Officer shall prepare the ballot title.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.10 CAPTIONS AND STATEMENT.

The ballot title shall consist of:

(A) A caption not exceeding ten words which identifies the subject matter of the measure;

(B) A question not exceeding 20 words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(C) A concise and impartial statement, not exceeding 75 words, that summarizes the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.11 BALLOT TITLE APPEALS.

An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the City Elections Officer, appeal to the Council by a written appeal deposited with the Officer asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within five business days after deposit of the appeal with the Officer, the Council shall provide the appellant a hearing and either approve the title or prescribe another ballot title for the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.12 PETITION REQUIREMENTS.

Prior to circulation, a petition must:

(A) Be in the form prescribed by the Secretary of State; a sample of the form is available in the office of the City Elections Officer;

(B) Contain the name and address of the sponsor or sponsors of the petition; and

(C) Have written in the foot margin of each signature sheet and on the cover:

(1) On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title; or

(2) On a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by the Council.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.13 NUMBER OF SIGNATURES.

The number of signatures required for an initiative petition is 15% of the number of votes cast for all candidates for Mayor at the election for the Office of Mayor immediately preceding the deposit of the prospective petition with the City Elections Officer.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.14 ATTACHMENT OF MEASURE TO SHEETS.

A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.15 SIGNATURE LIMITS.

Only the first 20 names on a page of a petition shall be considered in computing the number of valid signatures on the petition.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.16 VERIFICATION OF SIGNATURES.

(A) A signature on a petition sheet shall not be counted unless the person who circulated the sheet verifies by a signed statement on its face that the individuals signed the sheet in the presence of the circulator and the circulator believes that each individual who signed is a qualified elector.

(B) No signature upon an initiative petition shall be counted unless a completed petition is offered for filing with the City Elections Officer within 100 days of the date of the signature.

(C) After a petition is submitted for signature verification, no elector who signed the petition may remove the signature of the elector from the petition.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.17 CERTIFICATION OF SIGNATURES.

Within ten days after a petition is offered for filing with the City Elections Officer, the Officer shall verify the number and genuineness of the signatures and the voting qualifications of the persons who signed the petition by reference to the registration books in the office of the County Clerk. If a sufficient number of electors signs the petition, the Officer shall certify and file the petition. If the Officer determines that there is an insufficient number of signatures, the petition shall be returned to the person who offered the petition for filing.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.18 PRESENTATION TO THE COUNCIL.

At the next regular meeting of the Council after the proposal of a completed initiative measure, the City Elections Officer shall present the measure to the Council.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.19 SUBMISSION TO ELECTORS.

(A) The City Elections Officer shall cause a Charter or Charter amendment proposed by the initiative, and any other initiative measure not adopted within 30 days after its filing, to be submitted to the electors at the time provided by § 33.20.

(B) The Council may call an emergency election for a measure and set the date for it as provided by O.R.S. 221.230.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.20 VOTING ON MEASURES.

(A) Except as provided by division (B) below or unless an earlier special election is approved by the Council, the time for voting on a measure shall be the next available regular election date more than 90 days after the verification and filing of a petition by the City Elections Officer.

(B) The Council may call an emergency election for a measure and set the date for it as provided by O.R.S. 221.230.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.21 DESIGNATING AND NUMBERING MEASURES.

Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.22 ELECTION NOTICE.

The City Elections Officer shall give notice of all elections in accordance with the requirements of the City Charter.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.23 INFORMATION TO COUNTY CLERK.

When a measure is to be voted on at an election, the City Elections Officer shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the County Clerk in accordance with the time limits established by state law.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.24 ELECTION RETURNS.

The votes on a measure shall be counted, canvassed and returned by the County Clerk as provided by law.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.25 PROCLAMATION OF ELECTION RESULTS.

(A) Immediately after completion of the canvass of the votes on a measure, the Mayor shall issue a proclamation:

(1) Stating the vote on the measure;

(2) Declaring whether the vote shows a majority to be in favor of it; and

(3) If a majority of the electors favor the measure, declaring it to be effective from the date of the vote.

(B) The proclamation shall be filed with the measure.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.26 EFFECTIVE DATE OF MEASURES.

(A) A measure submitted to the electors shall take effect when approved by a majority of the electors voting on it, unless it specifies a later effective date.

(B) A measure adopted by the Council but subject to a pending referendum for which a completed petition has been timely filed shall have no effect unless and until it is approved by a majority of the electors voting upon it.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.27 CONFLICTING MEASURES.

When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

§ 33.28 UNLAWFUL ACTS.

(A) No person other than a registered elector shall sign a petition.

(B) No person shall sign a petition with a name not his or her own.

(C) No person shall knowingly sign a petition more than once.

(D) No person shall knowingly circulate, file or attempt to file with the Elections Officer a petition that contains a signature signed in violation of this subchapter.

(E) No person shall procure or attempt to procure a signature on a petition by fraud.

(F) No person shall knowingly make a false statement concerning a petition.

(G) No person shall make a document required or provided for by this subchapter that contains a false statement.

(H) No Officer shall willfully violate a provision of this subchapter.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989) Penalty, see § 33.99

§ 33.99 PENALTY.

Violations of a provision of § 33.28 is punishable by fine not to exceed $500.
(1993 Code, Comp. No. 1-12) (Ord. 440, passed 9-5-1989)

CHAPTER 34: JUSTICE PROVISIONS

Section

Juries and Jury Trials

JURIES AND JURY TRIALS

§ 34.01 NUMBER OF JURORS.

A trial jury in the Municipal Court of this city shall consist of six persons sworn to try the cause for which they are called, selected and drawn as provided in this subchapter.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.02 RIGHT TO TRIAL BY JURY.

In all cases and prosecutions for any crime or offense defined and made punishable by the Charter or ordinances of the city, and triable before the Municipal Judge of this city, where a sentence of imprisonment is authorized, the defendant shall be entitled to be tried by a jury if he or she shall demand a jury; provided, however, that the demand for a jury trial must be made not less than ten days before the time fixed for the trial of the cause.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.03 QUALIFICATIONS OF JURORS.

To be qualified as a juror in the Municipal Court of the city, the prospective juror must have the qualifications prescribed in O.R.S. Chapter 10 and, in addition, must be an inhabitant and registered voter within the city at the time that he or she is summoned.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989) Penalty, see § 34.99

§ 34.04 JURY LIST AND SELECTION.

In all cases where the defendant has the right of trial by jury and has made the demand for the same within the time limitations set forth in § 34.02 above, the juries shall be selected from the latest tax roll and registration books used at the last city election in the same manner in which juries are selected for Circuit Courts as provided in O.R.S. Chapter 10.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.05 ADDITIONAL JURORS.

If there is as immediate need for additional jurors, the Municipal Judge shall direct the Chief of Police or any police officer of the city to summon a sufficient number of eligible persons to meet that need from the body of freeholders of the city. Those persons shall be summoned as directed by the Municipal Judge.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.06 VERDICTS.

All six of the jurors sworn to try the cause must concur to render a verdict.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.07 JURY FEES.

(A) The jury fee shall be $10 per day per juror if the person is chosen to serve as a juror on a trial. If the person shows up for jury duty but is not chosen to serve as a juror on a trial, he or she shall receive $5. In no event shall the jury fee exceed that provided by O.R.S. 10.061 in relation to justice courts.

(B) Where provision is made for the payment of jury fees by the defendant as a deposit to ensure a jury trial, and where the defendant is found not guilty, the deposit shall be returned to the defendant.

(C) The deposit required by the Municipal City or Recorder's Court to ensure the right of trial by jury, under the Charter of the city shall not be greater than that provided by O.R.S. 10.061 in relation

to justice court for payment for each juror sworn multiplied by the number of jurors constituting a jury under the terms of the charter.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.08 COURT COSTS.

(A) Whenever the Judge of the Municipal Court of the city imposes a fine, including a fine imposed and thereafter suspended, or orders a bail forfeiture as a penalty for violation of an ordinance of the city including a violation of state law punishable in Municipal Court, an assessment in addition to the fine or bail forfeiture shall be collected as court costs in an amount equal to the Board on Police Standards and Training Assessment which is provided for in O.R.S. 137.015. There may also be assessed a city jail assessment.

(B) No costs shall be assessed in cases pertaining to violations of motor vehicle parking regulations and city ordinances unless a warrant is issued to enforce the defendant's appearance, or unless trial is had thereon under a plea of not guilty. These court costs shall be separate and distinct from jurors' fees or from any fine or other penalties imposed by the Court. The Court in its discretion, in justifiable cases, may, on behalf of the city, waive payment of all or any part of the costs or not impose the costs or any part thereof.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.09 ATTORNEY FEES.

Commencing on the effective date of this subchapter, the maximum compensation to be paid to any court-appointed attorney for any one case shall not exceed $300 per case.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

§ 34.99 PENALTY.

If a person duly summoned to attend the Municipal Court as a juror fails to attend as required or to give a valid excuse thereafter, he or she may be summarily fined by the Municipal Judge in an amount not to exceed $10.
(1993 Code, Comp. No. 1-13) (Ord. 449, passed 11-6-1989)

CHAPTER 35: FINANCES; FEES AND TAXES

Section

Transient Room Tax

Public Safety Fee

Cross-reference:

Marijuana tax, see Ch. 111
Public improvements and assessments, see TSO VII
Systems development charges, see § 50.010

TRANSPORTATION UTILITY FEE

§ 35.001 DECLARATION OF PURPOSE.

There is hereby created a transportation utility fee for the purpose of providing funds for the maintenance and repair of local streets under the jurisdiction of the city. The Council hereby finds, determines and declares the necessity of providing maintenance and upkeep of the city's local streets and related facilities within the right-of-way as a comprehensive transportation utility, with maintenance to include without limitation the following activities: cost of administering the transportation utility fee, patching, crack sealing, seal coating, pavement overlays including minor widening, repairing and installing sidewalks or curb cuts, replacing and installing signs, striping streets, repairing and installing signals, rebasing or placing additional road base on local streets, and other activities as are necessary in order that local streets may be properly maintained to safeguard the health, safety and welfare of the city and its inhabitants. The Council further finds that transportation facilities, including public transit, dial-a-ride, handicap access, and pedestrian and bicycle facilities are an essential part of the transportation network within the city and that a portion of these funds may also be used to cover the costs of public transit, dial-a-ride and the construction of pedestrian and bicycle facilities either within or adjacent to existing public streets, or off of public streets.
(Ord. 636, passed 12-15-2008)

§ 35.002 ESTABLISHMENT.

(A) The City Council hereby establishes a transportation utility fee to be paid by the responsible party (whether owners or occupants). The fee shall be established in amounts which will provide sufficient funds to properly maintain local streets throughout the city. Residential occupants shall be charged a set fee assigned to each residential sewer account within the city. Commercial occupants shall be charged a fee based upon traffic generation and developed use of the premises. The transportation utility fee shall not be charged during any period when the premises is not receiving city sewer service, or is proven to be vacant and not generating traffic.

(B) City Council may from time to time, by resolution, change the fees based upon revised estimates of the cost of properly maintaining local streets, revised categories of developed use, revised traffic generation or trip length factors or other relevant factors.

(C) Collection of the fee for previously unimproved premises shall commence at the time of connection to the city sewer system.

(D) The transportation utility fee imposed by the city is classified as not subject to the limits of § 11b of Article XI of the State Constitution. The transportation utility fee does not in any way create an in rem obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.
(Ord. 636, passed 12-15-2008)

§ 35.003 FEE DEDICATED.

All fees collected pursuant to this subchapter shall be paid into the Transportation Utility Fee Fund. The revenues shall be used for the purposes of the operation, administration and maintenance of the local transportation network in the city. It shall not be necessary that the operations, administration and maintenance expenditures from the Street Fund specifically relate to any particular property from which the fees for those purposes were collected. To the extent that the fees collected are insufficient to properly maintain or repair local streets, the cost of the same shall be paid from any other city funds as may be determined by the City Council, but the City Council may order the reimbursement to that fund if additional fees are thereafter collected.
(Ord. 636, passed 12-15-2008)

§ 35.004 CITY TO MAINTAIN LOCAL STREETS; EXCEPTIONS.

The city shall maintain all accepted local streets within city-owned land, city rights-of-way and city easements and maintain other accepted local streets within or adjacent to the city. These local streets specifically exclude private streets and streets not yet accepted by the city for maintenance.
(Ord. 636, passed 12-15-2008)

§ 35.005 BILLING AND COLLECTION OF FEE.

(A) The responsible party for any improved premises within the city shall pay a transportation utility fee according to the rate set forth in the ordinance in Exhibit C attached to Ordinance 636, which is hereby adopted by reference as if set out in full herein. Commercial rates are based on the formula set forth in the ordinance in Exhibit B attached to Ordinance 636, which is hereby adopted by reference as if set out in full herein. Unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city, the person paying the city's sewer bill shall pay the transportation utility fee. When the bill remains unpaid by the name of record on the utility bill then the property owner becomes responsible for the bill. The obligation to pay the transportation utility fee is personal to the responsible party.

(B) Transportation utility fees shall be billed monthly by the City Manager and shall become due and payable in accordance with the rules and regulations pertaining to the collection of sewer service fees. If there is not city sewer service to the improved premises, an annual bill shall be rendered and shall become due and payable within 90 days of issuance. Monthly transportation utility fees for new development shall commence at the time of connection to the city sewer system. Areas annexed to the city or under contract to annex shall become subject to the transportation utility fee, if there is a building on the property being annexed, on the date of annexation or the date of the annexation contract, whichever comes first, as long as there is a hookup to city sewer. When that is not the case, then the applicant shall be required to connect to the city sewer system as soon as reasonably possible, but no later than one year from the date of annexation.

(C) Fee implementation shall be adopted by City Council through the budget process.
(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.006 ENFORCEMENT.

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the city. The City Manager is hereby empowered and directed to enforce this provision against delinquent users. The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair and enforcement of the provisions of this subchapter.
(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.007 ADMINISTRATIVE REVIEW; APPEALS.

(A) Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the city pursuant to and by the authority of this chapter may petition the City Council for a hearing on a revision or modification of the fee or determination. Petitions may be filed only once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of the additional petition.

(B) The petitions shall be in writing, filed with the City Manager, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.

(C) Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon the findings and, if appropriate, modify the fee or determination accordingly. This determination by the City Council shall be considered a final order.
(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.008 NOTICE OF DECISION.

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of the action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.
(Ord. 636, passed 12-15-2008)

§ 35.009 DISPOSITION OF FEES AND CHARGES.

The fees paid and collected by virtue of this subchapter shall not be used for general or other governmental propriety purposes of the city, except to pay for an equitable share of the city's accounting, management and other governing costs, incident to operation of the transportation utility fee program. Otherwise the fees and charges shall be used solely to pay for the cost of operation, administration, maintenance, repair, improvement, renewal, replacement and reconstruction of city transportation network related facilities.
(Ord. 636, passed 12-15-2008)

§ 35.010 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARGEABLE DAILY TRIP-END. A figure that represents adjustments of the Institute of Transportation Engineers trip generation rates to:

(1) Remove passby trips from various nonresidential uses; and

(2) Multiply trip generation rates by a trip length ratio to better estimate usage.

IMPROVED PREMISES. Structures, landscaping paved areas and any area which has been altered such that runoff from the site is greater than that which could have historically been expected.

RESPONSIBLE PARTY. The person or persons who by usage, occupancy or contractual arrangement are responsible to pay the utility bill for an improved premises.

TRIP-END. A trip to or from an origin or destination. A ***TRIP-END*** is the standard unit of measure for trip generation and can be measured as one pass by a traffic counter. Two ***TRIP-ENDS*** are involved in a simple round trip. Round trips with multiple stops include passby trips at the destinations between the beginning and end of the trip.
(Ord. 636, passed 12-15-2008)

§ 35.011 METHODOLOGY.

(A) The City Manager may, upon appropriate findings, recalculate a nonresidential utility fee based on a demonstration of a permanent change in transportation system use.

(B) Any adjustment shall take effect in the month following the completion of the demonstration of permanent change.
(Ord. 636, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.012 EXEMPTIONS.

The City Council may, by resolution, exempt any class of user when it determines that the public interest deems it necessary or that the contribution to street use by that class is insignificant.
(Ord. 636, passed 12-15-2008)

§ 35.013 EFFECTIVE DATE.

This subchapter takes effect on January 14, 2009.
(Ord. 636, passed 12-15-2008)

STORM DRAIN UTILITY FEE

§ 35.025 PURPOSE.

(A) There is hereby created a storm drain utility fee for the purpose of providing funds for the maintenance and expansion of the storm drain system, including but not limited to local streets and related facilities under the jurisdiction of the city. The Council hereby finds, determines and declares the necessity of providing operation, maintenance and improvement of the city's storm drains and related assets and facilities operating within the city as a comprehensive storm drain utility. Operation, maintenance and expansion includes activities as are necessary in order that storm drains and related facilities may be properly operated and maintained to safeguard the health, safety and welfare of the city and its inhabitants and visitors.

(B) The Council further finds that natural streams and wetlands are an integral part of the storm drain system.
(Ord. 637, passed 12-15-2008)

§ 35.026 DEFINITIONS.

Except where the context otherwise requires, the definitions contained in this section shall govern the construction of this chapter.

COMMERCIAL OR INDUSTRIAL UNIT. Any building or facility used other than as a dwelling unit.

DEVELOPMENT. Any constructed change to improved or unimproved property, including but not limited to buildings or other structures, private storm drain facilities, mining, dredging, filling, grading, paving, excavation or drilling operations.

EQUIVALENT RESIDENTIAL UNIT (ERU). An area which is estimated to place approximately equal demand on the public storm drain facilities as a single-family dwelling unit. One ***ERU*** shall be equal to 3,000 square feet of impervious surface.

IMPERVIOUS SURFACES. Those surface areas which either prevent or retard saturation of water into the land surface and cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Examples of ***IMPERVIOUS SURFACES*** include but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and gravel, oil, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

IMPROVED PROPERTY. Any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. This condition shall be determined by the City Superintendent of Public Works.

MOBILE HOME PARK. A defined area under unified ownership or control in which mobile homes are situated and used for human habitation; or in which spaces are improved, designed or offered for those purposes.

MULTIPLE-FAMILY UNIT (MFU). A building or facility under unified ownership and control and consisting of more than one dwelling unit, with each unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.

OPEN DRAINAGEWAY. A natural or constructed path, ditch or channel which has the specific function of transmitting natural stream water or storm water from a point of higher elevation to a point of lower elevation.

RESPONSIBLE PARTY. The owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of an improvement on the property.

RETENTION SYSTEM. A system which is intended to discharge surface water either partially or completely to groundwater.

RUNOFF CONTROL. Any measure approved by the City Superintendent of Public Works that reduces storm water runoff from land surfaces on which development exists.

SINGLE-FAMILY UNIT (SFU). The part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units. A ***SFU*** is presumed to have 3,000 square feet of impervious surface area for purposes of this subchapter. The term ***SFU*** shall be inclusive of those units identified as detached single-family residences, unit ownership (such as townhouses, pad lots and the like), and condominiums and the like.

STORM DRAIN FACILITIES. Any structure(s) or configuration of the ground that is used or by its location becomes a place where storm water flows or is accumulated, including but not limited to pipes, sewers, gutters, manholes, catch basins, ponds, open drainageways and their appurtenances.

STORM WATER. Water from precipitation, surface or subterranean water from any source, drainage and non-septic waste water.
(Ord. 637, passed 12-15-2008)

§ 35.027 STORM DRAIN UTILITY POLICY.

(A) Pursuant to the general laws of this state and the powers granted in the Charter of the city, the Council of the city does hereby declare its intention to acquire, own, construct, equip, operate and maintain within and without the city limits of this city open drainage ways, underground storm drains, equipment and appurtenances necessary, useful or convenient for a storm drainage system; and also including maintenance, extension and reconstruction of the present storm drain system of the city.

(B) The improvement of both public and private storm drain facilities through or adjacent to a new development shall be the responsibility of the developer. These improvements shall comply with all applicable city ordinances, policies and standards.

(C) No portion of this subchapter or statement herein or subsequent Council interpretation or policies shall relieve the property owner of assessments levied against his or her property for public facility improvement projects.

(D) It is the policy of the city to participate in improvements to storm drain facilities when authorized by the City Council. To be considered for approval by Council, a facility must:

(1) Be public;

(2) Be a major benefit to the community;

(3) Be located or on a city property, city right-of-way or city easement;

(4) If a piped system, be a design equivalent to a 24-inch diameter circular concrete pipe; and

(5) (a) Be identified as a project in the Master Plan; or

(b) Be a rehabilitation and/or replacement of exiting public storm drain facilities.

(E) The city shall manage public storm drain facilities located on city-owned property, city right-of-way and city easements. Public facilities to be managed by the city include but are not limited to:

(1) Open drainage serving a drainage basin of at least 100 acres;

(2) A piped drainage system and its related appurtenances which has been designed and constructed expressly for use by the general public and accepted by the city;

(3) Roadside drainage ditches along unimproved city streets; and

(4) Flood control facilities (levees, dikes, overflow channels, detention basins, retention basins, dams, pump stations, groundwater recharging basins and the like) that have been designed and constructed expressly for use by the general public and accepted by the city.

(F) Storm drain facilities not maintained by the city include but are not limited to;

(1) Facilities not located on city-owned property, city right-of-way or a city easement;

(2) Private parking lot storm drains;

(3) Roof, footing and area drains;

(4) Drains not designed and constructed for use by the general public;

(5) Drainage swales which collect storm water from a basin less than 100 acres; and

(6) Driveway and access drive culverts.

(Ord. 637, passed 12-15-2008)

§ 35.028 ESTABLISHMENT OF A STORM DRAIN UTILITY FEE.

(A) The responsible party for any improved premises within the city or within any area under contract to be annexed to the city shall be charged monthly for storm drain service, maintenance, operation and extension at the rate established herein. Unless another responsible party has agreed in writing to pay and a copy of that writing is filed with the city, the person(s) paying the city's sewer utility charges shall pay the storm drain utility fees. If there is no sewer service to the property, the storm drain utility fees shall be paid by the person(s) having the right to occupy the property. The City Council has determined that property not used for single-family dwelling purposes is furnished service in proportion to the amount of the property's impervious surface, and that for each 3,000 square feet of impervious surface, the property is furnished service equivalent to that furnished a single-family unit and that the minimum service charge shall be that established for a single-family unit. The following rates are hereby established for all properties located within the city:

Type	*Charge Per Month per ERU to Nearest Whole No. of ERUs*	*No. of ERUs to be Charged for Type and Location of Development*
(1) Single-family unit	$1.50	1
(2) Multiple-family unit	$1.50	Determine by measurement*
(3) Commercial and industrial unit	$1.50	Determine by measurement*
(4) Improved premises or lots	$1.50	Determine by measurement*
(5) Mobile home parks	$1.50	6 ERUs per acre for total area
* When determined by measurement, the total square footage of impervious area will be divided by 3,000 sf to determine the number of ERUs.		

(B) City Council may from time to time, by resolution, change the fees based upon revised estimates of the cost of properly maintaining local storm drain infrastructure.

(C) Collection of the fee for previously unimproved premises shall commence at the time of connection to the city sewer system.

(D) The storm drain utility fee imposed by the city is classified as not subject to the limits of § 11b of Article XI of the State Constitution. The storm drain utility fee does not in any way create an in rem obligation in respect of property. The obligation to pay the fee is a personal obligation of the responsible party.

(E) Fee implementation shall be adopted by City Council through the budget process.
(Ord. 637, passed 12-15-2008)

§ 35.029 CREDIT FOR RUNOFF MEASURES.

(A) Upon application, a responsible party may seek a reduction or elimination of the monthly charge for storm drainage service and/or the systems development charge for storm drainage. Upon submission of appropriate evidence, the City Superintendent of Public Works shall consider the application. The applicant must show to the City Superintendent of Public Works' satisfaction;

(1) The amount of permanent reduction to the runoff for the property due to the approved retention system; and/or

(2) The amount of storm water being discharged directly from the property into Lookingglass Creek or the South Umpqua River.

(B) Any reduction or elimination given shall continue until the property is further developed or until the City Superintendent of Public Works determines the property no longer qualifies for the reduction or elimination granted. Upon further development of the property another application may be made by a responsible party. Any applicant aggrieved by the City Superintendent of Public Works' decision may appeal to the City Council by filing with the City Manager written request for review as provided in § 35.033.
(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.030 NEW DEVELOPMENT AND ANNEXATIONS.

Monthly storm drain utility fees for new development will commence upon connection to the sewer system, completion, occupancy or use of the improvements, whichever comes first. Areas that are annexed to the city or under contract to annex shall become subject to the storm drain utility fee on the date of annexation or the date of the annexation contract, whichever comes first.
(Ord. 637, passed 12-15-2008)

§ 35.031 FEE DEDICATED.

All fees collected for the purposes specified in this chapter shall be paid into the storm drain utility account and accounted for by dedicated line items, including but not limited to storm drain maintenance and storm drain construction. These revenues shall be used for the purposes of the management, maintenance, extension and construction of public storm drain facilities.
(Ord. 637, passed 12-15-2008)

§ 35.032 ENFORCEMENT.

Any charge due hereunder which is not paid when due may be recovered from the responsible party in an action at law by the city. In addition to any other remedies or penalties provided by this or any other ordinance in the city, a delinquent notice with the charges specific to the responsible party's property shall be sent to the County Assessor's office. The City Manager is hereby empowered and directed to enforce this provision against the delinquent users. The employees of the city shall, at all reasonable times, have access to any premises served by the city for inspection, repair and enforcement of the provisions of this subchapter.
(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.033 ADMINISTRATIVE REVIEW; APPEALS.

(A) Any user or occupant who disputes the amount of the fee, or disputes any determination made by or on behalf of the city pursuant to and by the authority of this chapter, may petition the City Council for a hearing on a revision or modification of the fee or determination. The petitions may be filed only

once in connection with any fee or determination, except upon a showing of changed circumstances sufficient to justify the filing of the additional petition.

(B) The petitions shall be in writing, filed with the City Manager, and the facts and figures shall be submitted in writing or orally at a hearing scheduled by the City Council. The petitioner shall have the burden of proof.

(C) Within 60 days of filing of the petition, City Council shall make findings of fact based on all relevant information, shall make a determination based upon the findings and, if appropriate, modify the fee or determination accordingly. This determination by the City Council shall be considered a final order.
(Ord. 637, passed 12-15-2008; Ord. 651, passed 12-20-2010)

§ 35.034 NOTICE OF DECISION.

Every decision or determination of the City Council shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within a reasonable time from the date of the action. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this chapter.
(Ord. 637, passed 12-15-2008)

§ 35.035 EFFECTIVE DATE.

This subchapter takes effect on January 14, 2009.
(Ord. 637, passed 12-15-2008)

LOCAL IMPROVEMENT PROCEDURES

§ 35.050 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

LOCAL IMPROVEMENT. Any local improvement, including those defined in O.R.S. 223.387, for which an assessment may be made on the property specially benefitted.

LOCAL IMPROVEMENT DISTRICT. The property which is to be assessed for the cost or part of the cost of a local improvement, together with the property on which the local improvement is located.

LOT. A lot, block or parcel of land.

OWNER. The owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the office of the County Assessor.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.051 INITIATION OF LOCAL IMPROVEMENTS; RESOLUTION OF INTENTION.

(A) If the Council considers it necessary to require that improvements be made and paid for in whole or in part by special assessment, or if the owners of three-fourths of the property to benefit specially from an improvement, the Council shall cause plans and specifications for the proposed improvement to be prepared, together with estimates of the cost of the improvements and the probable overall costs thereof. If the Council finds the plans, specifications and estimate of costs satisfactory, the Council shall declare by resolution that it intends to make the local improvement.

(B) The improvement resolution shall describe the general nature, location and extent of the proposed local improvement and of the proposed local improvement district, declare the Council's intent to make the improvement, indicate the method of assessment to be used to arrive at a fair apportionment of the whole or any portion of the cost of the improvement to the properties specially benefitted, set a public hearing on the improvement, and direct that notice be given of the proposed improvement and of the public hearing.

(C) The improvement resolution may include alternative proposals relating to a proposed local improvement. However, all of the information required for a particular local improvement shall be included for each alternative proposal.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.052 NOTICE OF HEARING.

(A) After adoption of the improvement resolution, notice of the proposed improvement and of the public hearing shall be given by one publication not less than ten days prior to the public hearing in a newspaper of general circulation within the city, and by mailing copies of the notice by registered or certified mail to the owner of each lot affected by the proposed improvement, and by posting copies of the notice conspicuously within the limits of the proposed local improvement district.

(B) The notice shall contain the following:

(1) A general description of the proposed improvement and the property to be specially benefitted. The description of property need not be by metes and bounds, but shall be such that an average person can determine from it the general location of the property;

(2) An estimate of the total cost of the improvement and the portion anticipated to be paid for by special assessments;

(3) The time and place of the public hearing;

(4) A statement of a place where preliminary project design and other additional information concerning the improvement is available to the public; and

(5) Any other information the Council may direct to be included.

(C) Any mistake, error, omission or failure with respect to the mailing of notice shall not be jurisdictional or invalidate the local improvement proceedings.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.053 HEARING.

(A) At the time of the public hearing, the Council shall hear and consider testimony, both oral and written, on the proposed local improvement and may continue the hearing as it deems necessary. After the hearing, the Council may order the local improvement to be made. If the Council orders the improvement, it shall, within 90 days after the date of the hearing, provide by resolution for the establishment of the local improvement district and the construction of the improvement.

(B) Proposed action on a public improvement that is not declared by two-thirds of the Council present to be needed at once because of an emergency shall be suspended for six months upon the filing of written remonstrances by owners of a majority of the property to be assessed for the improvement.

(C) Notwithstanding the fact that the proposed improvement was petitioned for by three-fourths of the benefitted property owners, the Council may refuse to proceed with the improvement if it finds the proposed improvement is untimely or not in the best interest of the city.

(D) Following the public hearing, the Council may direct a modification of the proposed local improvement by revising the scope of the improvement, by reducing or enlarging the local improvement district which it deems will be benefitted by the improvement, or by making other modifications as it finds reasonable. If the Council modifies the scope of the improvement so that assessment is likely to be increased substantially on one or more of the lots, or the Council enlarges the local improvement district, or if the Council causes a substantial change in any particulars contained in the improvement resolution, a new improvement resolution shall be adopted, new estimates made and new notices mailed to the owners within the proposed local improvement district. However, no new publication will be required.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.054 CREATION OF LOCAL IMPROVEMENT DISTRICT.

The Council, by resolution, shall provide for the establishment of the local improvement district and the making of the local improvement in substantial conformity with the proposal set forth in the initiating resolution.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.055 MANNER OF DOING WORK.

The local improvement may be made in whole or in part by the city, by another governmental agency, by contract or by combination of the above.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.056 CONSTRUCTION OF IMPROVEMENT; BIDS.

The Council may direct the City Manager to advertise for bids for construction of all or part of the improvement project. If part of the improvement work is to be done under contract, the Council shall proceed in accordance with procedures of §§ 31.01 through 31.07 and state law for public contracting.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989; Ord. 651, passed 12-20-2010)

§ 35.057 COSTS AND EXPENSES.

The costs and expenses of local improvements which may be assessed against the property specially benefitted by the improvement shall include the costs of construction and installation of the improvement; advertising, legal, administrative, engineering and assessment costs; financing costs, including interest charges; the costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings; and any other necessary expenses.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.058 METHOD OF ASSESSMENT; ALTERNATIVE METHODS OF FINANCING.

(A) The Council, in adopting a method of assessment of the costs of any local improvement, may:

(1) Use any just and reasonable method of determining the extent of the local improvement district consistent with the benefits derived;

(2) Use any method of apportioning the sum to be assessed as is just and reasonable between the properties determined to be specially benefitted; and/or

(3) Authorize payment by the city of all or any part of the costs of a local improvement if, in the opinion of the Council, the topographical or physical conditions, or unusual or excess public travel or use, or other characteristics of the work involved warrants only a partial payment or no payment by the benefitted property of the cost of the local improvement.

(B) Nothing contained in this subchapter precludes the Council from using any other available means of financing local improvements, including federal or state grants-in-aid, sewer fees or charges, revenue or general obligation bonds, or any other legal means of financing. If these other means of

financing local improvements are used, the Council may, in its discretion, levy special assessments, according to the benefits derived, to cover any remaining part of the costs of the local improvement. (1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.059 ASSESSMENT PROCEDURE.

(A) When the estimated cost of an authorized local improvement has been ascertained on the basis of the city's estimate of costs, the award of a contract, or any other basis acceptable to the Council, or after the work has been completed and the actual cost has been determined, the proposed assessment to the respective lots within the local improvement district shall be submitted to the Council in the form of a proposed resolution.

(B) Upon receipt of the proposed assessments, the Council shall, after any modifications, adopt a resolution directing notice of the proposed assessments to be mailed or personally delivered to the owners, or reputed owners of the lots proposed to be assessed. The notice shall contain the following information:

(1) The name of the owner, or reputed owner, the description of the property assessed, the total estimated or actual project cost assessed against the benefitted property, and the amount of the assessment against the described property;

(2) A date and time by which written objections to the proposed assessment, stating specifically the grounds for objection, must be received, and the time and the date of a public hearing at which the Council will consider any objections;

(3) A statement that the assessment in the notice, as it may be modified by the Council, will be levied by the Council after the hearing and will thereafter be charged against the property and will be immediately payable in full or in installments, if applicable; and

(4) A statement, pursuant to O.R.S. 305.583(5), of the Council's intention to characterize the charge and all amounts levied as an assessment for local improvements.

(C) The Council shall hold the public hearing on the proposed assessments to consider written objections and may adopt, correct, modify or revise the proposed assessments. The Council shall determine the amount of assessment to be charged against each lot in the district according to the special and peculiar benefits accruing from the improvement and shall, by ordinance, spread the assessments. (1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989; Ord. 472, passed 2-18-1992)

§ 35.060 NOTICE OF ASSESSMENT.

Within ten days after the effective date of the ordinance levying the assessments, the Recorder shall send, by registered or certified mail to the owner of the assessed property, a notice containing the following information:

(A) The date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed;

(B) A statement that application may be filed to pay the assessment in installments in accordance with the provisions of this subchapter; and

(C) A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within 30 days of the date of the letter and, if unpaid on that date, will accrue interest and subject the property to foreclosure.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.061 LIEN RECORDS AND FORECLOSURE PROCEEDINGS.

(A) After passage of the assessment ordinance by the Council, the Recorder shall enter in the city lien docket a statement of the amounts assessed on each particular lot or portion thereof, together with a description of the improvement, the name of the owners and the date of the assessment ordinance. Upon entry in the lien docket, the amount entered is a lien and charge on the respective lots, or portions thereof, which have been assessed for the improvement.

(B) All assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state permit.

(C) Thirty days after the date of the letter notifying the owner of the assessment ordinance, interest shall be charged at the current market rate on all amounts not paid, and the city may foreclose or enforce collection of assessment liens in the manner provided by state law.

(D) The city may enter a bid for the property being offered at a foreclosure sale. The city shall be prior to all bids except those made by persons who would be entitled, under state law, to redeem the property.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.062 ERRORS IN ASSESSMENT CALCULATION.

Claimed errors in the calculation of assessments shall be brought to the attention of the Recorder, who shall determine whether there has been an error. If the Recorder finds there has been an error, the Recorder shall recommend to the Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the Recorder shall make the necessary correction in the city lien docket and send a corrected notice of assessment by registered or certified mail.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.063 INSTALLMENT PAYMENT OF ASSESSMENTS.

The Bancroft Bonding Act (O.R.S. 223.205 to 223.295) shall apply to assessments levied in accordance with this subchapter. Unless otherwise provided in a particular assessment ordinance, the owner of any property assessed for a local improvement in accordance with this subchapter in the sum of $25 or more, at any time within 30 days after notice of the assessment is first mailed (or within a time as the Council may otherwise establish), may file with the Recorder a written application to pay the whole of the assessment in 20 semi-annual installments, together with interest at the current market rate, or, if any part of the assessment has been paid, the unpaid balance of the assessments in the installments with interest.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.064 FILING OF ORDINANCES.

The Recorder shall file copies of the resolution establishing a local improvement district and the assessment ordinance with the County Clerk. However, failure to file the information shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose any liability on the city, the Recorder, or any official, officer or employee of the city.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.065 DEFICIT ASSESSMENTS.

If the initial assessment has been made on the basis of estimated cost and, upon the completion of the improvement, the actual cost is found to exceed the estimated cost, the Council may make a deficit or supplemental assessment for the additional cost. Proposed assessments on the respective lots within the local improvement district for the proportionate share of the deficit shall be made, notices sent, a public hearing held and opportunity for objections considered, and determination of the assessment against each particular lot shall be made as in the case of the initial assessment. The deficit or supplemental assessment shall be spread by ordinance. The deficit assessments shall be entered in the city lien docket, notices published and mailed and the collection of the assessment made in accordance with the provisions of this subchapter relating to the original assessment.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.066 REBATES AND CREDITS.

If assessments are made on the basis of estimated costs, and upon completion of the project the cost is found to be less than the estimated cost, the Council shall ascertain and declare the same by ordinance. When declared, the excess amounts shall be entered on the city lien docket as a credit on the appropriate assessment. If an assessment has been paid, the person who paid it or that person's legal representative shall be entitled to payment of the rebate credit. If the property owner had filed an application to pay the assessment by installment, the owner shall be entitled to the refund only when the installments, together

with interest, are fully paid. If the property owner had neither paid the assessment nor filed an application to pay in installments, the amount of the refund shall be deducted from the assessment, and the remainder shall remain a lien on the property until legally satisfied.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.067 ABANDONMENT OF PROCEEDINGS.

The Council may abandon proceedings for local improvements made under this subchapter at any time prior to the final completion of the improvements. If liens have been placed on any property under this procedure, they shall be cancelled, and payments made on the assessments shall be refunded to the person who paid them or to that person's legal representative.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.068 CURATIVE PROVISIONS.

(A) An improvement assessment shall not be rendered invalid by reason of:

(1) Failure to have all the required information in any project report;

(2) Failure to have all required information in the improvement resolution, assessment ordinance, lien docket or notices required to be published and mailed;

(3) Failure to list the name of or mail notice to an owner of property as required by this subchapter; or

(4) Any other error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in the proceedings or steps specified, unless it appears that the assessment is unfair or unjust in its effect on the person complaining.

(B) The Council shall have authority to remedy and correct all matters by suitable action and proceedings.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.069 REASSESSMENTS.

When an assessment, deficit assessment or reassessment for any local improvement has been set aside, annulled, declared or rendered void, or its enforcement refused by a court having jurisdiction, or when the Council doubts the validity of all or any part of the assessment, the Council may make a new assessment or reassessment in the manner provided by state law.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.070 REMEDIES.

Subject to the curative provisions of § 35.068 and the rights of the city to reassess pursuant to § 35.069, proceedings for writs of review and other appropriate or legal relief may be filed as provided by state law.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

§ 35.071 SEGREGATION OF LIENS.

(A) When the ownership of any portion of a tract of real property, less than the entire tract, is transferred, any liens against the property in favor of the city shall, upon request of the owner of any portion of the tract, be segregated as provided by this section.

(B) Applications for the segregation of liens shall be made to the Recorder, describing the tract to be segregated and the names of the owners of the respective tracts. A certificate of the County Assessor shall be furnished showing the assessed valuation of the various tracts of land concerned as of January 1 of the year in which the segregation is requested, if available, and if not available, as of January 1 of the preceding year.

(C) The Recorder shall compute a segregation of the lien against the real property on the same basis as the original was computed and apportioned, and the segregation shall be reflected in the city lien docket. No segregation shall be made unless all parts of the original tract of land after the segregation have a true cash value, as determined from the certificate of the Assessor, of 60% or more of the amount of the lien as to the various tracts concerned.
(1993 Code, Comp. No. 2-5) (Ord. 443, passed 9-18-1989)

TRANSIENT ROOM TAX

§ 35.085 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCRUAL ACCOUNTING. A system of accounting in which the operator enters the rent due from a transient into the record when the rent is earned, whether or not it is paid.

CASH ACCOUNTING. A system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

HOTEL. A part of a structure that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure, and space for location of a mobile home, trailer or recreation vehicle.

OCCUPANCY. Use or possession of, or the right to use or possess, room or space in a hotel for overnight accommodations.

OPERATOR. A person who is the proprietor of a hotel in any capacity. When an ***OPERATOR'S*** functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an ***OPERATOR.*** For purposes of this subchapter, compliance by either the ***OPERATOR*** or the managing agent shall be considered compliance by both.

PERSON. An individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or another group or combination acting as a unit.

RENT. The gross rent, exclusive of other services.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The City Recorder.

TRANSIENT. An individual who occupies or is entitled to occupy space in a hotel for a period of 29 consecutive days or less, counting portions of days as full days. The day a ***TRANSIENT*** checks out of a hotel shall not be included in determining the 29-day period if the ***TRANSIENT*** is not charged rent for that day. A person occupying space in a hotel shall be considered a ***TRANSIENT*** until a period of 29 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than 29 consecutive days. A person who pays for lodging on a monthly basis, regardless of the number of days in the month, shall not be considered a ***TRANSIENT.***
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.086 TAX IMPOSED.

A transient shall pay a tax in the amount of 7% of the rent charged for the privilege of occupancy in a hotel in the city. The tax constitutes a debt owed by the transient to the city, and the debt is extinguished only when the tax is remitted by the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each

installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services or commodities.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 18-677, passed 2-5-2018)

§ 35.087 RULES FOR COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting space for lodging or sleeping shall collect a tax from the occupant. The tax collected or accrued constitutes a debt owed by the operator to the city.

(B) In cases of credit or deferred payment or rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.

(C) The Tax Administrator shall enforce this subchapter and may adopt rules and regulations necessary for enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.088 OPERATOR'S DUTIES.

An operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on the receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided by this subchapter.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.089 EXEMPTIONS.

The tax shall not be imposed on:

(A) An occupant staying for more than 29 consecutive days;

(B) A person who rents a private home, vacation cabin or similar facility from an owner who personally rents the facility incidentally to the owner's personal use; or

(C) A government employee traveling on government business.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.090 OPERATOR'S REGISTRATION FORM.

(A) An operator of a hotel shall register with the Tax Administrator, on a form provided by the Administrator, within 15 days after beginning business or within 30 calendar days after passage of this subchapter.

(B) The registration shall include:

(1) The name under which the operator transacts or intends to transact business;

(2) The location of the hotel;

(3) Any other information the Tax Administrator may require to facilitate collection of the tax; and

(4) The signature of the operator.

(C) Failure to register does not relieve the operator from collecting the tax or a person from paying the tax.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.091 CERTIFICATE OF AUTHORITY.

(A) The Tax Administrator shall issue a certificate of authority to the registrant within ten days after registration.

(B) Certificates are nonassignable and nontransferable and shall be surrendered immediately to the Tax Administrator on cessation of business at the location named or when the business is sold or transferred.

(C) Each certificate shall state the place of business to which it applies and shall be prominently displayed.

(D) The certificate shall state:

(1) The name of the operator;

(2) The address of the hotel;

(3) The date when the certificate was issued; and

(4) The following statement: "This Transient Occupancy Registration Certificate signifies that the person named on the certificate has fulfilled the requirements of the Transient Room Tax Ordinance of the city by registering with the Tax Administrator for the purpose of collecting the room tax imposed by the city and remitting the tax to the Tax Administrator."
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.092 COLLECTIONS, RETURNS AND PAYMENTS.

(A) The taxes collected by an operator are payable to the Tax Administrator on a monthly basis on the tenth day of the following month.

(B) A return showing tax collections for the preceding month shall be filed with the Tax Administrator, in a form prescribed by the Tax Administrator, before the eleventh day of the month following each collection month.

(C) The operator may withhold 5% of the tax to cover the expense of collecting and remitting the tax.

(D) Returns shall show the amount of tax collected or due for the related period. The Tax Administrator may require returns to show the total rentals on which the tax was collected or is due, gross receipts of the operator for the period, a detailed explanation of any discrepancy between the amounts and the amount of rentals exempt.

(E) The operator shall deliver the return and the tax due to the Tax Administrator's office. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 421, passed 5-2-1988)

§ 35.093 DELINQUENCY PENALTIES.

(A) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10% of the tax due in addition to the tax.

(B) An operator who has not been granted an extension of time for remittance of tax due and who fails to pay a delinquent remittance before the expiration of 31 days following the date on which the remittance became delinquent shall pay a second delinquency penalty of 15% of the tax due, the amount of the tax and the 10% penalty first imposed.

(C) If the Tax Administrator determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25% of the tax shall be added to the penalties stated in divisions (A) and (B) above.

(D) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 0.5% per month, without proration for portions of a month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

(E) Each penalty imposed and the interest accrued under provisions of this section shall be merged with and become part of the tax required to be paid.

(F) An operator who fails to remit the tax within the required time may petition the City Council for waiver and refund of the penalty or a portion of it. The City Council may, if good cause is shown, direct a refund of the penalty or a portion of it.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.094 DEFICIENCY DETERMINATIONS.

(A) If the Tax Administrator determines the returns are incorrect and that a deficiency exists, the Administrator shall bring this matter to the attention of the City Council for action.

(B) In addition to other penalties provided in this subchapter, intentional violation resulting in a deficiency shall be grounds for revocation of the business license of the operator and shall also give the city the specifically enforceable right to require compliance with this subchapter.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.095 RECORDS REQUIRED FROM OPERATORS; EXAMINATION OF RECORDS.

(A) *Records required from operators*. Every operator shall keep guest records, accounting books and records of room rentals for a period of three years and six months.

(B) *Examination of records*. During normal business hours and after notifying the operator, the Tax Administrator may examine books, papers and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

§ 35.096 DISPOSITION AND USE OF TRANSIENT ROOM TAX FUNDS.

(A) All revenues remitted to the city shall be deposited into a special fund known as the Hotel Tax Fund.

(B) The tax revenues received by the city shall be used as follows: 87.8% for tourist promotion; and 12.2% for use in the city's General Fund.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985; Ord. 421, passed 5-2-1988; Ord. 18-677, passed 2-5-2018)

§ 35.097 APPEALS TO THE COUNCIL.

A person aggrieved by the actions of the Tax Administrator may appeal to the City Council. (1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

PUBLIC SAFETY FEE

§ 35.110 PURPOSE.

(A) The principal purpose of this chapter is to safeguard, facilitate and encourage the health, safety, and welfare of the citizens and businesses of the City of Winston. The Council also finds that a continuous and consistent public safety fee program provides a multitude of economic and social benefits to the public, including, but not limited to:

(1) Improved response to disaster and emergency situations;

(2) Increased police protection;

(3) Prevention of crime;

(4) Enhanced protection of property;

(5) Promotion of business and industry; and

(6) Promotion of community spirit and growth.

(B) It is the intent of this chapter to provide a funding mechanism to help pay for the benefits conferred on city residents and businesses by the provision of an adequate program of public safety; and further to help bring the Police Department vehicles up to acceptable service levels.

(C) The structure of this public safety fee enacted in this chapter is intended to be a surcharge for service within the city limits. However, it is not intended to provide full funding for the Police Department. In the event that public safety fee revenues collected are insufficient to properly operate the Police Department, additional funding may be allocated by the City Council from other non-dedicated city funds provided, however, the City Council may direct the reimbursement to such other non-dedicated city funds if additional police protection surcharge revenues are collected.
(Ord. 19-682, passed 4-15-2019)

§ 35.111 DEFINITIONS.

The following words and phrases, as used within this subchapter, have the following definitions and meanings:

DEVELOPED PROPERTY. A parcel or portion of real property on which an improvement exists. Improvement on developed property includes, but is not limited to, buildings, parking lots, and outside storage.

NON-RESIDENTIAL UNIT. A non-residential structure which is used primarily for a business or commercial enterprise and/or which provides facilities for one or more businesses including, but not limited to, permanent provisions for access to the public. Each distinct business facility is considered as a separate non-residential unit.

PERSON. A natural person; unincorporated association; tenancy in common; partnership; corporation; limited liability company; cooperative; trust, any governmental agency, including the State of Oregon but excluding the City of Winston; and other entity in law or fact.

RESIDENTIAL UNIT. A residential structure which provides complete living facilities for one or more persons including, but not limited to, permanent provisions for living, sleeping, and sanitation. A home business in a residential zone will be regarded only as a residential unit, not as a non-residential unit. An ancillary unit on a single-family parcel shall be considered as a separate residential unit. Multi-family residential property consisting of two or more dwelling units, condominium units or individual mobile home units shall have each unit considered as a separate residential unit. Transient lodging shall not be considered as a residential unit.

RESPONSIBLE PARTY. The person owing the public safety fee.
(Ord. 19-682, passed 4-15-2019)

§ 35.112 IMPOSITION OF PUBLIC SAFETY FEE.

(A) There is hereby created a public safety fee to accomplish the above-stated purposes.

(B) The public safety fee is hereby established and shall be assessed to each residential unit and to each non-residential unit on the basis of $3 per unit per month. Billing shall be as a line item on the city service bill unless otherwise specified below.

(C) Except as the fees may be reduced or eliminated under § 35.116(C), the obligation to pay a public safety fee arises when a responsible party uses or otherwise benefits from police protection services. It is presumed that police protection services are used, and that a benefit arises, whenever the subject real property is a developed property.

(D) All developed properties within the city limits shall be charged the public safety fee.

(E) Undeveloped properties shall not be charged a public safety fee.

(F) Annually, as part of the budget review process, a determination shall be made as to whether a reduction in the fee would be appropriate or not.

(G) The public safety fee rate shall be set only through an ordinance. A schedule of such fees, fines and penalties is kept on file in the offices of the city. Notwithstanding the foregoing, such fee shall not be increased for the first five years following adoption of the public safety fee.
(Ord. 19-682, passed 4-15-2019)

§ 35.113 DEDICATION OF FUNDS.

All public safety fee revenues derived shall be distinctly and clearly noted in both the revenue and expenditure sections of the city budget and shall be used for the replacement of vehicles and other associated police equipment and other costs incidental thereto and for no other purpose in order to help provide for a safe, well-functioning public safety program. The fees paid and collected by virtue of this chapter shall not be used for general or other governmental or proprietary purposes of the city.
(Ord. 19-682, passed 4-15-2019)

§ 35.114 COLLECTION.

(A) Public safety fee shall be collected monthly on the city service bill per § 35.112 (B).

(B) Unless another person responsible has agreed in writing to pay, and a copy of that writing is filed with the city, the person(s) normally responsible for paying the city's sewer utility charges is responsible for paying the public safety fee, if the property is located within the city limits.

(C) In the event a developed property is not served by a domestic water meter or sewer hook-up, or if water and sewer service is discontinued, the public safety fee shall be billed to the persons having the right to occupy the property.

(D) A request for sewer service, a building permit, or the occupancy of an unserved building will automatically initiate appropriate billing for the public safety fee.

(E) There shall be no charge for an undeveloped property until such time as any permits are issued for that property.

(F) The imposition of surcharges shall be calculated on the basis of the number of units supported, without regard to the number of water meters serving that property.

(G) A late charge shall be attached to any public safety fee not received within 30 days of billing. The charge is established under administrative fees by resolution.

(H) Notwithstanding the above, if the public safety fee is not paid for a period of three months, the fee, with any attendant late fees, shall be imposed on the responsible party.
(Ord. 19-682, passed 4-15-2019)

§ 35.115 PROGRAM ADMINISTRATION.

Except as provided below, the City Manager shall be responsible for the administration of the public safety fee.

(A) Fees under this chapter will be collected by the appropriate staff at the city offices.

(B) The City Manager is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative procedures for adoption by the City Council by resolution. Such procedures if adopted by the Council shall be given full force and effect, and unless clearly inconsistent with this chapter shall apply uniformly throughout the city.
(Ord. 19-682, passed 4-15-2019)

§ 35.116 APPEAL PROCEDURE.

(A) A public safety fee may be appealed for change or relief upon filing a written notice of appeal with the City Manager/City Recorder in accordance with the following criteria:

(1) Any responsible party who disputes any interpretation given by the city as to property classification may appeal such interpretation. If the appeal is successful, relief will be granted by reassignment to a more appropriate billing category. In such instances, reimbursement will be given for any overpayment, retroactive to the filing date of the appeal. Factors to be taken into consideration include, but are not limited to:

(a) Availability of more accurate information;

(b) Equity relative to billing classifications assigned to other developments of a similar nature;

(c) Changed circumstances; and

(d) Situations uniquely affecting the party filing the appeal.

(2) Any responsible party may claim a financial hardship. A staff member as directed by personnel policy is authorized to determine financial hardship on a case-by-case situation under guidelines submitted by the Finance Manager to, and approved by, the City Council.

(B) Application for appeal shall state the reason for appeal, with supporting documentation to justify the requested change or relief. An annual review of recognized hardship cases will be conducted to determine validity for continuance.

(C) The city's Public Safety Committee shall be responsible for delegating three members to evaluate and administer the appeal process. If the Public Safety Committee delegates decide information provided through the appeal process justifies a change, the Public Safety Committee delegates may authorize this change retroactive to the date the appeal was filed.

(D) The Public Safety Committee delegates shall make all reasonable attempts to resolve appeals utilizing available existing information, including supporting documentation filed with the appeal, within 30 days of the date the appeal was filed. If, however, more detailed site-specific information is necessary, the delegates may request the applicant provide additional information.

(E) In any event, the Public Safety Committee delegates shall provide a report to the appellant within 90 days of the date the appeal was filed explaining the disposition of the appeal, along with the rationale and supporting documentation for the decision reached.

(F) Decisions of the Public Safety Committee delegates may be further appealed to the City Council, by filing a written notice of appeal with the City Recorder within ten days of receipt of the Public Safety Committee decision, and shall be heard at a public meeting. Upon such further appeal, the City Council shall at its first regular meeting thereafter set a hearing date. The matter shall be heard solely upon the record. In no event shall a final decision be made later than 90 days after the matter was formally appealed to the City Council.

(G) There will be an initial filing fee for an appeal to the Public Safety Committee. An additional fee will be required for further appeal to the City Council. A schedule of fees, fines and penalties is kept on file in the offices of the city. These fees are fully refundable should the appellant adequately justify and secure the requested change or relief based on financial necessity.
(Ord. 19-682, passed 4-15-2019)

§ 35.117 ENFORCEMENT.

(A) In the event funds received from city service billings are inadequate to satisfy in full all of the storm water, sewer, transportation, plant upgrade and public safety fee charges, credit shall be given first to the police protection surcharge, second to the sewer service charges, third to the charges for plant upgrade, fourth to the charges for the storm water fee and fifth to the charges for the transportation fee.

(B) Notwithstanding any provision herein to the contrary, the city may institute any necessary legal proceedings to enforce the provisions of this chapter, including, but not limited to injunctive relief and collection of charges owing. The city's enforcement rights shall be cumulative.
(Ord. 19-682, passed 4-15-2019)

§ 35.118 ATTORNEY FEES.

In any action pursuant to §§ 35.110 to 35.118, the court may award attorney's fees to the prevailing party.
(Ord. 19-682, passed 4-15-2019)

§ 35.119 ENFORCEMENT PROCEDURES FOR VIOLATIONS.

The City of Winston adopts and incorporates by reference herein the Oregon Revised Statutes regarding procedures for processing violations as described in O.R.S. 153.005 to 153.161. Therefore, the Winston Municipal Code hereby authorizes the City of Winston employees to process violations pursuant to state law per the above listed section.
(Ord. 19-682, passed 4-15-2019)

§ 35.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 35.085 through 35.097 is punishable by a maximum fine of $500 and 30 days in the city jail for each violation.
(1993 Code, Comp. No. 6-3) (Ord. 377, passed 1-29-1985)

TITLE V: PUBLIC WORKS

Chapter

CHAPTER 50: SEWER REGULATIONS

Section

Sewer Connections

Private Construction of Sewers

Sewer Use Regulations

Sewer Use Charges

SEWER CONNECTIONS

§ 50.001 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC SEWER. A common sanitary sewer directly controlled by the city.

SEWER SUPERINTENDENT. The city official in charge of the city sewer system, hereinafter referred to as ***SUPERINTENDENT.***
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.002 ENFORCEMENT.

The Superintendent shall supervise connections with public sewers in this city and enforce all regulations pertaining thereto in accordance with this subchapter. This subchapter shall apply to all replacements of existing sewers as well as to new sewers. The Superintendent may make any regulations as are necessary and that do not conflict with this subchapter.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.003 INSTALLATION STANDARDS.

The installation of a connection with the public sewer shall comply with all pertinent and applicable provisions of the State Plumbing Specialty Code as now or hereafter constituted, adopted in § 150.001, and the specifications adopted by the Superintendent.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.004 LICENSE REQUIRED.

All sewer connections and sewer repair work shall be done by a licensed contractor, plumber or individual property owner.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.005 MANDATORY CONNECTIONS.

The owners of all residences and business establishments intended or used for human habitation, occupancy or use that are within the drainage area of the public sewer must connect their sewage facilities to the public sewers.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.006 PERMIT.

Before any person shall open, uncover or in any manner make a connection with or modify any part of the public sewers, he or she must obtain a written permit from the Superintendent. The application for the permit shall include a description of the property, the name of the property owner, the amount and date of any prior assessment for construction of the public sewers, a general description of the materials to be used and the manner of construction, the line of the building sewer and the place of connection, if known, the intended use of the sewer and the name and address of the person who will do the work. The Superintendent shall issue the permit if the proposed work meets all requirements of this subchapter and if all fees required under this subchapter have been paid. Work under any permit must be begun within six months after it is issued.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.007 REVOCATION OF PERMIT.

The Superintendent may at any time revoke the permit for any violation of this subchapter and require that the work be stopped. The owner may appeal the action to the City Council by giving notice of appeal to the City Recorder one week prior to a Council meeting, but in no case shall an appeal be allowed more than 60 days after the permit has been revoked.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.008 CONNECTION FEE.

(A) Except as to those exempted as hereinafter set forth, before any permit is issued, the person who makes the application shall pay a connection fee determined as follows: a basic fee of $300 shall be charged for each structure. In addition, $700 shall be charged for each single-family residence, unit of multiple-family residence or business unit; plus an additional charge shall be imposed on each hookup in excess of four inches. The excess charge shall be at the rate of $700 per two inches or part thereof in excess of four inches of lateral connecting pipe.

(B) There shall be an exemption and the previously existing rate schedule shall still apply and be charged for any structure now existing within the city limits but now unable to hook up and be served by city sewer by gravity flow without installation of a sewage pumping device.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975; Ord. 257, passed 3-5-1979; Ord. 271, passed 2-25-1980; Ord. 307, passed 2-1-1982; Ord. 316, passed 4-5-1982; Ord. 337, passed 6-6-1983; Ord. 384, passed 10-21-1985)

§ 50.009 SPECIAL FEE.

If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of the public sewers, or has been assessed only as an unimproved lot, the person who makes the application shall pay a special fee to the city for the use of the public sewer before the permit is issued. The amount of the fee shall be determined by the Council.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975; Ord. 469, passed 7-1-1991)

§ 50.010 CONNECTION FEE AND SPECIAL FEE AS SYSTEMS DEVELOPMENT CHARGES.

The portion of the connection fee imposed by § 50.008 and of the special fee imposed by § 50.009 attributable to the average cost of inspecting and installing service connections or increasing service size, the local improvement district assessments or charges in lieu of local improvement assessments, or the cost of complying with requirements or conditions imposed upon a land use decision, are not systems development charges. The remainder of the connection fee and special fee are systems development charges within the meaning of state law, as established by resolutions and ordinances separately adopted

by the Council. These systems development charges arise and are payable only upon the issuance of the permit(s) requiring the charges and fees or upon commencement of development without the required permit(s).
(1993 Code, Comp. No. 3-2) (Ord. 469, passed 7-1-1991)

§ 50.011 EXCAVATIONS.

Excavations to do the work under this subchapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All the excavations shall have proper barricades at all times.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

§ 50.012 INSPECTION AND APPROVAL.

Connections with the public sewers must be inspected and approved in writing by the Superintendent before they are covered, and he or she shall keep a record of the approvals. Every person who uses or intends to use the public sewers shall permit the Superintendent or his or her authorized assistant to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours.
(1993 Code, Comp. No. 3-2) (Ord. 195, passed 10-1-1975)

PRIVATE CONSTRUCTION OF SEWERS

§ 50.025 PERMISSION TO CONSTRUCT.

(A) Upon the submission of a petition signed by all property owners in an area within the city not now served by the city sewer system, the Council may allow the property owners to provide for construction of the sewer.

(B) At the time of approval of the project, the Council shall establish the time within which the sewer extension work shall be completed.
(1993 Code, Comp. No. 2-3) (Ord. 206, passed 12-1-1975)

§ 50.026 CONFORMANCE TO CITY REQUIREMENTS.

The sewers so installed shall conform to the plans and specifications of the city and any requirements of the state.
(1993 Code, Comp. No. 2-3) (Ord. 206, passed 12-1-1975)

§ 50.027 INSPECTION OF THE INSTALLATION.

Before any of the system is covered, it shall be inspected and approved by the Sewer Superintendent or other city employee authorized to perform the inspection.
(1993 Code, Comp. No. 2-3) (Ord. 206, passed 12-1-1975)

§ 50.028 RESPONSIBILITY FOR THE COST OF INSTALLATION.

(A) The property owners of the area shall assume all of the cost and expense of installing the sewer and making connections thereto.

(B) Each property owner shall also pay a connection charge as provided in §§ 50.001 through 50.012 when the system is accepted by the city.
(1993 Code, Comp. No. 2-3) (Ord. 206, passed 12-1-1975)

§ 50.029 ACCEPTANCE BY THE CITY.

(A) Upon completion of the work and acceptance by the city, the sewer mains shall be turned over to the city free and clear of all expenses incurred for construction and installation, and shall become the property of the city.

(B) Upon transfer of the sewer to the city, the person or firm doing the work shall supply the city with a map or plat showing all of the property served by the facility and the lots, parts of lots or parcels actually connected to the sewer.
(1993 Code, Comp. No. 2-3) (Ord. 206, passed 12-1-1975)

SEWER USE REGULATIONS

§ 50.040 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD (denoting ***BIOCHEMICAL OXYGEN DEMAND***). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL WASTES. The liquid wastes from any nongovernmental user of publicly owned treatment works identified in the *Standard Industrial Classification Manual,* 1972, Office of Management and Budget under Divisions A, B, D, E and I.

MAY. The action referred to is permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to the degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE. A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with any ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. The action referred to is mandatory.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN (sometimes termed ***STORM SEWER***). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUPERINTENDENT. The Public Works Supervisor of the city, or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979)

§ 50.041 USE OF PUBLIC SEWERS REQUIRED.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this subchapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy outlet, septic tank cesspool or other facility intended or used for the disposal of sewage.

(D) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that the public sewer is within 100 feet of the property line.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979) Penalty, see § 50.999

§ 50.042 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary or combined sewer is not available under the provisions of § 50.041(D), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. The application for the permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent.

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Superintendent, weekend and holidays excluded.

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality of this state. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At the time that a public sewer becomes available to a property served by a private sewage disposal system, as provided in division (D) above, a direct connection shall be made to the public sewer in compliance with this subchapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(G) No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the Department of Environmental Quality.

(H) When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979)

§ 50.043 SEPTIC TANK EFFLUENT PUMP SYSTEM ALLOWED AS ALTERNATIVE TO STANDARD SYSTEM.

(A) A septic tank effluent pump (STEP) system may be permitted as an alternative to the standard sewer system, subject to approval by the city.

(B) Application for approval of a STEP system shall be made by the property owner or an agent of the property owner authorized by the property owner in writing to make application. The property owner shall be responsible for:

(C) A STEP system permit shall be subject to the following conditions of approval.

(1) The STEP shall be installed pursuant to the standards and specifications of the city.

(2) Upon final approval by the city, the property owner shall dedicate the STEP system, including the service lateral for the septic tank to the sewer main, the tank, pump and pump controls, to the city, along with an easement permitting the city to enter onto the property to inspect, operate and maintain the system. The city shall not be responsible for any damage to the landscaping resulting from accessing the STEP system to inspect, operate and maintain the system.

(3) Prior to final approval and acceptance by the city, the property owner shall be responsible for the installation, operation and maintenance of the STEP system, pursuant to the requirements of the city.

(D) Following approval of the STEP system by the city and acceptance by the city, the city shall own operate and maintain the system, except that the property owner shall continue to be responsible for the cost of electricity necessary to operate the system. The sewer line from the benefitted structure to the STEP system shall continue to be owned and maintained by the property owner.

(E) If a STEP system becomes inoperable because of failure to pay electric costs or any other reason, the city may declare the property benefitted to be unfit for human habitation. At least five days prior to issuing this declaration, the city shall send written notice to the owner and occupant, if different from the owner. The owner or occupant may request a hearing before the City Council prior to the declaration. The decision of the City Council shall be final. All of the property shall have 24 hours from the issuance of the declaration to vacate the premises. Premises shall remain uninhabited until the system is restored to operation and the city rescinds the declaration in writing.

(F) (1) The property owner or customer shall undertake no alteration or repair of the installed STEP system, including covering or obstructing access to the pump, cleanouts and lockout switch, without prior written approval of the city. Any damage caused to the public system by the owner, occupant, agents or invitees shall be repaired by the city at the owner's expense.

(2) The expense shall be billed and collected with the utility fee if the owner is the customer or otherwise has a utility account with the city. The expense shall be billed to the owner directly if the owner is not the customer or has no other utility account with the city.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979; Ord. 494, passed 8-16-1993)

§ 50.044 BUILDING SEWERS AND CONNECTIONS.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

(B) (1) There shall be two classes of building sewer permits:

(a) For residential and commercial services; and

(b) For service to establishments producing industrial wastes.

(2) In either case, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.

(C) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one sewer.

(E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this subchapter.

(F) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

(H) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(I) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All the connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

(J) The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his or her representative.

(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979) Penalty, see § 50.999

§ 50.045 USE OF THE PUBLIC SEWERS; DISCHARGES.

(A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be discharged to sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet.

(C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(2) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two mg/l CN in the wastes as discharged to the public sewer;

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; and

(4) Solid or viscous substances in quantities or of a size capable of causing obstructions to the flow in sewers, or other interference with the proper operation of the sewage works, such as but not

limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers and the like, either whole or ground by garbage grinders.

(D) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his or her opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150°F (65°C);

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0° and 65°C);

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent;

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

(5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to the degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for those materials;

(6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for the discharge to the receiving waters;

(7) Any radioactive wastes or isotopes of a half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

(8) Any waters or wastes having a pH in excess of 9.5;

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as but not limited to fullers earth, lime slurries and lime residues) or dissolved solids (such as but not limited to sodium chloride and sodium sulfate);

(b) Excessive discoloration (such as but limited to dye wastes and vegetable tanning solutions);

(c) Unusual BOD, chemical oxygen demand or chlorine requirements in quantities as to constitute a significant load on the sewage treatment works; or

(d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amendable to 3-3.5 treatment or by the sewage treatment processes employed, or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet requirements of other agencies having jurisdiction over discharge to the receiving waters.

(E) (1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (D) of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(a) Reject the wastes;

(b) Require pretreatment to an acceptable condition for discharge to the public sewers;

(c) Require control over the quantities and rates of discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of division (D)(10) of this section.

(2) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(F) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that these interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and shall be located as to the readily and easily accessible for cleaning and inspection.

(1) No owner or person in charge of real property containing a grease, oil or sand interceptor shall cause or allow the device to remain in an unusable condition. Each owner or person in charge or real property containing a grease, oil or sand interceptor shall have effect a written maintenance plan for the device and shall maintain written records verifying the regular maintenance performed on the devices.

(2) The Superintendent may at any time inspect any grease, oil or sand interceptor and may inspect the written maintenance plan and the accompanying documentation.

(3) Upon determination by the Council that a device is in unusable condition, the Council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance within ten days after posting the notice and to charge the cost of abatement to the owner thereof, the person in charge thereof, or the property itself, including the administrative fee established in § 50.074.

(G) Where preliminary treatment of flow-equalizing facilities are provided for any waters or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

(H) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with any necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

(I) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this subchapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater,* published by the American Public Health Association, and shall be determined at the control manhole provided, or in the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

(J) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

(K) Industrial uses shall comply with § 204 of Pub. L. No. 92-500 and the rules and regulations regarding industrial cost recovery as published in the August 21, 1973 *Federal Register,* Volume 38, No. 161.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979; Ord. 506, passed 7-5-1994) Penalty, see § 50.999

§ 50.046 PROTECTION FROM DAMAGE.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979) Penalty, see § 50.999

§ 50.047 POWERS AND AUTHORITY OF INSPECTORS.

(A) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this subchapter. The Superintendent or his or her representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury to property damage asserted against the company and growing out of the gauging and sampling operation, except as it may be caused by negligence or failure of the company to maintain safe conditions as required in § 50.045(H).

(C) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement, for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979)

§ 50.048 PROVISIONS IN FORCE.

This subchapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.
(1993 Code, Comp. No. 3-3) (Ord. 261, passed 6-25-1979)

SEWER USE CHARGES

§ 50.060 DEFINITIONS AND FINDINGS.

(A) *Definitions*. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

COLLECTION SYSTEM. The system of public sewers to be operated by the city designed for the collection of sanitary sewage.

COMMERCIAL USER. Any premises used for non-single-family residential purposes, and which is not an industry.

DOMESTIC WASTE. Any wastewater emanating from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

DWELLING UNIT. One or more rooms in a building designed for occupancy by one family and having not more than one cooking facility.

EXCESS WATER USAGE. Any usage in excess of 7,000 gallons per month.

INDUSTRIAL USER.

(a) Any nongovernmental user of the public treatment works identified in the *Standard Industrial Classification Manual,* 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

Division A	Agriculture, Forestry and Fishing
Division B	Mining
Division C	Manufacturing

Division D	Transportation, Communications, Electric, Gas and Sanitary Services
Division E	Services

(b) A user in these divisions may be excluded from the industrial category if it is determined that it will introduce primarily domestic wastes and wastes from sanitary conveniences.

INDUSTRIAL WASTE. The portion of the wastewater emanating from an industrial user which is not domestic waste or waste from sanitary conveniences.

MAY. The action referred to is permissible.

NET OUTSIDE DEMAND. The number of equivalent dwelling units served by the system outside the city limits.

OPERATION AND MAINTENANCE. All activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which the works were designed and constructed. The term ***OPERATION AND MAINTENANCE*** shall include replacement as defined hereinafter.

PERSON. Any individual, firm, company, association, society, corporation or group.

PUBLIC TREATMENT WORKS. A treatment works owned and operated by a public authority.

REPLACEMENT. Acquisition and installation of equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

RETURN ON INVESTMENT CHARGE. A separate charge levied against those users which are located outside the city limits and served by the city sewer system and which shall be paid in addition to the basic monthly charge for operation, maintenance and replacement of the sewer system.

RETURN ON INVESTMENT RATE. The annual percentage rate of return on the utility rate base as set by resolution of the City Council.

SERVICE AREA. All the area served by the treatment works and for which there is one uniform user charge system.

SEWAGE. A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with any ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. An arrangement of devices and structures used for treating sewage.

SHALL. The action referred to is mandatory.

SURCHARGE. An additional charge on residential STEP system users, in addition to the standard flat rate residential charge, for maintenance of STEP systems.

SUSPENDED SOLIDS. Solids that either float on the surface or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

TOTAL SYSTEM DEMAND. The total number of equivalent dwelling units (EDUs) served by the city sewer system. For nonresidential users, one EDU is equal to 7,000 gallons of wastewater per month.

TREATMENT WORKS. All facilities for collecting, pumping, treating and disposing of sewage. ***TREATMENT SYSTEM*** and ***SEWERAGE SYSTEM*** shall be equivalent terms for ***TREATMENT WORKS.***

UNOCCUPIED PROPERTY. Property which no one has used, stayed in or resided in since its construction.

USER. Every person using any part of the public treatment works of the city.

UTILITY RATE BASE. The total depreciated cash value of the sewer system as stated in the most recent published audit report of the city.

VACANT PROPERTY. Property which has not been used as a habitation for a period of time and also has not generated any sewage or wastewater during that period of time.

(B) *Findings.*

(1) It is the intention of the city by the following ordinance to make it clear that sewer charges and fees are not a tax on property within the parameters of § 11(b), Article XI of the State Constitution.

(2) The city provides a valuable public service by providing a sewer system inside and outside of the city limits. These sewer facilities constitute a public utility (although not necessarily defined as one under state statutes) owned and operated by the city. The utility exists for the benefit of any person within the city who wants to have the system available for disposing of sewage.

(3) Users of the sewer system ought to be charged rates that reflect the operation of the sewer system as a public utility in the city. Persons who do not use the sewer utility should not pay monthly sewer utility rates. However, some use of the sewer system occurs when even a small amount of sewage or wastewater is generated by premises connected to the sewer system.

(4) Although sewer user charges are intended to constitute service charges, even if they are viewed as charges against property or against a property owner, they should not be viewed as a direct consequence of ownership of property, because the following §§ 50.061 through 50.063, and §§ 50.065 through 50.081, as amended, provide a property owner a means and method for entirely avoiding all sewer user charges.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 383, passed 10-21-1985; Ord. 433, passed 4-17-1989; Ord. 460, passed 7-16-1990; Ord. 470, passed 7-1-1991; Ord. 17-674, passed 10-16-2017)

§ 50.061 SEWER USE CHARGES, GENERALLY.

User charges shall be levied on all users of the public treatment works which shall cover the cost of operation and maintenance, debt service, taxes and other administrative costs of the treatment works. The user charge system shall distribute these costs in proportion to each user's contribution to the wastewater loading of the treatment works.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.062 CLASSES OF USERS.

There shall be established classes of users such that all members of a class discharge approximately the same volume and strength of wastewater per residence, facility, seat or other appropriate unit, generally known as residential class, STEP system class and commercial class.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 17-674, passed 10-16-2017)

§ 50.063 FLAT CHARGE.

The flat charge per appropriate unit shall be established in proportion to the volume and strength of wastes discharged from that unit such that each user pays his or her proportionate share of the treatment costs.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.064 RESIDENTIAL STEP SYSTEM MAINTENANCE SURCHARGE.

A user charge on residential STEP system users to cover the additional maintenance costs associated with these individual pump systems that is in addition to the residential flat rate charge.
(Ord. 17-674, passed 10-16-2017)

§ 50.065 CHANGE IN NUMBER OF UNITS.

Any change in the number of units on the premises of a user shall be reported by that user to the Public Works Supervisor.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.066 APPEAL.

Should any user believe that he or she has been incorrectly assigned a flat charge, that user may apply for review of his or her user charge as provided in § 50.079.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.067 REASSIGNMENT OF A USER.

Should the City Public Works Supervisor determine that a user is incorrectly assigned to a user class or incorrectly assigned a flat charge, he or she shall reassign a more appropriate user class to that user and shall notify that user of the reassignment.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.068 RECORDS.

Records of all assigned rates and any assigned wastewater volumes and strengths to used and user classes shall be kept on a file with the City Recorder and shall be open for public inspection.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.069 CHARGES.

(A) The charges for sewer service shall be set periodically by a resolution passed by the City Council and duly signed by the Mayor.

(B) The resolution shall set the following rates to be effective changed by future resolutions:

(1) A minimum monthly flat rate charge for each unit of residence using the city sewer;

(2) A monthly surcharge for each unit of residence using a STEP system, unless the owner(s) of the property have signed a waiver taking full responsibility for their individual STEP system;

(3) A minimum monthly charge for every business occupant occupying a portion or unit of each commercial building;

(4) A minimum monthly charge for each housing unit within an apartment building or building used for apartments;

(5) In addition to the minimum monthly charge under division (B)(2) above, a minimum monthly charge to all commercial users, except for service stations and mobile home parks without laundry room facilities, for every 7,000 gallons of water (prorated) used per month over and above a 7,000-gallon minimum.

(a) Water usage shall be determined by examining the water billings for the facility. In the case of existing commercial users, the water usage may be an average of their past 12 months' water usage and shall be adjusted annually. In the case of new commercial users, the water usage shall be adjusted in the month following each water billing until a 12-month history is compiled.

(b) If the commercial user has installed a city-approved water meter behind the Winston-Dillard Water District's meter to measure water usage that does not impact the sanitary sewer system, the city will deduct the additional water from the regular water billings for the facility, provided the user reports to the city no later than the seventeenth day of each month with a meter reading for the separate meter. The separate meter may be read periodically by the city.

(c) If it is not feasible to install a separate meter behind the Winston-Dillard Water District's meter to measure water usage that does not impact the sanitary sewer system, the commercial user can request that an estimate of the water usage be substituted for the meter reading. The Winston-Dillard Water District will be contacted for verification that a separate meter cannot be installed. The methodology used in making the estimate must be verified by a disinterested third party. The city will deduct verified estimates from the regular water billings to determine appropriate sewer billings.

(6) Wildlife Safari shall pay a minimum monthly charge as specified in divisions (B)(3) and (5) above except that instead of water usage the charges shall be based on effluent deposited into the sewer system. Effluent deposited shall be determined by the reading of meters located on Wildlife Safari's property. Reading of meters shall be reported to the city no later than the seventeenth of each month by Wildlife Safari and read periodically by the city. Payment of sewer charges by Wildlife Safari are allowed in monthly, quarterly and/or semi-annual installments.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 272, passed 2-25-1980; Ord. 307, passed 2-1-1982; Ord. 316, passed 4-5-1982; Ord. 328, passed 2-7-1983; Ord. 337, passed 6-6-1983; Ord. 365, passed 6-6-1984; Ord. 383, passed 10-21-1985; Ord. 429, passed 10-17-1988; Ord. 456, passed 2-20-1990; Ord. 460, passed 7-16-1990; Ord. 490, passed 6-21-1993; Ord. 512, passed 2-6-1995; Ord. 653, passed 9-19-2011; Ord. 17-674, passed 10-16-2017; Ord. 18-681, passed 5-21-2018)

§ 50.070 SPECIAL USERS.

(A) Any user which cannot be classified by virtue of the volume of his or her wastewater in any of the above user classes shall be considered a special user, and a special charge based on volume and/or strength shall be assigned to that user by the Public Works Supervisor.

(B) Included among special users are the following which shall be charges:

(1) Users with more than 2,000 milligrams per liter BOD. Excess charges $0.08 per 25 milligrams per liter of BOD per 1,000 gallons; and

(2) Users with more than 250 milligrams per liter suspended solids (SS). Charge $0.043 per 25 milligrams per liter of SS per 1,000 gallons.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 383, passed 10-21-1985; Ord. 653, passed 9-19-2011)

§ 50.071 NEW USERS, VACANT OR UNOCCUPIED PROPERTY AND REBATES.

(A) *New users*. The sewer user charge for all occupied property shall begin 60 days after the sewer service becomes available or the day the connection is made to the public sewer, whichever occurs first.

(B) *Unoccupied property*. The sewer user charge for all unoccupied property shall begin within 30 days after the property is all ready for occupancy or on the first day of occupancy, whichever occurs first. All unoccupied property which is ready for occupancy at the time the sewer service becomes available shall be treated as occupied property.

(C) *Rebates*. Notwithstanding any other provisions of this or any other city ordinance, any owner of vacant or unoccupied property shall be entitled to a rebate, refund, credit, waiver or forgiveness of all sewer user charges, including any minimum monthly charges imposed by this subchapter, as amended, for each complete calendar month in which the property is vacant or unoccupied, upon the following conditions. The owner or his or her authorized agent shall make written application(s) to the City Recorder for relief under this division (C) within 45 days after the end of each billing month for which relief is sought.

(D) *Relief*. No claim(s) may be made for any relief nor for any refund of sums paid absent the timely application(s). Application(s) for relief shall be made in a form as may be prescribed by the City Recorder, and shall be supported by sufficient evidence that the property was vacant or unoccupied for the entire billing month for which relief is sought, and that no sewage or wastewater passed from the property into the sewerage system during the billing month for which relief is sought. Sufficient evidence for relief may include the water billing for the property showing that no water was used during the entire month for which relief is sought. If the evidence presented is deemed sufficient by the City Recorder or City Manager, either shall have authority to grant a refund of previous amounts paid and/or a credit on future billings and/or any other relief as deemed appropriate. The decision of the City Recorder or City Manager may be appealed to the City Council using the same procedure as set forth in § 50.079(A), as amended. The determination of the City Council upon the appeal shall be reviewed only as provided in O.R.S. 34.010 to 34.100, and not otherwise.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 470, passed 7-1-1991; Ord. 651, passed 12-20-2010)

§ 50.072 DISCONTINUANCE OF SEWER SERVICE.

When any improvement which is connected to the municipal sewer system is destroyed by fire or is torn down and no longer connected to the sewer system, the owner shall file a certificate with the City Recorder stating the date of destruction or removal of the improvement and pay all sewer service charges to the date of the destruction or removal, and shall have the sewer connection sealed off and approved by the Public Works Supervisor. Thereafter, there shall be no monthly service charge made to the property until new improvements are placed on the premises and connected to the sewer system. At the time of any reconnection to the sewer system there shall be paid by the applicant a fee of $100.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 354, passed 2-6-1984)

§ 50.073 MULTIPLE CLASSIFICATIONS.

A single user having more than one classification of use shall be charged the sum of the charges for those classifications.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.074 REVIEW AND REVISION OF RATES.

The sewer user charges established in § 50.069 shall, as a minimum, be reviewed biennially and revised periodically to reflect actual costs of operation, maintenance, replacement and financing of the treatment works and to maintain the equitability of the user charges with respect to proportional distribution of the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the treatment works.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.075 RESPONSIBILITY AND PAYMENT OF CHARGES.

(A) The person who owns the premises served by the sewerage system shall be responsible for payment of the sewer user charge for that property notwithstanding the fact that the property may be occupied by a tenant or other occupant who may be required by the owner to pay the charges.

(B) The users of the sewerage system shall be billed on a monthly basis in advance in accordance with the rate schedule as set forth in § 50.069.

(C) The date of billing shall be the first day of the month for which the sewer user charge is calculated as provided in § 50.069.

(D) Sewer user charges shall be due and payable to the City Recorder by the fifteenth day of the month of billing.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 383, passed 10-21-1985)

§ 50.076 DELINQUENT CHARGES.

(A) Delinquent charges at the rate of 1.5% per month shall accrue on all accounts from the date of delinquency. The date of delinquency shall be the twenty-fifth day of the month. Delinquent charges shall be a minimum of $0.50 per month. The delinquent amount shall be any amount due, after applying payments received which remain unpaid. In addition to these delinquent charges, the second consecutive delinquency shall result in an additional penalty of $5 being accrued. In the third and all subsequent consecutive delinquencies an additional $5 penalty, in addition to the delinquency charge, shall be added until account is paid in full.

(B) In addition to the above charge, any charges that are delinquent and certified to the County Tax Assessor for collection shall also incur a handling charge of $25, and a penalty of $175 for the first unit plus $100 for each additional unit as defined in § 50.069. Should it be come necessary to certify the delinquent accounts to the County Tax Assessor for a second or subsequent time, the penalty shall be increased to $350 for the first unit plus $200 for each additional unit.

(C) Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980; Ord. 383, passed 10-21-1985; Ord. 434, passed 5-1-1989; Ord. 476, passed 7-8-1992)

§ 50.077 ENFORCEMENT.

The city may enforce the collection of rates and charges for use of the sewerage system by withholding sewer service to any premises, the sewer charges for which are delinquent, and may use any other and further means of collection as may be provided by the laws of the state or permitted by the City Charter and ordinances. Any delinquency may be certified to the County Tax Assessor for collection in the manner and as provided by O.R.S. 454.225. Any charge due hereafter which shall not be paid when due may be recovered in an action at law by the city.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.078 HANDLING OF FUNDS.

(A) Bills for sewer user charges shall be mailed to the address specified in the application for permit to make the connection unless or until a different owner or user of the property is reported to the City Recorder.

(B) All collections of sewer user charges shall be made by the City Recorder. Sewer user charges shall be computed as provided in § 50.069 and shall be payable as provided in § 50.075(D).

(C) The City Recorder is hereby directed to deposit in the Sewer Fund all of the gross revenues received from charges, rates and penalties collected for the use of the sewerage system as herein provided.

(D) The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance and repair of the sewerage system; reasonable administration costs; expenses of collection of charges imposed by this subchapter and connection fees provided for in §§ 50.001 through 50.012; and payments of the principal and interest on any debts of the sewerage system of the city.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.079 APPEALS.

(A) Any sewer user who feels his or her user charge is unjust and inequitable as applied to his or her premises within the intent of the foregoing provisions may make written application to the City Council requesting a review of his or her user charge. The written request shall, where necessary, show the actual or estimated average flow and/or strength of his or her wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

(B) Review of the request shall be made by the City Council and shall determine if it is substantiated or not, including recommending further study of the matter by the Public Works Supervisor.

(C) If the request is determined to be substantiated, the user charges for that user shall be recomputed based on the approved revised flow and/or strength data and the new charges thus recomputed shall be applicable beginning on the first day of the following month.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.080 PROVISIONS IN FORCE.

This subchapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.
(1993 Code, Comp. No. 3-4) (Ord. 269, passed 1-21-1980)

§ 50.081 RATES FOR SENIOR CITIZENS.

(A) Rates for senior citizen households shall be 25% less than the rates set forth in § 50.069. ***SENIOR CITIZEN HOUSEHOLD*** means any household having as full-time resident any person 62 years or older on the date the application for discount is submitted. Furthermore, the household must have a combined income which does not exceed the very low income level established in the latest HUD, Section 8 income guidelines for this county for the tax year last past.

(B) Any household desiring a senior citizen household discount shall file an application therefor on forms provided by the city. The city, as a condition of the discount, shall be allowed to require reasonable financial records verifying income and age and shall defer or suspend the discount until that documentation is provided.

(C) The discount herein set forth is available to the owner of the real property served by the city sewer, except in the case where the property is rented to others. In these cases, the renters may quality for the discount hereunder upon furnishing, in addition to all other information required by the city, a written statement from their landlord that the rent for subject premises has been paid and includes all sewer user charges for which a discount is allowable. It is unlawful for any landlord to refuse to furnish to any renter such a statement on request. No claim for refund shall be paid by the city for any rent paid a landlord more than 180 days before filing the claim for refund.
(1993 Code, Comp. No. 3-4) (Ord. 272, passed 2-25-1980; Ord. 348, passed 9-6-1983; Ord. 428, passed 10-10-1988; Ord. 615, passed 5-1-2006) Penalty, see § 50.999

§ 50.082 DISCOUNTS.

An additional discount of 3% is available to those who are charged monthly sewer charges and pay 12 months in advance. The discounted annual payment shall be calculated as follows: monthly sewer charge multiplied by 12 months multiplied by a discount factor of 0.97%. This discount is not available to users who pay a monthly charge based on water consumption, nor to any account that is currently delinquent or has been certified, within the previous 18 months, to the Tax Assessor of this county. This discount is available in addition to any other discount taken and is to be applied to the remaining monthly sewer charge after any other discount taken. During the prepaid period the rate shall not be increased for those paying in advance.
(1993 Code, Comp. No. 3-4) (Ord. 476, passed 7-6-1992)

§ 50.999 PENALTY.

(A) Violation of provisions of §§ 50.001 through 50.012 is punishable by fine not to exceed $250 for each violation.
(1993 Code, Comp. No. 3-2)

(B) (1) Any person found to be violating any provision of §§ 50.040 through 50.048 except § 50.045 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in division (B)(1) above, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not exceeding $1,000 for each violation. Each day in which the violation shall continue shall be deemed a separate offense.

(3) Any person violating any of the provisions of §§ 50.040 through 50.048 shall become liable to the city for any expenses, loss or damage occasioned the city by reason of the violation.
(1993 Code, Comp. No. 3-3)
(Ord. 195, passed 10-1-1975; Ord. 261, passed 6-25-1979; Ord. 446, passed 10-2-1989)

TITLE VII: TRAFFIC CODE

Chapter

CHAPTER 70: TRAFFIC CONTROL

Section

GENERAL PROVISIONS

§ 70.01 STATE STATUTES ADOPTED.

(A) It is the policy of the city to conform its traffic laws as closely as feasible to the traffic laws of this state. The provisions of O.R.S. Chapters 153, 801, 802, 803, 805, 806, 807, 809, 810, 811, 813, 814, 815, 816, 818, 819, 820, 821, 822 and 823 as now enacted or hereafter amended, are hereby adopted, and violation thereof shall constitute an offense against the city.

(B) The definitions in O.R.S. Chapters 153 and 801 to 823 shall apply, where the context requires, to all sections of this chapter.
(1993 Code, Comp. No. 5-4) (Ord. 416, passed 12-21-1987) Penalty, see § 70.99

§ 70.02 SHORT TITLE.

This chapter may be cited as the City Uniform Traffic Ordinance.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 70.03 DEFINITIONS.

(A) In addition to those definitions contained in the State Vehicle Code, for the purpose of this Title VII, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUS STOP. A space on the edge of a roadway designated by a sign for use by buses loading or unloading passengers.

HOLIDAY. New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and any other day proclaimed by the Council to be a ***HOLIDAY.***

LOADING ZONE. A space on the edge of a roadway designated by a sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.

MOTOR VEHICLE. Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road-building equipment, street-cleaning equipment and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of this state.

PERSON. A natural person, firm, partnership, association or corporation.

TAXICAB STAND. A space on the edge of a roadway designated by sign for use by taxicabs.

TRAFFIC LANE. The area of the roadway used for the movement of a single line of traffic.

VEHICLE. As used in subsequent sections of this Title VII, includes bicycles.

(B) As used in this Title VII, the singular includes the plural, and the masculine includes the feminine.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

ADMINISTRATION

§ 70.15 POWERS OF THE COUNCIL.

Subject to state laws, the City Council shall exercise all municipal traffic authority for the city except those powers specifically and expressly delegated herein or by another ordinance.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 70.16 DUTIES OF THE CITY MANAGER.

The City Manager or his or her designate shall implement the ordinances, resolutions and motions of the Council by installing traffic-control devices. The installations shall be based on the standards contained in the state *Manual on Uniform Traffic Control Devices for Streets and Highways*.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975; Ord. 651, passed 12-20-2010)

§ 70.17 PUBLIC DANGER.

Under conditions constituting a danger to the public, the City Manager or his or her designate may install temporary traffic-control devices deemed by him or her to be necessary.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975; Ord. 651, passed 12-20-2010)

§ 70.18 STANDARDS.

The regulations of the City Manager or his or her designate shall be based upon:

(A) Traffic engineering principles and traffic investigations;

(B) Standards, limitations and rules promulgated by the State Transportation Commission (see § 70.01); and

(C) Other recognized traffic-control standards.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975; Ord. 651, passed 12-20-2010)

§ 70.19 AUTHORITY OF POLICE AND FIRE OFFICERS.

(A) It shall be the duty of police officers to enforce the provisions of this Title VII.

(B) In the event of a fire or other public emergency, officers of the Police and Fire Departments may direct traffic as conditions require, notwithstanding the provisions of this chapter.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

GENERAL REGULATIONS

§ 70.30 CROSSING PRIVATE PROPERTY.

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 70.99

§ 70.31 UNLAWFUL RIDING.

No operator shall permit a passenger and no passenger shall ride on a vehicle upon a street except on a portion of the vehicle designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person riding within a truck body in space intended for merchandise.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 70.99

§ 70.32 DAMAGING SIDEWALKS AND CURBS.

(A) The operator of a motor vehicle shall not drive upon a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

(B) No unauthorized person shall place dirt, wood or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

(C) No person shall remove a portion of a curb or move a motor vehicle or device moved by a motor vehicle upon a curb or sidewalk without first obtaining authorization and posting bond if required. A person who causes damage shall be held responsible for the cost of repair.

(D) No person shall ride or lead a horse or horses on city bike paths or allow horses to be on sidewalks or bike paths.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 70.99

§ 70.33 REMOVING GLASS AND DEBRIS.

A party to a vehicle accident or a person causing broken glass or other debris to be upon a street shall remove the glass and other debris from the street.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 70.34 DYNAMIC BRAKING DEVICES.

(A) It shall be unlawful for any person knowingly to use, assist in using or permit the use of any unmuffled dynamic braking device on any motor vehicle, except to avoid imminent danger to person or property. A ***DYNAMIC BRAKING DEVICE*** is defined as a device used primarily on trucks and buses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

(B) This section shall take effect 30 days after its passage by the City Council and approval by the Mayor on October 14, 2003.
(Ord. 592, passed 10-6-2003; Ord. 593, passed 12-1-2003) Penalty, see § 70.99

PROCESSIONS

§ 70.45 FUNERAL PROCESSION.

(A) A funeral procession shall proceed to the place of interment by the most direct route which is both legal and practicable.

(B) The procession shall be accompanied by adequate escort vehicles for traffic-control purposes.

(C) All motor vehicles in the procession shall be operated with their lights turned on.

(D) No person shall unreasonably interfere with a funeral procession.

(E) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 70.99

TRUCK ROUTES

§ 70.60 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HEAVY MOTOR TRUCKS. Motor trucks or combinations of motor trucks and trailers that have a total gross unloaded vehicle weight exceeding 20,000 pounds as posted thereon and have three or more axles.

LOADED. Carrying commercial cargo.

STREETS. Routes of travel within the city including streets, highways, public roads and public rights-of-way, paved or unpaved.

TRUCK ROUTE. A way over certain streets within the city, as established by resolution of the City Council, over and along which loaded heavy motor trucks are allowed to operate.
(1993 Code, Comp. No. 5-5) (Ord. 467, passed 8-5-1991)

§ 70.61 ESTABLISHMENT OF TRUCK ROUTES.

Upon recommendation from the City Traffic Safety Commission, the City Council may from time to time by resolution establish or revise truck routes for loaded heavy motor trucks and may also designate by resolution allowable parking areas within the city for loaded heavy motor trucks.
(1993 Code, Comp. No. 5-5) (Ord. 467, passed 8-5-1991)

§ 70.62 PROHIBITION.

It shall be a violation of this subchapter for any person to move, operate or drive, or cause to be moved, operated or driven, any loaded heavy motor truck on any street except on an established truck route or a parking area designated under § 70.61.
(1993 Code, Comp. No. 5-5) (Ord. 467, passed 8-5-1991) Penalty, see § 70.99

§ 70.63 EXCLUSIONS.

This subchapter shall not apply to:

(A) Emergency vehicles or vehicles owned by public entities that are on official business or on an emergency call;

(B) Any detoured, loaded heavy motor truck being operated on any officially established detour, provided it would not have been a violation of this subchapter for a loaded heavy motor truck to be operated on the street from which the detour was established; or

(C) Any loaded heavy motor truck being operated on a street other than a truck route for the specific purpose of picking up or discharging goods at any business or residence located on the street.
(1993 Code, Comp. No. 5-5) (Ord. 467, passed 8-5-1991)

§ 70.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 70.30 through 70.33 is punishable by fine not to exceed $100, or confinement in the city jail not to exceed ten days, or by both the fine and imprisonment.
(1993 Code, Comp. No. 5-2)

(C) Violation of any provision of § 70.34 is an infraction and is punishable by a fine of not less than $100 and not more than $250. The second and subsequent violation in any one-year period is punishable by a fine of not less than $250.

(D) Violation of §§ 70.60 through 70.63 shall constitute an offense against the city. Each separate violation of §§ 70.60 through 70.63 shall be punishable by a fine of up to $250.
(1993 Code, Comp. No. 5-5)
(Ord. 201, passed 11-11-1975; Ord. 467, passed 8-5-1991; Ord. 592, passed 10-6-2003; Ord. 593, passed 12-1-2003)

CHAPTER 71: PARKING

Section

PARKING REGULATIONS

§ 71.01 METHOD OF PARKING.

(A) Where parking space markings are placed on a street, no person shall stand or park a vehicle other than in the indicated direction and, unless the size or shape of the vehicle makes compliance impossible, within a single marked space. Where no parking space markings exist, all vehicles shall be parked parallel to and adjacent to the edge of the roadway and facing in the same direction as the flow

of traffic in the lane closest to the vehicle. All vehicles shall be parked as far as practicable from the flow of traffic so as not to create a traffic hazard.

(B) The operator who first begins maneuvering his or her motor vehicle into a vacant parking space on a street shall have priority to park in that space, and no other vehicle operator shall attempt to deprive him or her of his or her priority or block his or her access.

(C) Whenever the operator of a vehicle discovers that his or her vehicle is parked close to a building to which the Fire Department has been summoned, he or she shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975; Ord. 241, passed 4-3-1978)

§ 71.02 PROHIBITED PARKING OR STANDING.

In addition to the state motor vehicle laws prohibiting parking, no person shall park or stand:

(A) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of 30 consecutive minutes;

(B) A motor truck as defined by O.R.S. 801.355 on a street between the hours of 9:00 p.m. and 7:00 a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel or other sleeping accommodation;

(C) A vehicle on private property not his or her own without the express or implied consent of the person in charge of the private property. When any express or implied consent has been given, the posting, in a conspicuous place on the property by the person in charge of the property, of a printed or written notice stating the name of the person in charge and specifying the parking limitations, shall be prima facie evidence of the withdrawal of that consent under the terms of the limitations;

(D) No person shall stop or park a motor vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control signal, in any of the following places:

(1) Within an intersection;

(2) On a crosswalk;

(3) Between a safety zone and the adjacent curb, or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(4) Within 25 feet from the intersection of curb lines or, if none, within 15 feet of the intersection of property lines at an intersection within a business or residential district, except at alleys;

(5) Within 30 feet of an official flashing beacon, stop sign or traffic-control sign located at the side of the roadway;

(6) Within 15 feet of the driveway entrance to a fire station;

(7) Within ten feet of a fire hydrant;

(8) In front of a private drive;

(9) On a sidewalk;

(10) Alongside or opposite a street or highway excavation or obstruction when the stopping, standing or parking would obstruct traffic;

(11) At a place where official traffic signs have been erected prohibiting standing and/or parking;

(12) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway or street;

(13) Within a 25-foot radius of the intersection of the centerline of a highway and a railway crossing; or

(14) In a manner that causes the vehicle to occupy more than one designated parking stall in areas where stalls are indicated by marking on the street or curb.

(E) If any portion of this chapter, as amended, is in conflict with the provisions of the State Vehicle Code, except as specifically authorized in that Code, that Code shall govern. If any portion of this chapter is for any reason held to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975; Ord. 263, passed 9-10-1979; Ord. 477, passed 7-20-1992) Penalty, see § 71.99

§ 71.03 PROHIBITED PARKING.

No operator shall park and no owner shall allow a vehicle to be parked upon a street for the principal purpose of:

(A) Displaying the vehicle for sale;

(B) Repairing or servicing the vehicle, except repairs necessitated by an emergency;

(C) Displaying advertising from the vehicle; or

(D) Selling merchandise from the vehicle, except when authorized.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

§ 71.04 USE OF LOADING ZONE.

No person shall stand or park a vehicle for any purpose or length of time, other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. In no case, when the hours applicable to the loading zone are in effect, shall the stop for loading and unloading of materials exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed 30 minutes.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

§ 71.05 UNATTENDED VEHICLES.

Whenever a police officer shall find a motor vehicle parked unattended with the ignition key in the vehicle, the police officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 71.06 STANDING OR PARKING OF BUSES AND TAXICABS.

The operator of a bus or taxicab shall not stand or park the vehicle upon a street in a business district at a place other than a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping his or her vehicle outside a traffic lane while loading or unloading passengers.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

§ 71.07 RESTRICTED USE OF BUS AND TAXICAB STANDS.

No person shall stand or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop for the purpose of and while actually engaged in loading or unloading passengers, when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

§ 71.08 LIGHTS ON PARKED VEHICLE.

No lights need be displayed upon a vehicle that is parked in accordance with this chapter upon a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 71.09 EXTENSION OF PARKING TIME.

Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 71.10 EXEMPTION.

The provisions of this chapter regulating the parking or standing of vehicles shall not apply to vehicles of the city, county or state or public utility while necessarily in use for construction or repair work on a street, or a vehicle owned by the United States while in use for the collection, transportation or delivery of mail.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

PARKING CITATIONS AND OWNER RESPONSIBILITY

§ 71.25 CITATION ON ILLEGALLY PARKED VEHICLE.

Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this chapter, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle which may identify its owner, and shall conspicuously affix to the vehicle a traffic citation for the operator to answer to the charge against him or her or pay the penalty imposed within seven days during the hours and at a place specified in the citation.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 71.26 FAILURE TO COMPLY WITH TRAFFIC CITATION ATTACHED TO PARKED VEHICLE.

If the operator does not respond to a traffic citation affixed to a vehicle within a period of seven days, the Court Clerk may send to the owner of the vehicle to which the traffic citation was affixed a

letter informing him or her of the violation and warning him or her that, in the event that the letter is disregarded for a period of seven days, a warrant for his or her arrest will be issued.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

§ 71.27 OWNER RESPONSIBILITY.

The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except when the use of the vehicle was secured by the operator without the owner's consent.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

§ 71.28 REGISTERED OWNER PRESUMPTION.

In a prosecution of a vehicle owner charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that he or she was then the owner in fact.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

IMPOUNDMENT

§ 71.40 IMPOUNDMENT OF VEHICLE.

(A) Whenever a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner, but became an obstruction or hazard.

(B) The disposition of a vehicle towed and stored under authority of this section shall be in accordance with the provisions of the ordinance of the city relating to impoundment and disposition of vehicles abandoned on the city streets.

(C) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this chapter.

(D) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

(E) Whenever a police officer observes a vehicle parked in violation of a provision of this chapter, if the vehicle has four or more unpaid parking violations outstanding against it, the officer may, in

addition to issuing a citation, cause the vehicle to be impounded. A vehicle as impounded shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this division (E) shall be disposed of in the same manner as is provided in division (B) of this section. (1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 71.99

Cross-reference:

Impoundment of a vehicle, see § 90.039

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 71.01 through 71.10 is punishable by fine not to exceed $50.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975)

CHAPTER 72: RECREATIONAL VEHICLES

Section

BICYCLES

§ 72.01 BICYCLE OPERATING RULES.

In addition to observing all other applicable provisions of this chapter and state law, a rider of a bicycle shall not leave a bicycle, except in a bicycle rack. If no rack is provided, he or she shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance. Nor shall he or she leave the bicycle in violation of the provisions relating to the parking of motor vehicles.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 72.99

§ 72.02 IMPOUNDING OF BICYCLES.

(A) No person shall leave a bicycle on public or private property without the consent of the person in charge or the owner thereof.

(B) A bicycle left on public property for a period in excess of 24 hours may be impounded by the Police Department.

(C) In addition to any citation issued, a bicycle parked in violation of this chapter may be immediately impounded by the Police Department.

(D) If a bicycle impounded under this chapter is licensed, or other means of determining its ownership exists, the police shall make reasonable efforts to notify the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.

(E) A bicycle impounded under this chapter which remains unclaimed shall be disposed of in accordance with the city's procedures for disposal of abandoned or lost personal property.

(F) Except as provided in division (D) above, a fee of $5 shall be charged to the owner of a bicycle impounded under this section.
(1993 Code, Comp. No. 5-2) (Ord. 201, passed 11-11-1975) Penalty, see § 72.99

SKATEBOARDS

§ 72.15 DEFINITIONS.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SKATEBOARD. A board of any material, natural or synthetic, with wheels affixed to the underside, designed to be ridden by a person.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987)

§ 72.16 PROHIBITED RIDING AREAS.

The City Council may from time to time establish areas where use of skateboards is prohibited including sidewalks in that area. This action shall be taken by motion which designates the area and directs posting of signs in the area notifying of the prohibition. The prohibition shall be complete upon the posting of the notices.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987) Penalty, see § 72.99

§ 72.17 DUTY TO YIELD.

A person riding a skateboard shall yield the right-of-way to pedestrians and shall yield the right-of-way to motor vehicles when approaching or crossing a driveway.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987)

§ 72.18 DUTY TO OBEY TRAFFIC-CONTROL DEVICES.

A person riding a skateboard upon a public street shall obey all traffic-control devices.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987)

§ 72.19 PROHIBITED RIDING TIMES.

No person shall ride a skateboard upon any street or sidewalk at any time from sunset to sunrise or at any time when, due to insufficient light or inclement weather conditions, persons or vehicles are not clearly discernible at a distance of 1,000 feet.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987) Penalty, see § 72.99

§ 72.20 CARELESS RIDING.

No person shall ride a skateboard upon a roadway or sidewalk or premises open to the public in a manner that endangers or would be likely to endanger any person or property.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987) Penalty, see § 72.99

§ 72.21 SEIZURE OF SKATEBOARDS.

At the time that a citation is issued to a skateboard rider who is in violation of this subchapter, the police may seize the skateboard upon which the violator was riding.

(A) A skateboard may be recovered from the City Police Department between the hours of 8:00 a.m. and 4:00 p.m. by an adult rider 24 hours after being seized.

(B) A skateboard may be recovered from the City Police Department between the hours of 8:00 a.m. and 4:00 p.m. by a juvenile offender 24 hours after being seized. A board shall only be released to a juvenile offender when accompanied by a parent or guardian.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987)

§ 72.22 PROCEDURE.

(A) A citation to appear in the Municipal Court for violation of this subchapter shall be issued to the alleged violator stating the date, time and place to appear and the date and place of the alleged offense. At the request of the offender, a trial shall be conducted before the Judge.

(B) All juvenile violators shall be cited to Juvenile Court.
(1993 Code, Comp. No. 5-3) (Ord. 396, passed 5-4-1987)

§ 72.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Violation of §§ 72.01 and 72.02 is punishable by fine not to exceed $50.
(1993 Code, Comp. No. 5-2)

(C) The penalty for violation of any provisions of §§ 72.15 through 72.22 shall be a fine not less than $5 and not more than $100.
(1993 Code, Comp. No. 5-3)
(Ord. 201, passed 11-11-1975; Ord. 396, passed 5-4-1987)

TITLE IX: GENERAL REGULATIONS

Chapter

CHAPTER 90: NUISANCES, ENVIRONMENT AND SANITATION

Section

Camping on Public and Commercial Property

Cross-reference:

Abatement of chronic disorderly properties, see Ch. 94

GENERAL PROVISIONS

§ 90.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARDED. Secured by means other than those intended in the original design.

CODE ENFORCEMENT OFFICIAL. The City Manager or his or her designee authorized to enforce this chapter. This shall include police officers.

NOXIOUS VEGETATION.

(1) This includes: poison oak, poison ivy, or blackberry vines; weeds, grass, or legumes above a height of 12 inches; or, any vegetation extending into a public way or onto adjacent properties.

(a) Weeds, grass or legumes above a height of 12 inches;

(b) Poison oak or poison ivy; and

(c) Vegetation or blackberry vines that:

1. Are a fire hazard because they are near other combustibles;

2. Extend into a public way; or

3. Are used for habitation by trespassers.

(2) ***NOXIOUS VEGETATION*** does not include agricultural crops that are not a fire hazard or a vision obstruction nor natural vegetation in areas designated to remain in their natural vegetative state and do not constitute a fire hazard as determined by the Fire Chief.

PERSON. A natural person, firm, partnership, association or corporation.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, renter, contract purchaser or other person having possession or control of property.

PERSON RESPONSIBLE. Each of the following, jointly and severally:

(1) The owner;

(2) The person in charge of property, as defined herein; and

(3) The person who caused to come into or continue in existence a nuisance, as defined in this chapter or another ordinance of this city.

PUBLIC PLACE. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or mice; this applies to but is not limited in application to any building or other structure or part thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

RODENT-PROOF. Any building, structure or part thereof is ***RODENT-PROOF*** when it is constructed of concrete, metal or some equally impermeable material and in a manner that excludes rats and mice.

STRUCTURE. An edifice or building or any piece of work or portion thereof which is used or designed or intended to be used for human occupancy, or for storage, which is artificially constructed or composed of parts joined together in some manner and which requires location on or in the ground. This definition shall include, for the purposes of this chapter, a manufactured home, modular home or mobile home and accessories thereto.

UNOCCUPIED. Not being used for lawful occupancy.

UNSECURED. Lacking secure means of ingress and egress, thus allowing for occupancy or use by unauthorized persons.

VEGETATION. Plant life, including but not limited to trees, shrubs, flowers, weeds and grass. (Ord. 655, passed 6-4-2012)

§ 90.002 REMOVAL OF ANIMAL CARCASSES.

No person shall permit an animal carcass owned or controlled by him or her to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.003 SCOPE.

Where, in any specific case, there is a conflict between this chapter and state law, the state statutes shall govern.
(Ord. 655, passed 6-4-2012)

NUISANCES AFFECTING PUBLIC HEALTH

§ 90.015 NUISANCES AFFECTING PUBLIC HEALTH.

(A) No person shall cause or permit, on property owned or controlled by him or her, a nuisance affecting public health.

(B) The following are nuisances affecting public health and may be abated as provided in this chapter.

CESSPOOLS. Cesspools, septic tanks and/or drain fields which are in an unsanitary condition or which cause an offensive odor.

DEBRIS. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

FOOD. Decayed or unwholesome food which is offered for human consumption.

ODOR. Premises which are in a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

PRIVIES. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or part thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

SLAUGHTERHOUSE AND THE LIKE. A ***SLAUGHTERHOUSE,*** tannery or pigsty.

STAGNANT WATER. ***STAGNANT WATER*** which affords a breeding place for mosquitoes and other insect pests.

SURFACE DRAINAGE. Drainage of liquid wastes from private premises.

WATER POLLUTION. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
(Ord. 655, passed 6-4-2012)

NUISANCES AFFECTING PUBLIC SAFETY

§ 90.030 ATTRACTIVE NUISANCES.

(A) No owner or person in charge of property shall permit thereon:

(1) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children;

(2) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children;

(3) An open pit, quarry, cistern, swimming pool, hot tub, spa or other excavation without providing appropriate safeguards or barriers to prevent the places from being used by unsupervised children. Such safeguards shall be in accordance with the Uniform Building Code, as adopted by the city; or

(4) All open, vacant, unoccupied or unsecured building or structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.

(B) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.031 OBSTRUCTION OF A PUBLIC WAY.

(A) *Discharges and deposits*. No person shall cause any intentional or unintentional discharge, deposit or obstruction which renders the use of the public way or public property hazardous or unreasonably prevents its free and unobstructed use unless the discharge, deposit or obstruction is first authorized by the City Manager. Tracking or depositing earth, soil, mud or dirt onto an asphalt or concrete public way is deemed to unreasonably prevent the free and unobstructed use of the public way.

(B) *Noxious vegetation.* No person responsible shall allow any vegetation on public or private property to be a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision. The hazards include but are not limited to:

(1) Vegetation that encroaches upon or overhangs a pedestrian way or adjacent strip lower than eight feet or encroaches upon or overhangs a street lower than ten feet;

(2) Vegetation which obstructs motorist or pedestrian view of traffic, traffic signs and signals, street lights and street signs or any other safety fixtures or markings placed in the public way;

(3) Vegetation which is an obstruction of access to, and use of, any public facilities placed with the public way;

(4) Vegetation which is an obstruction of drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins and culverts;

(5) Vegetation roots which have entered a sewer, lateral sewer or house connection and are stopping, restricting or retarding the flow of sewage therein;

(6) Any vegetation, structure, mounding of earth or other physical obstruction which is in violation of the clear vision requirements as set forth in the city's zoning ordinance; and

(7) Noxious vegetation does not include agricultural crops that are not a fire hazard or a vision obstruction. Nor does it include natural vegetation in areas designated to remain in their natural vegetative state, including, but not limited to, wetland or riparian areas.

(C) *Interfering with pedestrian or vehicular travel.* No person responsible shall place, cause to be placed or permit to remain on a street or sidewalk anything that interferes with the normal flow of pedestrian or vehicular traffic on a street or sidewalk. The provisions of this section do not apply to:

(1) Merchandise in the course of receipt of delivery, provided the merchandise does not remain upon a street or sidewalk for a period longer than one hour; or

(2) Activities conducted pursuant to a permit obtained from the City Manager.

(D) *Sidewalk accumulation.* No person responsible shall cause or allow an accumulation of leaves, snow, ice, rubbish and other litter or any obstruction upon a sidewalk.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.032 NOXIOUS VEGETATION.

No owner or person in charge of real property shall cause or allow to remain standing weeds, grass, legumes or other noxious vegetation above a height of 12 inches at any time; except for a person who grows and uses the grasses and legumes for food or agricultural purposes.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.033 SCATTERING RUBBISH.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.034 TREES.

No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property. If it is taken down, it must be removed or otherwise handled to prevent it becoming an attractive nuisance by allowing noxious vegetation to grow around it, allow it to become a rodent habitat or allow any other nuisance to develop around the fallen trees.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.035 SURFACE WATERS; DRAINAGE.

(A) No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk, or flow across the sidewalk or onto adjacent property.

(B) The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk or onto adjacent property.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.036 ODORS AND BURNING.

(A) *Generally*. No person responsible shall cause or allow any condition which causes an offensive odor or is unsanitary. No person responsible shall burn in wood stoves or fireplaces any household waste, garbage, plastic, Styro foam or other noxious material. Upon official notification, the person responsible shall remove the nuisance or a fine subject to § 90.999 may be immediately imposed.

(B) *Outdoor burning restricted.* No person shall start or maintain any outdoor fire (except for outdoor cooking) for the purpose of burning any combustible material, except as allowed by this section. Nor shall any person responsible cause or knowingly allow any such fire to be started or maintained, including but not limited to barrel burning, burning of household waste, burning of garbage, plastic, Styro foam or other noxious materials.

(1) *Period when outdoor burning is restricted.* The restriction on outdoor burning shall be in effect for the entire year. The burning of residential yard waste during the months of April, May, October and November is permitted.

(2) *Exempt outdoor burning.* The following types of outdoor burning may be allowed on any day of the year:

(a) Burning of a structure or other use of the fire for training purposes by the Winston-Dillard Fire District.

(b) Any burning which has written approval of the Department of Environmental Quality.

(c) Field burning in agricultural areas and certain other burning when, because of topography, there is no other feasible way to remove debris. Any field burning must be completed in conjunction with a coordinated review and approval by Douglas Forest Protective Association.

(d) Outdoor burns to control agricultural diseases, such as blight, that must be destroyed immediately by lire to prevent the spread of disease. Any field burning must be completed in conjunction with a coordinated review and approval by Douglas Forest Protective Association.

(e) Burning bee hives and bee-keeping paraphernalia to prevent the spread of disease.

(f) Fires incidental to a special event.

(Ord. 655, passed 6-4-2012; Ord. 20-688, passed 7-20-2020) Penalty, see § 90.999

§ 90.037 POSTING OF SIGNS.

No person shall paint, post, place, plant or attach in any way a sign on a parking strip, sidewalk or curb, utility pole, wall, hydrant, bridge or tree in the public right-of-way or on any building structure or property owned by the city without first obtaining permission from the City Manager.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.038 INOPERATIVE, WRECKED, DISMANTLED OR ABANDONED VEHICLES.

(A) *Storage.* No person shall cause or allow a neglected or discarded vehicle to remain upon public or private property outside of a permitted, enclosed building for more than 14 days unless the vehicle owner has applied for a storage permit from the city to store the vehicle, or unless it is stored by a

licensed business enterprise dealing in junked vehicles lawfully conducted within the city. ***NEGLECTED OR DISCARDED VEHICLE*** means a vehicle that is, or appears to be, inoperative, wrecked, dismantled or partially dismantled. ***INOPERATIVE*** means a vehicle that cannot be driven on a public right-of-way. It also means unassembled or partially assembled vehicle parts, including, but not limited to, tires, batteries, engines, transmissions, vehicle bodies and frames. ***DISMANTLED*** means inoperative without the addition or application of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs. A vehicle that remains upon public or private property in violation of this subsection may be abated by the Enforcement Official using the procedures provided in this chapter as amended or at the option of the Enforcement Official may be abated or dealt with using the same procedures as are provided in state law applicable to abandoned vehicles.

(B) *Issuance*. The above mentioned storage permit for the specifically identified vehicle may be issued by the city to the vehicle owner for a period of one year beginning January 1 to December 31 of each year. The fee for said storage permit will be set by resolution and may be prorated. Upon removal of the inoperative vehicle from the subject property prior to the end of the storage permit term, the applicant may request a reimbursement of a portion of said storage permit fee. Upon expiration of an approved storage permit, the permit holder may reapply for an additional two-year period with no limit to the number of times the permit holder may reapply for the same permit. No more than one vehicle will be allowed under a single storage permit. Only one storage permit will be issued to a single physical address in the city. The following criteria must exist in order for a storage permit to be approved:

(1) The vehicle must be stored in the side or rear yard of the subject property;

(2) The property upon which the vehicle is stored shall be kept in a neat and orderly manner, complying with this chapter as amended;

(3) Site-obscuring fencing of no less than six feet in height must buffer the storage area from adjacent properties as well as the street right-of-way; and

(4) During the storage permit period, the subject property must also comply with all city ordinances. Inspection of the subject property will be required prior to the issuance of a storage permit to verify compliance with this chapter.

(C) *Abandoned vehicles*. No person shall cause or allow any vehicle to be abandoned upon public or private property within the city. This division (C) shall not apply to a vehicle that has been abandoned as defined by state law nor to a vehicle that constitutes a hazard as defined by state law. A vehicle that is abandoned or that constitutes a hazard shall be dealt with pursuant to the provisions of state law.

(D) *Abatement of neglected or discarded vehicles on private property*. In addition to the notice to the person responsible, if it is determined that the person responsible and owner of the vehicle constituting the nuisance are not the same person and if any indication of vehicle ownership is reasonably available, the notice shall also be sent to the owner of the vehicle.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.039 DANGEROUS BUILDINGS.

(A) No person responsible shall cause or allow a dangerous building to exist on property. Any building or structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life, is hereby declared to constitute a dangerous building. Any use of a building or structure constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment constitutes an unsafe use and shall render the building a dangerous building for purposes of this chapter. Any appendages or structural members which are supported by, attached to or a part of a building and which are in deteriorated condition or otherwise unable to sustain those design loads which are specified by the Building Official, are dangerous building appendages.

(B) Examples of the foregoing dangerous buildings, structures or appendages include but are in no way intended to be limited to the following conditions:

(1) Any door which is unsecured or any door, aisle, passageway, stairway or other means of exit not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Any walking surface of any aisle, passageway, stairway or other means of exit which is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(3) Any stress in any materials, member or portion thereof, due to all dead and live loads, which is more than one and one-half times the working stress or stresses allowed in the State Building Code for new buildings of similar structure, purpose or location;

(4) Any damage by fire, earthquake, wind, flood or by any other cause, to the extent that the structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the State Building Code for new buildings of similar structure, purpose or location;

(5) Any portion, member or appurtenance which is likely to fail, become detached or dislodged, or collapse and thereby injure persons or cause damage to property;

(6) Any portion, member, appurtenance or ornamentation on the exterior which is not of sufficient strength or stability, or which is not anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the State Building Code for new buildings of similar structure, purpose or location without exceeding the work stresses permitted in the State Building Code for those buildings;

(7) Any portion which has wracked, warped, buckled or settled to the extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(8) Any portion which is likely to partially or completely collapse because of any of the following conditions:

(a) Dilapidation, deterioration or decay;

(b) Faulty construction;

(c) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;

(d) The deterioration, decay or inadequacy of its foundation; or

(e) Any other cause.

(9) Anything that is manifestly unsafe for the purpose for which it is being used;

(10) Any exterior walls or other vertical structural members which list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall inside the middle or third of the structure or portion thereof;

(11) Any portion, exclusive of the foundation, which shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;

(12) Any damage by fire, wind, earthquake or flood or a dilapidation or deterioration which causes the structure to become an attractive nuisance to children, a harbor for trespassers or criminals, or available for use by persons for the purpose of committing unlawful acts;

(13) Anything which has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure set forth by the building regulations of the city, as specified in the State Building Code or Housing Code, or of any law or ordinance of this state or the city relating to the condition, location or structure of buildings;

(14) Anything which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength or fire-resisting and weather-resisting qualities and characteristics which are required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

(15) Inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or any other condition which has been determined by a health officer to be unsanitary, to cause the subject building to be unfit for human habitation or in a condition as is likely to cause sickness or disease;

(16) Any obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus, or other cause, which is determined by the Fire Marshal to be a fire hazard;

(17) Any combustible or explosive material, wood, paper, trash, rubbish, rags, waste, oils, gasoline or flammable substance of any kind especially liable to cause fire or damage to the premises or human life, and which is not maintained in accordance with law;

(18) Any condition which constitutes a public nuisance known to the common law or in equity jurisprudence; or

(19) Any portion of a building or structure which remains after demolition or destruction of the building or structure or any building or structure which is abandoned for a period in excess of six months and constitutes an attractive nuisance or hazard to the public.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.040 DERELICT BUILDINGS.

No person responsible shall cause or allow a derelict building to exist. For purposes of this chapter, a ***DERELICT BUILDING*** shall be defined as any building which is unoccupied and boarded or which is unoccupied and unsecured. For purposes of this code, a ***DERELICT BUILDING*** shall also be defined as any building or structure which has faulty weather protection, which shall include but not be limited to the following: deteriorating, crumbling or loose plaster; deteriorating or ineffective water-proofing or exterior walls, roof, foundations or floors, and including broken windows or doors; defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering; or broken, rotten, split or buckled exterior wall covering or roof covering. If the person(s) responsible fail to correct the conditions which cause a building to be a derelict building within the time frames set forth in this chapter, the derelict building shall be declared a nuisance.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

NUISANCES AFFECTING PUBLIC PEACE

§ 90.055 RADIO AND TELEVISION INTERFERENCE.

(A) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(B) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.
(Ord. 655, passed 6-4-2012)

§ 90.056 JUNK.

(A) No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

(B) The term ***JUNK,*** as used in this section, includes old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

(C) This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking house.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.057 UNENUMERATED NUISANCES.

(A) The acts, conditions or objects specifically enumerated and defined in §§ 90.030 through 90.040, 90.055 and 90.056 are declared public nuisances; and the acts, conditions or objects may be abated by any of the procedures set forth in §§ 90.070 through 90.077.

(B) In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

ABATEMENT

§ 90.070 NOTICE.

(A) Upon determination by the Enforcement Official that a nuisance exists, the Enforcement Official shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

(B) At the time of posting, the Enforcement Official shall cause a copy of the notice to be forwarded by certified mail, postage prepaid, or hand-delivered to the person responsible at his or her last known address with the following information:

(1) A description of the real property, by street address or otherwise, on which the nuisance exists;

(2) A direction to abate the nuisance within ten days from the date of the notice;

(3) A description of the nuisance;

(4) A statement that, unless the nuisance is removed, the city may abate the nuisance, and the cost of abatement will be charged to the person responsible;

(5) A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence; and

(6) A statement that the person responsible may appeal the order to abate by filing a written statement to the City Recorder and paying the applicable appeal fee.

(C) Upon completion of the posting and mailing or hand-delivery, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.

(D) An error in the name or address of the person responsible shall not make the notice void, and in that case the posted notice shall be sufficient.

(E) In the case of noxious vegetation constituting a nuisance, the following notice shall be given in lieu of the notice above set out: upon determination by the City Manager or his/her designee that a nuisance exists, the City Recorder shall cause a notice to be mailed to the owner of record of the properly on which the nuisance exists. The notice shall contain the information prescribed in division (B) of this section.
(Ord. 655, passed 6-4-2012)

§ 90.071 ABATEMENT BY THE PERSON RESPONSIBLE.

(A) Within ten days after the posting and mailing of the notice, as provided in § 90.070, the person responsible shall remove the nuisance or show that no nuisance exists.

(B) A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for so protesting and a $100 appeal fee.

(C) The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council; the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement along with a $100 appeal fee has been filed as required.

(D) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten days after the Council determination, abate the nuisance.
(Ord. 655, passed 6-4-2012)

§ 90.072 JOINT RESPONSIBILITY.

If more than one person is person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the city in abating the nuisance.
(Ord. 655, passed 6-4-2012)

§ 90.073 ABATEMENT BY THE CITY.

(A) If, within the time allowed, the nuisance has not been abated by the person responsible, the Enforcement Official may cause the nuisance to be abated.

(B) (1) The Enforcement Official, or contractors acting under the direction of the Official, shall have the right at reasonable times to enter into or upon property in accordance with law to abate the nuisance and remove and dispose of all items creating the nuisance. If the person in lawful control of the property or the subject part thereof refuses to give the city permission to enter upon the property to abate the nuisance, the Enforcement Official shall comply with legal requirements prior to entering the property.

(2) A warrant shall be obtained by bringing before the Municipal Court Judge, following the noticed allowable time for abatement by the responsible party, a list of properties with nuisances requiring abatement and having the Municipal Court Judge approve warrants for entry onto each property for the purpose of abating the nuisances as stated. If other nuisances are discovered on the property as the nuisance is being abated, a notice will be provided to the property owner concerning any additional nuisances and the process will be repeated.

(C) The City Recorder shall keep an accurate record of the expenses incurred by the city in physically abating the nuisance and shall include therein a charge of 5% of the total cost of the abatement or $150, whichever is greater, for administrative overhead.
(Ord. 655, passed 6-4-2012)

§ 90.074 ASSESSMENT OF COSTS.

(A) The City Recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:

(1) The total cost of abatement, including the administrative overhead;

(2) That the cost as indicated will be assessed to and become a lien against the property, unless paid within 30 days from the date of the notice; and

(3) That if the person responsible objects to the cost of the abatement, he or she must file a notice of objection with the City Recorder not more than ten days from the date of the notice.

(B) Upon the expiration of ten days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.

(C) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the docket of city liens; and upon this entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(D) The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of 7% per annum. The interest shall commence to run from the date of the entry of the lien in the lien docket.

(E) An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.
(Ord. 655, passed 6-4-2012)

§ 90.075 ABATEMENT OF DANGEROUS BUILDINGS AND REGISTRATION OF DERELICT BUILDINGS.

(A) Whenever the Building Official or Enforcement Official believes that a building or structure is a dangerous or derelict building, the Building Official or Enforcement Official shall cause an inspection to be done to determine if it complies with this chapter and all other applicable Health, Housing, Building and Safety Codes.

(B) In the event the Building Official or Enforcement Official determines from the inspection that a building or structure is either a dangerous or a derelict building, notice of that determination shall be given by the Building Official or Enforcement Officer posting a notice at the site and by personal service or by registered or certified mail on the person(s) responsible. Upon completion of the posting and serving or mailing, the Enforcement Officer shall execute and file certificates stating the date and place of the posting and serving or mailing respectively. An error in the name or address of the person(s) responsible shall not make the notice void, and in that case, the notice shall be sufficient.

(1) If the Building Official or Enforcement Official has determined that a building is a dangerous building, the Building Official's or Enforcement Official's notice shall include:

(a) The building's address and tax lot number or legal description of the property;

(b) A description of the dangerous condition;

(c) A direction to abate the nuisance within ten days from the date of the notice;

(d) A statement that if the person(s) responsible decide to repair an unoccupied dangerous building by boarding the building, it shall constitute a derelict building and shall be subject to registration and all other derelict building procedures and requirements as prescribed in this chapter;

(e) A statement that unless the nuisance is removed, the city may abate the nuisance and the cost of the abatement plus a penalty of 5% of the cost of abatement or $150, whichever is greater, for administrative overhead, shall be charged to the person(s) responsible and assessed against the property;

(f) A statement that failure to abate the nuisance may result in a court prosecution; and

(g) A statement that the person(s) responsible may appeal the order to abate by giving notice of the person's desire to appeal to the City Manager within ten days from the date of the notice.

(2) If the Building Official or Enforcement Official has determined that a building is a derelict building, the Building Official's or Enforcement Official's notice shall include:

(a) The building's address and tax lot number or legal description of the property;

(b) A description of the derelict condition;

(c) A direction to correct the conditions causing the building to be a derelict building within the time frame prescribed by this section;

(d) A statement that a derelict building must be registered with the city and fees paid as provided in this section;

(e) A statement that failure to correct the conditions causing the building to be a derelict building or to comply with the registration requirements may result in late payment penalties and assessments against the property and the building being declared a nuisance; and

(f) A statement that failure to correct the conditions causing the building to be a derelict building may result in a court prosecution, or the abatement of the nuisance with the costs thereof becoming a lien against the property, or both.

(3) The Building Official shall cause a derelict building notice to be recorded and made a permanent part of the deed records.

(C) Within ten days after the posting and serving or mailing of the notice required by this section, person(s) responsible shall remove the nuisance or show that no nuisance exists.

(D) The person(s) responsible, if protesting that no nuisance exists, shall file with the City Manager a written statement specifying the basis for protesting and shall pay an appeal fee set by Council resolution. No protest shall be heard unless the appeal fee is paid. If the Council or its designee determines that no nuisance exists, the appeal fee shall be refunded to the person who paid it.

(E) The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager deems appropriate. If the City Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply. The appellant shall have the burden of proving error in the Building Official's or Enforcement Official's determination.

(F) The City Council shall issue a written decision. The decision of the Council shall be final.

(G) If the Council determines that a nuisance exists, the person(s) responsible shall, within ten days after the determination, or within a time set by Council, abate the nuisance.

(H) If within the time allowed the nuisance has not been abated, the City Manager may cause the nuisance to be abated and the costs thereof imposed as a lien as provided in this chapter.

(I) Except when allowed by this section, no person(s) responsible shall maintain a derelict building or allow the building to exist.

(J) Registration of a derelict building under the terms of this section shall be completed on an application form to be provided by the Building Official or Enforcement Official and shall be accompanied by a nonrefundable derelict building registration application fee as set by Council resolution. The application shall include information relating to the location and ownership of the building, the expected period of its vacancy or until its repair, a plan for regular maintenance and securing of the building during the period of vacancy or until repair, and a plan for reoccupancy and use, marketing or demolition. All of the information required under this division (J) shall be reviewed and approved by the Building Official or Enforcement Official. The Building Official or Enforcement Official shall maintain a list of all registered derelict buildings within the city and shall provide a copy of the list to the City Manager for monthly fee billing purposes.

(K) The following standards shall be followed by the Building Official or Enforcement Official with respect to the repair, marketing or demolition of any derelict building.

(1) Any building declared to be a derelict building under this chapter shall, within one year from the date of notice provided by the Building Official or Enforcement Official under this section, be made to comply with one of the following:

(a) The building shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair; or

(b) The building shall be demolished.

(2) If within the initial one-year time period and extension period, if any, the derelict building is not repaired or demolished by the person(s) responsible, the City Manager may declare the ongoing derelict building to be a nuisance which must be abated in accordance with the provisions of this section. Notwithstanding any other provision of this section, if the person(s) responsible has not properly registered the derelict building, the City Manager may declare a derelict building to be a nuisance upon the expiration of 90 days from the notification date.

(3) The Building Official or Enforcement Official may extend the derelict building repair, marketing or demolition period of one year for an additional period of time required by, and consistent with, approved plans of the person(s) responsible to repair, market or demolish the building. The following criteria shall be evaluated by the Building Official or Enforcement Official when considering the granting of an extension:

(a) Whether all delinquent fees and penalties have been paid in full;

(b) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s) responsible and approved by the Building Official or Enforcement Official ;

(c) The value of the building;

(d) Whether all appropriate permits have been obtained for the repair or demolition of the structure; and

(e) Whether the person(s) responsible will complete, or is the process of completing, the repairs or demolition of the structure in a timely fashion.

(L) Upon approval of the application for derelict building registration, the person(s) responsible shall immediately submit payment of the first monthly derelict building registration as set by Council resolution and thereafter be responsible for the following payment terms.

(1) The person(s) responsible of a registered derelict building shall be responsible for paying the monthly derelict building registration fee as set by Council resolution in advance by the tenth day of each month for each month, or portion thereof, during which the building remains registered as a derelict building. Any payment of the fee that is more than 30 days past due may be considered delinquent and subject to a penalty in an amount set by Council resolution for every delinquent monthly payment.

(2) In the event that the fees due under the terms of this section become delinquent for more than 90 days, the Building Official or Enforcement Official shall file a statement of the amount due with the City Manager. The City Manager shall thereafter mail a notice of the city's intent to assess the subject property for the delinquent amount plus applicable penalty and an additional 10%. In the event the amount set forth in the notice is not paid in full within 30 days of the date of the notice, it shall become a lien against the property and thereupon be entered in the city's lien docket. The lien shall be enforced as outlined in § 90.074.

(3) In addition to the lien described above, the person(s) responsible for the derelict building receiving notice under this chapter shall be personally liable for the amount of the lien including all interest, civil penalties and other charges.

(4) All fees imposed under the terms of this section are to be paid prior to any purported or actual transfer of an ownership interest in a derelict building as well as prior to the issuance of any permit required for the demolition, alteration or repair of a derelict building subject to the terms of this section.

(5) The Building Official or Enforcement Official may waive fees imposed under this section. The following criteria shall be evaluated by the Building Official or Enforcement Officer when considering waiver of the fees:

(a) Whether all delinquent fees and penalties have been paid in full;

(b) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s) responsible and approved by the Building Official or Enforcement Official;

(c) The value of the building;

(d) Whether all appropriate permits have been obtained for the repair or demolition of the structure; and

(e) Whether the person(s) responsible will complete, or is in the process of completing, the repairs or demolition of the structure in a timely fashion.

(M) Any change in the information provided pursuant to this section shall be given to the Building Official or Enforcement Official within 30 days, except where changes in an approval plan are contemplated, in which case, approval of the Building Official is required prior to their effectiveness.

(N) When all violations have been corrected, the person(s) responsible shall contact the Building Official or Enforcement Official and request an inspection to determine compliance and removal of the dangerous or derelict building designation.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.076 SUMMARY ABATEMENT.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other ordinances; and the Chief of the Fire Department, the Chief of Police or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.
(Ord. 655, passed 6-4-2012)

§ 90.077 SEPARATE VIOLATIONS.

(A) Each day's violation of a provision of this chapter constitutes a separate offense.

(B) The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within ten days of the date of notice to abate, or if a written protest has been filed, the abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under § 90.999.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

CAMPING ON PUBLIC AND COMMERCIAL PROPERTY

§ 90.090 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CAMPSITE. Any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire, is placed, established or maintained, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure erected or maintained for shelter, or any vehicle or part thereof.

RECREATIONAL VEHICLE or ***TRAILER COACH.*** Any vehicle used or maintained for use as a conveyance upon highways or city streets, so designed and so constructed as to permit occupancy thereof as a temporary dwelling or sleeping place for one or more person, having no foundation other than wheels or jacks.

TO CAMP. To set up or to remain in or at a campsite.
(Ord. 665, passed 11-3-2014)

§ 90.091 REGULATIONS.

(A) Except by permit issued by the city for camping in a city park, it is unlawful to camp in or upon any sidewalk, street, alley, lane, public right-of-way or any other place to which the general public has access, or under any bridge way or viaduct.

(B) No RV, trailer coach or campsite shall be used or occupied on any tract of ground not designated for such use within the corporate limits of the city.
(Ord. 665, passed 11-3-2014) Penalty, see § 90.999

§ 90.999 PENALTY.

(A) (1) *Generally*. A person responsible for violating a provision of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 or an order issued under authority of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 shall, upon conviction, be punished by a fine not to exceed $250 for each offense. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate the nuisance with no further notification to person responsible.

(a) A violation of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 shall be considered a separate offense for each day the violation continues.

(b) The abatement of a nuisance is not a penalty for violating §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 30 days of the date of notice to abate, or if a written protest has been filed, the abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under this section.

(2) *Alternative remedy*. In case a structure or building 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 §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077, 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.

(3) *Conviction*. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.

(B) *Camping violations*. Any person who is found in violation of §§ 90.090 and 90.091 shall be subject to citation with a fine of $75 for the first offense and $250 for each additional violation. Each day may be considered an additional offense.
(Ord. 655, passed 6-4-2012; Ord. 665, passed 11-3-2014)

CHAPTER 91: ANIMALS

Section

Animal Control

Dogs and Dangerous Animals

Cross-reference:

Abatement of chronic disorderly properties, see Ch. 94

ANIMAL CONTROL

§ 91.01 SHORT TITLE.

This subchapter shall be known as the City Animal Ordinance. (1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.02 PURPOSE.

The purpose of this subchapter is to:

(A) Prohibit animals from running at large;

(B) Place limits on the kinds and number of animals that may be kept;

(C) Provide for the licensing of certain animals; and

(D) Provide penalties for the violation of this subchapter.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.03 DEFINITIONS.

(A) As used in this subchapter the singular includes the plural and vice versa and the masculine includes the feminine.

(B) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOUSEHOLD PET. An animal normally considered as a ***PET*** kept in the home or yard of the owner or keeper. These include but are not limited to dogs, cats, white mice, rats, hamsters, gerbils, guinea pigs, goldfish, guppies and other fish kept for noncommercial purposes, canaries and parakeets.

KEEP. To own, possess, control or otherwise have charge of an animal.

LIVESTOCK. Includes but is not limited to any of the following: horses, cattle, sheep, goats, swine and rabbits.

POULTRY. Includes but is not limited to any of the following: turkeys, chickens, geese and ducks.

RUNNING AT LARGE. An animal off or outside of the premises occupied by the owner or keeper of the animal, or not in the company of and under the control of the owner or keeper.

WILD ANIMAL. An animal that is not normally domesticated, including but not limited to animals such as deer, raccoons, foxes, opossums, squirrels, quail, pheasants, owls, bees and wildlife indigenous to the city.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.04 LIMITATIONS.

Ownership or keeping of animals is subject to the limitations described in this section. Use of land allotments for more than one type of animal is prohibited.

(A) *Horses*.

(1) No person shall own or keep a horse within the city without a permit pursuant to § 91.06.

(2) No person shall own or keep a horse on less than 5,000 square feet of land.

(3) Each additional horse shall require an additional 5,000 square feet of land.

(4) No person shall own or keep more than three horses within the city, except that an excess of a single foal may be kept for not more than six months when caused by incidental reproduction.

(5) No person shall own or keep a horse within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the horse.

(B) *Cattle*.

(1) No person shall own or keep a head of cattle within the city without a permit pursuant to § 91.06.

(2) No person shall own or keep a head of cattle on less than 5,000 square feet of land.

(3) Each additional head of cattle shall require an additional 5,000 square feet of land.

(4) No person shall own or keep more than three head of cattle within the city, except that an excess of a single calf may be kept for not more than six months when caused by incidental reproduction.

(5) No person shall own or keep any cattle within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the cattle.

(C) *Other livestock and poultry*.

(1) No person shall own or keep a head of livestock, other than cattle, horses or poultry, without a permit pursuant to § 91.06.

(2) No person shall own or keep a head of livestock, other than cattle or horses, or one to ten poultry, or one to six rabbits, on less than 5,000 square feel of land.

(3) Each additional head of livestock, or additional poultry over ten, or additional rabbits over six, shall be provided an additional 5,000 square feet of land by the owner or keeper of the animal(s).

(4) No person shall own or keep more than three head of other livestock described in this section, other than cattle, horses or poultry, except than an excess may be kept for not more than two months when caused by incidental reproduction.

(5) No person shall own or keep livestock, poultry or rabbits within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the livestock.

(D) *Dogs and cats*. No person shall own or keep within the city more than three dogs nor more than three cats, except that an excess consisting of a single litter may be kept for not more than six months when caused by incidental reproduction.

(E) *Household pets*. No person shall own or keep within the city household pets in numbers as to create unsanitary conditions or a danger to the health or safety of the owner or keeper or the public.

(F) *Animals for educational purposes*. Educational organizations that raise animals for educational purposes or the purpose of instructing students in animal husbandry may apply for exemption from this subchapter if all animals so raised are contained in a manner consistent with § 91.05 and are not kept in numbers as to create unsanitary conditions or a danger to the health or safety of the public. These requests for exemption shall be approved by the City Council and may be denied if the Council determines that the educational organization is a commercial enterprise or if the essential conditions of this subchapter are not met.

(G) *Diseased animals*. No person shall own or keep within the city an animal with a contagious or communicable disease.

(H) *Wild animals*. No person shall own or keep a wild animal within the city.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999) Penalty, see § 91.99

§ 91.05 CONTAINMENT.

No person owning or keeping animals shall permit them to run at large. All land areas housing livestock or poultry shall be surrounded by a fence sufficient to ensure the containment of all livestock and poultry to those areas. Property owners are strictly liable for damages suffered by any person from physical or other injury caused by contact with a fence used for the containment of livestock or poultry. This liability does not apply to persons injured while committing an illegal act.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999) Penalty, see § 91.99

§ 91.06 PERMITS.

(A) No animal, except a household pet other than a dog, shall be kept within the city except under permit issued by the city.

(B) No permit for an animal shall be issued under this subchapter unless the requirements set forth in this subchapter are met.

(C) Applications for permits shall be submitted to the City Manager along with the required filing fee of $15. Permits shall be issued by the City Manager after approval by the City Council.

(1) As a condition of all permits, the owner and keeper of the animals shall:

(a) Keep the premises in a sanitary condition, including but not limited to the removal of all manure at least once a week;

(b) Prevent the animals from disturbing any person by frequent or prolonged noises; and

(c) Prevent the animals from causing conditions resulting in offensive odors or areas where flies or other undesirable insects may breed.

(2) Property owners within a 250-foot radius of the property for which a permit is requested shall receive notice by regular mail of the time scheduled by the City Council for consideration of the request.

(D) An application for a permit may be denied or a permit revoked by the City Council at a time as any requirements as set forth in § 91.05 and this section are no longer met. Thirty days' written notice shall be given to the owner of the animals after a decision is made to revoke a permit.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999; Ord. 651, passed 12-20-2010)

§ 91.07 PERMIT FOR ANNEXED PROPERTIES.

If any real property where livestock or poultry is kept has been heretofore annexed to the city, or is hereafter annexed to the city, provided that all other requirements of this subchapter are met, the owner or keeper of the animals shall be entitled to a permit for the existing number of animals until the property is sold, or until further development occurs on the property, whichever occurs first. After this period of exemption, the person owning or keeping the animals shall be required to comply with the limitations on number of animals provided herein.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.08 NUISANCE.

Any condition violating a provision of this subchapter is declared to be a public nuisance and the condition may be abated using the same procedure provided in the city's nuisance ordinance, as amended.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

DOGS AND DANGEROUS ANIMALS

§ 91.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. A dog or animal off or outside of the premises occupied by the keeper of the dog or animal, or not in the company of and under the control of the keeper. ***AT LARGE*** does not include a dog that is within any part of a vehicle.

DANGEROUS ANIMAL. An exotic animal or other animal capable of biting or attacking any person or animal.

EXOTIC ANIMAL. Has the meaning set forth in O.R.S. 609.305.

KEEP. Synonymous with ***MAINTAIN*** and means to own, possess, control or otherwise have charge of a dog or animal.

OWNER. A person, firm or association owning, keeping or harboring an animal.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.21 PROHIBITED ACTION.

It shall be unlawful to do any of the following:

(A) To permit or allow a dog or dangerous animal to run at large within the city limits;

(B) To keep a dog which is or would constitute a public nuisance under O.R.S. 609.095;

(C) To abandon a dog;

(D) To permit or allow a dog to deposit its feces anywhere other than on the property of the owner or keeper of the dog. It shall be a defense to prosecution under to this division (D) if the dog owner or keeper immediately removes the feces; or

(E) To own or keep a dog within the city which is not licensed as required by this subchapter.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 376, passed 2-15-1985; Ord. 573A, passed 10-18-1999) Penalty, see § 91.99

§ 91.22 LICENSES.

(A) The Mayor and City Manager are hereby authorized and directed to negotiate with the County Board of Commissioners to arrange for sale by the city of dog licenses.

(B) Any person who owns or maintains a dog that has reached the age of six months or has canine teeth, must purchase a dog license, valid for one year from date of purchase and renewable yearly. Dog licensing records shall be available for the city staff and the county upon their request.

(C) Dog license fees shall be set by resolution from time to time. Initially dog license fees shall be:

Dog Status	*Fee*
(1) Unspayed female	$10
(2) Spayed female	$6
(3) Unneutered male	$10
(4) Neutered male	$6
(5) Kennel dog	$5

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 651, passed 12-20-2010)

§ 91.23 DOG POLICE; IMPOUNDMENT OF DOGS.

(A) There is hereby created the office of dog police for the city and the police officer or officers shall be appointed by the Chief of Police with the consent of the Council and shall be paid sums as the Council shall fix for their services.

(B) It shall be the duty of the City Police to enforce this subchapter by impounding dogs found violating this subchapter and/or issuing citations to the owners of dogs found violating this subchapter.

(C) The dog police shall keep an accurate record of all dogs impounded, giving the description of the dog and the date of impounding and redemption or sale or disposal thereof and the amount of fees and charges upon the same. The records shall be available to the City Manager upon request.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 651, passed 12-20-2010)

§ 91.24 NOTIFICATION.

It shall be the duty of the officer impounding or releasing the dog from impoundment to make a reasonable effort to obtain the name of the owner by determining if the dog has a license or identification

tags. Unless claimed by its owner or keeper, a dog shall be impounded for at least three days if the dog is without a license and for at least five if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of the dog. If the owner or keeper of the dog shall fail to claim the dog, the officer shall dispose of the dog by releasing the dog to a responsible person or organization upon receiving assurance that the person or organization will either kill the dog in a humane manner, or will properly care for the dog and only release the dog to another responsible person or organization that will not allow the dog to become a nuisance.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.25 REDEMPTION.

Cost of redeeming any dog impounded under this subchapter shall be set by resolution by the City Council plus $3.50 per day for each day impounded or any part thereof. The sums so paid shall go the Law Enforcement Fund of the city. A condition of redemption shall be the purchase of a valid license for any unlicenced dog.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.26 EFFECT OF REDEMPTION.

No redemption shall authorize further violation of this subchapter or relieve the owner from penalties for violation of this subchapter.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.27 HEARING.

Any person believing himself or herself aggrieved by the seizure and impoundment of an animal may file a request with the Municipal Judge for a hearing, if the request is filed prior to the expiration of the time provided for disposal of the animal. Upon filing this notice the police shall abate procedure to dispose of the dog until the hearing is held. The person filing the demand shall be entitled to a summary hearing before the Municipal Judge on the question of the rightful impoundment of the animal. The hearing shall be before the Court, without a jury, and upon completion of the hearing the Court shall enter a judgment, either sustaining the impoundment or directing release of any impounded dog.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.28 IMPOUNDING FACILITY.

The Chief of Police shall select, arrange and maintain a suitable place for impoundment of dogs under this subchapter.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.29 NUISANCE.

Any condition violating a provision of this subchapter is declared to be a public nuisance and the condition may be abated using the same procedure provided in the city's nuisance ordinance codified in Chapter 90, as amended.
(Ord. 573A, passed 10-18-1999)

§ 91.30 STATE STATUTES ADOPTED.

The provisions of O.R.S. 609.015 through 609.190 as now enacted or hereafter amended are hereby adopted and violation thereof shall constitute an offense against the city. In the event of any conflict between state law and this subchapter, state law shall apply and govern.
(Ord. 573A, passed 10-18-1999) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A person responsible for violating a provision of this subchapter or an order issued under authority of this subchapter shall, upon conviction, be punished by a fine not to exceed $250 for each offense and for each day any violation continues. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate any condition constituting a nuisance with no further notification to any person. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-7)

(C) A person responsible for violating a provision of §§ 91.20 through 91.30 or an order issued under authority of that subchapter shall, upon conviction, be punished by a fine not to exceed $250 for each offense and for each day any violation continues. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate any condition constituting a nuisance with no further notification to any person. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-14)
(Ord. 342, passed 7-5-1983; Ord. 409, passed 12-21-1987; Ord. 572, passed 10-18-1999; Ord. 573A, passed 10-18-1999)

CHAPTER 92: STREETS AND SIDEWALKS

Section

Driveway Construction and Repair

Cross-reference:

Camping on public and commercial property, see §§ 90.090 and 90.091

DRIVEWAY CONSTRUCTION AND REPAIR

§ 92.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CULVERT. The drainage pipe under a driveway on a street which has an open ditch storm drain along the roadway.

CURB CUT. The entire width of the driveway from full curb to full curb.

DRIVEWAY. The portion of a street providing access to private property from the edge of the roadway or traveled portion of the street to the property line intended and used for ingress and egress of vehicles to a public street from private property.

IMPROVED STREET. A public street on which the roadway has been improved by the construction of concrete or asphaltic surface with curbs and gutters.

STANDARD CITY SPECIFICATIONS. Plans, specifications and standards adopted by the City Council pursuant to § 92.03.

UNIMPROVED STREET. A street other than an improved street.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.02 PERMITS.

(A) *Permit required.* No person shall remove, alter, construct or reconstruct any curb, sidewalk, driveway, gutter, pavement or other improvements on or in any public street, alley or other property owned by or dedicated to the city and over which it has jurisdiction without first obtaining a permit.

(B) *Application for permit.* An application for a permit shall be filed with the Superintendent of Public Works on a form prescribed by the city, and shall contain any information as may be required by the Superintendent. After determining that the proposed improvement is to be constructed in accordance with standard city specifications, the Superintendent shall issue a permit for the work to be done.

(C) *Fees for permits.* Before any permit is issued on an improved street the applicant shall pay to the city a permit fee of $10 plus:

(1) Ten cents per square foot of sidewalk to be removed or altered; and

(2) Twenty cents per lineal foot of curb and gutter to be removed or altered.

(D) *Culvert.* When laying a culvert under a driveway on an unimproved street the permit fee shall be the actual cost of construction when the construction is performed by the city. Before the permit shall be issued, the applicant must deposit with the city a sum of money equal to the estimated cost of the work. Upon completion of the installation, the actual costs thereof shall be determined; the deposited funds shall be applied toward payment thereof; any surplus of deposited funds shall be returned to the applicant; and any deficiency between actual costs and deposited funds shall be paid by the applicant to the city. If the applicant chooses to install a culvert under a driveway on an unimproved street at his or her own expense, the permit fee shall be $10.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.03 STANDARD PLANS AND SPECIFICATIONS.

(A) The Superintendent of Public Works shall formulate standard plans and specifications for the construction of sidewalks, curbs, gutters, driveways and driveway culverts, and from time to time shall recommend amendments thereto deemed by him or her to be in the best interests of the city. The plans and specifications and proposed amendments shall be submitted to the Council for adoption by resolution. All these improvements shall be constructed in accordance with the standard plans and specifications so adopted and in effect at the time.

(B) Separate standard plans and specifications may be proposed and adopted applicable to different use classifications of properties, such as industrial, commercial, residential or other uses. They shall also

include designations of sidewalk widths, driveway widths, the spacing of driveways and the location of driveways relative to intersections and other improvements.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.04 DRIVEWAYS; ABANDONMENT AND REVOCATION.

(A) Any permissive use for driveway purposes of any area within a public street of the city, whether granted by permit under this subchapter or any other ordinance of the city, or any driveway established without permit, may be revoked by the City Council after notice and public hearing if the City Council shall find that:

(1) No need exists for vehicular access to the private property to which the driveway extends, considering the use being made of the property at the time;

(2) The driveway has been abandoned;

(3) The private property to which the driveway extends is accessible by vehicles from some other location or in some other manner;

(4) The location of the driveway and its use constitutes a hazard to vehicular or pedestrian traffic using any adjacent street or streets; or

(5) The driveway is not being maintained so as to keep it in a good state of repair and free from hazards.

(B) Notice of intent to revoke a permit shall be given in writing to the owners of the property personally or sent to the owners by certified or registered mail at the address last shown on the tax rolls of this county. The notice shall specify the intent; state the time and place at which a hearing on the matter will be held; and advise the owner that he or she may be heard thereon at that time and place. The notice shall be given at least ten days before the date of the hearing. Failure to give the notice in any one or more of the manners herein provided shall not invalidate the proceedings; provided the owner shall have received actual notice in any other manner or if he or she appears personally or by agent at the hearing.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.05 DRIVEWAYS; AREA RESTORATION.

(A) Upon the termination of any driveway whether by revocation of permit or expiration of term, or abandonment or otherwise, the authority, rights and privileges granted shall cease and the owner of the property to which the driveway leads shall, within a period of 60 days thereafter, remove or modify the driveway area, including the sidewalk, parkway, curb, gutter and other areas where the driveway is located, and shall reconstruct the sidewalk, parkway, curb, gutter and other improvements which were used for the driveway to the end that they shall be restored to the same condition as the adjacent

sidewalk, parkway, curb, gutter and other improvements. The restoration work shall be done by the property owner at his or her own expense.

(B) In the event of the failure, neglect or refusal on the part of any property owners to remove driveways and restore the sidewalk, parkway, curb, gutter and other improvements to the restoration conditions prescribed in division (A) of this section, the city may proceed to restore the same and charge the expense thereof to the property or properties to which the driveway leads, and the cost thereof shall become liens upon the properties and shall be entered as liens upon the same in the lien docket of the city.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.06 VARIANCES.

(A) Upon written application, and subsequent to a hearing, the City Council may grant variances for the requirements of this chapter if it determines that either of the following conditions exist:

(1) Strict compliance with the requirements will constitute a taking of property without due process of law; or

(2) Strict compliance with the requirements will create an unreasonable hardship in the use of the property to be served by the improvement, but will not be contrary to the public interest and will not unreasonably or adversely affect other properties or persons.

(B) Before granting any variance the Council shall afford all interested persons the opportunity to be heard on the matter and shall give notice of the hearing by publication in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

CHAPTER 93: PARKS AND RECREATION

Section

Park Board; Membership

Rules and Regulations

PARK BOARD; MEMBERSHIP

§ 93.01 ESTABLISHMENT.

There is hereby created and established a Park Board.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.02 MEMBERSHIP.

(A) *Members, generally*. The Park Board shall consist of six voting members and a generally non-voting Chair, who may vote only in the event of a tie and is selected by the voting members. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Board. The Mayor shall appoint the members, with confirmation by the City Council. One voting member may be appointed, who need not live within the corporate limits of the city. The remainder of the voting members shall live within the corporate limits of the city unless a Board position remains vacant for 90 days. The vacant position can then be filled from outside the corporate limits of the city. One member, selected by the Board, shall serve as Secretary to the Board and shall prepare minutes of each meeting.

(B) *Unexcused absences*. In the event of three consecutive unexcused absences from the regularly scheduled meetings of the City Park Board, the Mayor shall declare that position vacant and may fill the position as per division (A) of this section.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007; Ord. 643, passed - -; Ord. 21-694, passed 3-15-2021)

§ 93.03 TERMS.

The initial terms of the members shall be as follows: Chair for two years, beginning with the first meeting in January of even-numbered years; three members for one year; two members for two years; and two members for three years. Thereafter, all terms shall be for three years. All terms, except the Chair, shall expire on January 31 of the appropriate year.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.04 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Three voting members of the Park Board shall constitute a quorum. The Board shall make rules, regulations and procedures as it deems necessary, but all the rules, regulations and procedures shall be consistent with the laws of the state, the City Charter and city ordinances. The Board shall meet at least once every three months.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007; Ord. 20-687, passed 7-20-2020)

§ 93.05 COMPENSATION.

Members of the Board shall receive no compensation for services rendered, but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.06 POWERS AND DUTIES.

In general, the Board shall act in an advisory capacity to the City Council and the City Manager in the creation, development and implementation of park rules, regulations, activities and development, including structures located with the park system. In addition, the Board shall have the authority to grant or deny permission for certain activities not allowed or not addressed in the park rules and regulations in place at the time of request. If the Park Board recommends a special events contract, there may be a fee passed for the promise of year-to-year reservations. Decisions of the Park Board concerning usage can be appealed to the City Council at its next regular meeting upon written request of the applicant or any member of the Park Board. All decisions of the City Council in these matters shall be final.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.07 REPORTS.

The Board shall submit copies of its minutes to the City Council and shall, in February of each year, make and file an annual report of its activities to the City Council; and any other reports as from time to time may be requested of it by the City Council.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.08 LIFE OF BOARD.

The Park Board shall continue in existence so long as directed to do so by the Mayor and City Council.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

RULES AND REGULATIONS

§ 93.20 RULE AND REGULATIONS.

(A) Fires in the park areas shall be confined to:

(1) Park camp stoves or fireplaces provided for that purpose;

(2) Portable stoves in established campsites and picnic areas where fires are permitted; and

(3) No fire shall be left unattended, and every fire shall be fully and completely extinguished before its user leaves the park area.

(B) No person shall:

(1) Hunt, pursue, trap, kill, injure or molest any birds or animals or disturb their habitats;

(2) Discharge any firearm, pellet gun, bow and arrow, slingshot or other weapon capable of injuring any person, bird or animal; or

(3) Possess any loaded firearm in any park area except under agreement or special regulation of this city.

(C) Flowers, shrubs, foliage, tree or plant life or products of any type shall not be planted, picked, cut, mutilated or removed from any park area without written permission from the Park Board.

(D) No person shall mutilate, deface, damage or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder or other structure or facility of any kind in a park area. This proscription does not include ordinary control or maintenance of park areas or park property by park employees.

(E) No person shall, except under special regulation of the Park Board, dig up, deface or remove any dirt, stones, rock or other substances whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of the things within a park area.

(F) No person shall erect signs, markers or inscriptions of any type within a park area without the permission of the Park Board.

(G) Without prior approval of the Park Board no person in a park area may:

(1) Operate a concession, either fixed or mobile;

(2) Solicit, sell or offer for sale, peddle, hawk or vend any goods, wares, merchandise, food, liquids or services; or

(3) Advertise any goods or services by any means whatsoever.

(H) Motor vehicles shall be operated only on roads and in parking areas constructed or designated for motor vehicle use. No motor vehicle shall be operated on any trail or in any part of a park not constructed or designated for motor vehicle use, or on any road or trail posted as closed to public. Automobiles, trailer or other vehicles shall be parked only in designated parking areas. This division (H) shall not apply to control and maintenance of park areas or park property by city employees.

(I) No bottles, cans, ashes, waste, paper, garbage, sewage or refuse shall be left in the park area without the permission of the Park Board.

(J) No person shall set up or use a public address system in the park area without the permission of the Park Board.

(K) No person shall ride, drive, lead or keep a saddle horse or other animal in any park area except on roads, trails or areas designated for that purpose. No horse shall be hitched to any tree or shrub in a manner that may cause damage to the tree or shrub.

(L) No person shall operate or use any noise-producing machine, vehicle, device or instrument in a manner that is disturbing to other park area visitors.

(M) No person shall operate any motor vehicle within a park area at a speed in excess of 15 mph unless the roadway is posted otherwise.

(N) (1) Except for authorized overnight camping in accordance with these Council rules and regulations, no person other than law enforcement officers or authorized personnel shall enter or remain in any park area between the daily closing time and the daily opening time as established by the Park Board and posted at the entrance to the park area.

(2) Authorized camping is limited to that needed by vendors or security for special events, or by special provisions of a contract with the city. All camping must be in self-contained units and parked only in designated parking areas.

(O) No child under the age of five shall be allowed in any park area unless attended by a person responsible as an adult under the circumstances.

(P) The use or possession of fireworks on park property is not allowed.

(Q) Any security that will be provided must be state certified and approved by the City Police Chief.

(R) Rental fees must be paid for all days of use, including setup.

(S) No alcohol is permitted on park property unless approved by the Park Board and City Council.

(T) Parking is only allowed in areas designated for parking on the River Bend park map.

(U) Park hours of use shall be posted as daylight to dark. (Only scheduled events with special permission are allowed to conduct activities outside these hours.)
(1993 Code, Comp. No. 4-9) (Ord. 197, passed 10-1-1975; Ord. 413, passed 12-21-1987; Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

CHAPTER 94: ABATEMENT OF CHRONIC DISORDERLY PROPERTIES

Section

§ 94.01 PURPOSE.

The purpose of this chapter is to provide a method for the city to hold persons who allow criminal activity to occur on their property responsible for their actions while protecting their property rights. (Ord. 18-678, passed 4-2-2018)

§ 94.02 DEFINITIONS.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

CHRONIC DISORDERLY PROPERTY.

(1) Property in the city limits on which three or more prohibited activities have occurred during any 60-day period.

(2) Property in the city limits on which or within 200 feet of which any person associated with the property has engaged in three or more prohibited activities during any 60-day period.

CONTROL. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on a property.

PERMIT. To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

PERSON ASSOCIATED WITH. Any person who, on the occasion of a prohibited activity, has entered, patronized, or visited, or attempted to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

PERSON IN CHARGE. An agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

PROHIBITED ACTIVITIES.

(1) Harassment as defined in O.R.S. 166.065(1)(a) or within the city code.

(2) Intimidation as provided in O.R.S. 166.155 to 166.165.

(3) Disorderly conduct as provided in O.R.S. 166.025 or within the city code.

(4) Assault or menacing as provided in O.R.S. 163.160, 163.165, 163.175, 163.185, or 163.190.

(5) Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as provided in O.R.S. 163.415, 163.425, 163.427, 163.435, or 163.445.

(6) Public indecency as provided in O.R.S. 163.465.

(7) Prostitution or related offenses as provided in O.R.S. 167.007, 167.012, and 167.017.

(8) Alcoholic liquor violations as provided in O.R.S. 471.105 to 471.482.

(9) Offensive littering as provided in O.R.S. 164.805.

(10) Criminal trespass as provided in O.R.S. 164.243, 164.245, 164.255, or 164.265.

(11) Theft as provided in O.R.S. 164.015 to 164.140.

(12) Possession, manufacture, or delivery of a controlled substance or related offenses as provided in O.R.S. 167.203, 475.005 to 475.285, or 475.940 to 475.995.

(13) Illegal gambling as provided in O.R.S. 167.117, 167.122, or 167.127.

(14) Criminal mischief as provided in O.R.S. 164.345 to 164.365.

(15) Property which in addition to or in combination with the prescribed number and duration of prohibited activities, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in O.R.S. 167.203, 475.005 to 475.285 and/or 475.940 to 475.995 have occurred.

(16) Violating city code (1): keeping an animal that, by loud and frequent continued noise, disturbs the comfort and repose of a person in the vicinity.

(17) Discharge of firearms in violation of the city code.

(18) Frequenting a place where controlled substances are used as provided in O.R.S. 167.222.

PROPERTY. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any residential premises, room, house, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, ***PROPERTY*** is limited to the unit or the portion of the property on which any prohibited activity has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping. (Ord. 18-678, passed 4-2-2018)

§ 94.03 VIOLATION.

(A) Property within the city that is a chronic disorderly property is in violation of §§ 94.01 to 94.09 and subject to their remedies.

(B) Any person in charge of such property who permits the property to be a chronic disorderly property is in violation of §§ 94.01 to 94.09 and subject to their remedies.
(Ord. 18-678, passed 4-2-2018)

§ 94.04 PROCEDURE.

(A) When the Chief of Police or his or her designee receives two or more reports documenting the occurrence of prohibited activity on or within 200 feet of a property within the city limits, the Chief of Police or his or her designee shall independently review the reports to determine whether they describe prohibited activities enumerated in this code under this chapter. Upon such a finding the Chief of Police or his or her designee may:

(1) Notify the person in charge and property owner in writing that the property is in danger of becoming chronic disorderly property. The notice shall contain the following information:

(a) The street address or legal description sufficient for identification of the property.

(b) A statement that the Chief of Police has information that the property may be chronic disorderly property, with a concise description of the prohibited activities that may exist, or that have occurred. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the prohibited activities giving rise to the violation.

(c) Demand that the person in charge respond to the Chief of Police within ten days to discuss the prohibited activities.

(2) When the Chief of Police receives a report documenting the occurrence of a fourth prohibited activity at or within 200 feet of a property in a residential neighborhood within a 60-day period and determines that the property has become chronic disorderly property, the Chief of Police shall:

(a) Notify the person in charge in writing that the property is a chronic disorderly property. The notice shall contain the following information:

1. The street address or legal description sufficient for identification of the property.

2. A statement that the Chief of Police has determined the property to be chronic disorderly property with a concise description of the prohibited activities leading to the findings.

3. Demand that the person in charge respond within 14 days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the prohibited activities giving rise to the violation.

4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic disorderly property, or any other place which is likely to give the person in charge notice of the determination by the Chief of Police.

5. A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the property is located, the occupant, at the address of the property, if these persons are different from the person in charge, and shall be made either personally or by first class mail, postage prepaid.

6. A copy of the notice shall be posted at the property.

7. The failure of any person to receive notice that the property may be a chronic disorderly property shall not invalidate or otherwise affect the proceedings under §§ 94.01 to 94.09.

(b) Chronic disorderly property, as defined by § 94.02, shall be subject to the notification requirements of division (A)(1) and (2) of this section.

(c) If, after the notification, but prior to the commencement of legal proceedings by the city pursuant to §§ 94.01 to 94.09, a person in charge stipulates to the Chief of Police that the person in charge will pursue a course of action the parties agree will abate the prohibited activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days. If the agreed course of action does not result in the abatement of the prohibited activity or if no agreement concerning abatement is reached within 30 days, the Chief of Police may refer the matter to the City Manager for review.

(d) Concurrent with the notification procedures set forth in division (A)(1) and (2) of this section, the Chief of Police shall send copies of the notice, as well as any other documentation which supports legal proceedings against the property, to the City Manager.

(3) When a person in charge makes a response to the Chief of Police as required by division (A)(2)(c) of this section, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any prohibited activities have or are occurring. This division (A)(3) does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose.
(Ord. 18-678, passed 4-2-2018)

§ 94.05 BURDEN OF PROOF; DEFENSES; MITIGATION OF CIVIL PENALTY.

(A) In an action for chronic disorderly property, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic disorderly property.

(B) It is a defense to an action for chronic disorderly property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic disorderly property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic disorderly property.

(C) In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall cite those found applicable:

(1) The actions taken by the person in charge to mitigate or correct the prohibited activities at the property;

(2) The length of time that the prohibited activity has been going on and whether the problem at the property was repeated or continuous;

(3) The magnitude or gravity of the problem;

(4) The cost to the city of investigating and correcting or attempting to correct the prohibited activities;

(5) Any other factor deemed by the court to be relevant.
(Ord. 18-678, passed 4-2-2018)

§ 94.06 CLOSURE DURING PENDENCY OF ACTION; EMERGENCY CLOSURES.

Any emergency closure proceeding initiated under this provision shall be based on evidence showing that prohibited activities have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of emergency closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In such an event the notice procedures set forth in § 94.04(B) need not be complied with.
(Ord. 18-678, passed 4-2-2018)

§ 94.07 COMMENCEMENT OF ACTION; REMEDIES.

(A) The City Manager may authorize the City Attorney to commence legal proceedings to enjoin or abate chronic disorderly property and to seek closure, the imposition of civil penalties against any or all of the persons in charge of the property, and any other relief deemed appropriate.

(B) If, after the commencement but prior to the trial of an action or suit brought by the city pursuant to §§ 94.01 to 94.09, a person in charge of chronic disorderly property stipulates to the city that he or she will pursue a course of action the parties agree will abate the prohibited activities giving rise to the violation, the city may agree to stay proceedings for a period of not less than ten nor more than 60 days. The person in charge or the city may thereafter petition the court for additional like periods of time as may be necessary to complete the action to abate the prohibited activities. However, if the city reasonably believes the person in charge of a property is not diligently pursuing the action necessary to abate the prohibited activities, the city may apply to the court for release from the stay and may seek relief deemed appropriate.

(C) If a court determines property to be chronic disorderly property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than three months, nor more than one year. The court shall retain jurisdiction during any period of closure. The person in charge may petition the court for an order reducing the period of closure if the person in charge and the city stipulate that the nuisance has been and will continue to be abated.

(D) If a property is found to be chronic disorderly property in violation of § 94.03, the person in charge of the chronic disorderly property is subject to a civil penalty of up to $100 per day for each day prohibited activities occur on the property, following notice pursuant to § 94.04(B).

(E) Nothing in these provisions shall require any conviction for criminal activities prior to the commencement of any action provided herein.
(Ord. 18-678, passed 4-2-2018)

§ 94.08 ENFORCEMENT.

(A) The court may authorize the city to physically secure the property against all access, use or occupancy if the person in charge fails to do so within the time specified by the court. If the city is authorized to secure the property, all costs reasonably incurred by the city to physically secure the property shall be paid to the city by the person in charge and may be included in the city's money judgment. As used in this division (A), ***COSTS*** means those costs actually incurred by the city for physically securing the property, as well as tenant relocation costs pursuant to division (E) below.

(B) The city shall prepare a statement of the costs expended for physically securing the property and submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by ORCP 68, the statement of costs shall be included in the city''s money judgment.

(C) Judgments imposed by §§ 94.03 to 94.09 shall bear interest at the rate of 9% per year from the date the judgment is entered.

(D) Any person who is assessed the costs of physically securing the property by the court shall be personally liable for the payment of costs to the city.

(E) The person in charge shall pay reasonable relocation costs of a tenant, as defined by O.R.S. 90.100(16), if, without actual notice, the tenant moved into the property after either:

(1) A person in charge received notice from the Chief of Police of the determination pursuant to § 94.04(B); or

(2) A person in charge received notice of an action brought pursuant to § 94.07.
(Ord. 18-678, passed 4-2-2018)

§ 94.09 ATTORNEY FEES.

In any action pursuant to §§ 94.01 to 94.09, the court may award attorney's fees to the prevailing party.
(Ord. 18-678, passed 4-2-2018)

§ 94.10 ENFORCEMENT PROCEDURES FOR VIOLATIONS.

The city adopts and incorporates by reference herein the Oregon Revised Statutes regarding procedures for processing violations as described in O.R.S. 153.005 to 153.161. Therefore, the Winston Municipal Code hereby authorizes city employees to process violations pursuant to state law per the above listed sections.
(Ord. 18-678, passed 4-2-2018)

§ 94.11 EXCLUSION FROM PUBLIC LAND.

(A) In addition to any other remedy or penalty provided by law, a peace officer or other person specifically authorized by the City Manager may exclude a person who violates a provision of the state or local law or rule from that public land for a period of up to 90 days.

(B) A person excluded pursuant to this division (A) of this section may not enter or remain upon that public land during the exclusion period except a person excluded from the City Hall building may enter upon or remain at the City Hall building to the extent necessary to file documents required to be filed with a city official or appear in a municipal court proceeding.

(C) A person will be given a warning and an opportunity to comply with the law or rule before an exclusion notice is issued unless the exclusion is based on:

(1) Conduct punishable as a felony;

(2) Controlled substances or alcoholic beverages;

(3) Actions actually or likely to result in personal injury or property damage; or

(4) The person having been previously warned or excluded for the same conduct in a separate situation.

(D) An exclusion notice will not be issued if the person promptly complies with the warning under division (C) above.

(E) An exclusion notice will be written and include:

(1) The signature of the issuing party and date of issuance;

(2) The effective dates of the exclusion period;

(3) The places from which the person is excluded;

(4) The provisions of law violated;

(5) A brief description of the offending conduct;

(6) A statement of the consequences for failure to comply; and

(7) The appropriate municipal court procedures.

(F) This chapter does not authorize exclusion of a person lawfully exercising free speech rights or other rights protected by state and federal law.

(G) At any time during an exclusion, a person receiving an exclusion notice may petition in writing to the City Manager or designee, for a temporary waiver of the exclusion for good reason.
(Ord. 18-680, passed 6-18-2018)

§ 94.12 APPEAL OF EXCLUSION NOTICE.

(A) Any person receiving an exclusion notice may appeal to the municipal court and seek to have the exclusion reversed or the exclusion period shortened.

(B) An appeal of an exclusion notice must be filed with the city within ten calendar days of receipt of the notice, unless extended by the municipal court.

(C) An appeal of an exclusion notice automatically stays the exclusion period until a decision on appeal is issued by the municipal court.

(D) The municipal court will conduct a de nova hearing and decide all appeals within ten days of their filing unless the hearing date is extended by court order or the hearing requirement is waived by the petitioner.
(Ord. 18-680, passed 6-18-2018)

§ 94.13 APPEAL OF TEMPORARY WAIVER DECISION.

(A) Any person who has requested a temporary waiver of an exclusion pursuant to § 94.11(G) may appeal to the municipal court and seek to have the decision of the City Manager or the Manager's designee reversed or modified.

(B) An appeal brought under this section must be filed with the city within ten calendar days of receipt of the notice of the decision of the City Manager or the Manager's designee, unless extended by the municipal court.

(C) The municipal court will conduct a de nova hearing and decide all appeals within ten days of their filing unless the hearing date is extended by court order or the hearing requirement is waived by the petitioner.
(Ord. 18-680, passed 6-18-2018)

TITLE XI: BUSINESS REGULATIONS

Chapter

CHAPTER 110: BUSINESS LICENSES

Section

Cross-reference:

Transient room tax, see Ch. 35

§ 110.01 PURPOSE.

This chapter is enacted, except as otherwise specified, to provide revenue for municipal purposes and to provide for the health, safety and welfare of the citizens of this city through regulation of businesses, occupations and trade.

(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.02 EXEMPTIONS.

(A) Nothing in this chapter shall be construed to apply to any person transacting and carrying on business within the city which is exempt from taxation or regulation by the city by virtue of the Constitution of the United States or this state.

(B) No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the city, and it is the intention that all license taxes and fees will be borne by the employer.

(C) Any business paying a franchise tax or fee under any city ordinance or resolutions now existing is exempt from the requirements of this chapter.

(D) Wholesalers making deliveries or taking orders from duly licensed retail outlets within the city are exempt from this chapter.

(E) Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than $1,500, is exempt from this chapter.

(F) Except as provided in § 110.12, nonprofit organizations are exempt from this chapter.

(G) Garage sales, as defined in this chapter, are exempt from this chapter.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. Agent or owner of the named business.

AUCTION. The sale, or offer to sell, by public outcry or to the highest bidder.

BUSINESS. Any profession, trade, occupation, shop and every type of calling wherein a charge is made for goods, materials or services.

FLEA MARKET. Any casual sale, display of goods for the sale or offer to sell, commonly known as a ***FLEA MARKET, FARMERS MARKET, CRAFT MARKET, SWAP MEET*** or any similar term, and including any auction, antique, rummage, tailgate or any other sale similar in nature, wherein all or part of the goods consist of new or used property which is advertised by any means whereby the public at large is or may be made aware of the sale and the sale is conducted within the city limits. Individual booths may operate not more than three consecutive days in any calendar week, and during the other four days merchandise for sale, booths, tents, portable awnings and tables must be removed.

GARAGE SALE. Any casual sale, display of goods for the sale or offer to sell, commonly known as a ***GARAGE SALE,*** and including any auction, antique, rummage, tailgate or any other sale similar in nature, wherein all or part of the goods consist of used personal property which is advertised by any means whereby the public at large is or may be made aware of the sale and the sale is conducted within the city limits.

LICENSE. The permission granted for the carrying on of a business, profession or occupation within the city limits.

LICENSEE. The business as specified and named by the applicant.

NONPROFIT ORGANIZATION. A bona fide organization with tax exempt status.

PEDDLER. A person or persons, traveling from place to place selling and delivering at the same time.

PERSON. All public and private corporations, including domestic and foreign corporations, firms, partnerships of every kind, associations, organizations, syndicates, joint ventures, societies, any other group acting as a unit, and individuals transacting and carrying on any business within the city.

REVOCATION (OF ANY BUSINESS LICENSE). Withdrawal of approval to operate a business.

SOLICITOR. One who travels from place to place, not carrying his or her goods with him or her, but taking orders for future deliveries.

SUSPENSION (OF BUSINESS LICENSE). An official order to suspend business operations pending correction or ceasing of certain conditions or practices.

TRANSIENT MERCHANT. One who occupies a temporary fixed location, sells and delivers from stock on hand and does business in much the same manner as a permanent business.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 498, passed 1-18-1994; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.04 LICENSE REQUIRED.

(A) A license fee is hereby imposed on any business not licensed by other ordinances of the city, and it shall be unlawful for any person to engage in the business within the city without first having obtained a license for the current year as provided under this chapter.

(B) The agent, or agents, of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for any failure to comply with the provisions of this chapter, or for any penalty assessed under this chapter, to the extent, and with like effect, as if the agent or agents were themselves the proprietors or owners of the business.

(C) A person engaged in business in more than one location, or in more than one business licensed under this chapter, shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

(D) A person representing himself or herself, or exhibiting any sign or advertisement that he or she is engaged in a business within the city on which a license fee is levied by this chapter, shall be deemed

to be actually engaged in the business and shall be liable for the payment of the license fee and subject to the penalties for failure to comply with the requirements of this chapter.

(E) The city may require proof of bonding or state registration. An applicant shall possess any county or state license required or shall be awaiting final approval by the county or state, if city approval is a prerequisite, before a city license will be issued.

(F) The City Council reserves the right to waive or reduce the fee for nonprofit organizations having tax exempt status.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013) Penalty, see § 110.99

§ 110.05 APPLICATION.

(A) Application for a new business license, or for renewal of an existing business license shall be made to the City Recorder upon forms furnished by the city. Each application shall state:

(1) The name of the proposed business;

(2) A description of the trade, shop, business, profession, occupation or calling to be carried on;

(3) The name and address of the applicant;

(4) The address at which the business will be conducted, or the address of its city office;

(5) The amount of the license fee tendered with application and the basis for its calculation;

(6) The signature of the applicant or agent making the application;

(7) The date of application;

(8) Evidence of satisfaction of state registration, bonding or insurance if required, including registration number and expiration date; and

(9) The year for which application is made.

(B) The City Recorder may require the applicant to supply any additional information necessary to determine under § 110.08 the applicant's qualifications for the license.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.06 LICENSE FEES.

All business license fees shall be determined by resolution of the City Council.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.07 TRANSFERS AND RELOCATIONS; TERMS OF LICENSE.

(A) *Transfer of license.* Transfers of ownership shall require the new owner to submit a business license application and fee to the City Recorder to be processed as though the business is new, even if the name of the business does not change.

(B) *Relocation of an existing business.* In the event a business relocates, the licensee shall reapply to the City Recorder to transfer the business license. The City Recorder may issue the license upon finding that the new location meets the requirements of this chapter.

(C) *License term.* A business license issued under this chapter shall be valid from the date of issuance until the following January 1.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.08 APPROVAL, DENIAL, REVOCATION OR SUSPENSION OF LICENSE.

(A) *Approval of application.*

(1) The City Council shall issue a decision on an application for a new business license within 30 days of the submission of a complete application and the required fee, upon a finding that the applicant has met all requirements of federal, state and county law, and this chapter.

(2) The City Recorder shall issue a license renewal upon finding that the applicant has met all requirements of federal, state and county law, and this chapter.

(3) If an application for a new license is approved, the City Recorder shall notify the applicant in writing. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license which the City Council deems necessary to protect the public health, safety or welfare which are required by federal, state or county law, or this chapter.

(B) *Denial, revocation or suspension of license.* The City Council may deny, suspend or revoke a business license upon finding that:

(1) The licensee fails to meet the requirements of or is doing business in violation of federal, state or county law or requirements of this chapter;

(2) The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related materials or license;

(3) The applicant's past or present violation of law or ordinance presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;

(4) The information supplied for the review does not indicate that the applicant has the special knowledge or skill required to perform the licensed activity; and

(5) The licensed activity or device would endanger property or the public health or safety.

(C) *Notice*. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under § 110.09. The notice shall be given at least 15 days before the revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.

(D) *Reapplication*. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

(E) *Disqualification*. A person whose application for any business license has been denied or whose license has been revoked for a total of two times within one year, or who has a total of four denials or revocations, shall be disqualified from applying for a license for a period of two years from the date of the revocation or denial.

(F) *Summary suspension*. Upon determining that a licensed activity or device presents an immediate danger to person or property, the City Recorder may summarily suspend the license for the activity or device. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. This notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under § 110.09. Within ten days of a summary suspension, the City Council shall review the pertinent facts which resulted in the suspension and shall determine whether the facts deem it necessary to continue the suspension in order to protect the health, safety and welfare of the citizens of this city, or to otherwise ensure that the requirements of this chapter are complied with. The City Council may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under § 110.09.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.09 APPEAL.

In the event an applicant for a license under this chapter is denied the license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the City Council shall be filed with the City Recorder within 15 days after the denial of license or license suspension or revocation. The City Council shall hear and make a determination in regards to the appeal at its next regular meeting immediately following the filing of the notice of appeal. The decision of the City Council on the appeal shall be final and conclusive.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.10 DISCLAIMERS, EXCEPTIONS, GENERAL REQUIREMENTS.

(A) *Disclaimers and exceptions*. The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein, in the event the business shall be unlawful, illegal or prohibited by the laws of this state or the United States, or ordinances of the city.

(1) Nothing herein contained shall be taken or construed to vesting any right in any license as a contract obligation on the part of the city. Business license fees, as set by Council resolution, may be increased or decreased, and other or additional taxes or fees may be levied, increased or decreased at any time by the City Council. No person having paid the fee required, and having made application for a business license, shall be entitled to any refund.

(2) None of the fees, bonds or insurance requirements provided for in this chapter or the rules adopted under this chapter shall be required if the applicant is a municipality.

(B) *General license requirements*. In addition to any other requirement of this chapter, each licensee shall:

(1) Conform to all federal, state and local laws and regulations, the provisions of this chapter and any rules adopted hereunder;

(2) Notify the city within ten days of any change in material information contained in the application, related materials or license; and

(3) Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to and officer of employee of the city.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.11 SPECIFIC REQUIREMENTS.

(A) *Second-hand goods*. A business dealing in the purchase or trade of second-hand goods, such as but not limited to precious metals and jewelry, guns or electronic equipment, shall keep a record of the sales for inspection by the Chief of Police. This record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.

(B) *Merchant police, security services and similar businesses*. Each individual shall agree to a complete background check by the Chief of Police to determine the qualifications and reliability of the individual for the proposed business. The city may require a bond and any insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved, which approval to be based on the complete background check.

(C) *Peddlers, solicitors*. The applicant must supply the names, addresses, dates of birth and any other pertinent information regarding each individual intending to take part in the solicitation. Each individual shall agree to a complete background check by the Chief of Police to determine the qualifications and reliability of the individual. The city may require a bond and any insurance as may be deemed proper. The license shall be issued only upon the Police Chief's approval of each person involved, which approval to be based on the complete background check.

(D) *Nonprofit organizations*.

(1) A nonprofit organization which will conduct any type of business within the city on a continuous basis throughout the year shall make application to the City Recorder upon suitable forms, furnished by the city, for the license to carry on the business for the current year. Upon submission of the applicant and payment of the fee, the City Recorder shall submit the application to the City Council at its next regular meeting. After once obtaining approval by the Council, subsequent annual renewals of the nonprofit organization business license may be approved by the City Recorder. After once issued, the licensed business is subject to all the provisions of this chapter.

(2) Approval of a business license for a nonprofit organization required in division (D)(1) of this section is subject to the following additional conditions:

(a) The business license is only for activities conducted by members; and

(b) Nonprofit organizations are requested to obtain any and all county, state and federal permits for the business to be conducted.

(E) *Outside activities*. In the event a licensed business contracts to sponsor an outside activity, i.e., rodeo, circus, carnival and the like, a regular city business license must be obtained for that specific activity and the usual business license fee must be paid.

(F) *Garage sales*. No person shall conduct a garage sale exceeding five days' duration, nor participate in more than three garage sales in any one calendar year, nor permit more than three garage

sales to be conducted on any one property under his or her control in any one calendar year. The foregoing requirements shall not be in effect for the one day every year declared by the City Council to be "Trader Day."
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 498, passed 1-18-1994; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

§ 110.12 VIOLATIONS.

(A) *Inspection and right of entry*. Whenever they shall have cause to suspect a violation of any provisions of this chapter, or when necessary to investigate an application for or revocation of a license under any of the procedures prescribed in this chapter, officials responsible for enforcement or administration of this chapter, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, providing they do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

(B) *Abatement*. Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as one.

(C) *Legal proceedings by City Attorney*. In addition to the enforcement provisions of this chapter, upon request by the City Council, the City Attorney may institute any additional proceedings, including but not limited to seeking injunctive relief to enforce the provisions of this chapter.

(D) *Flea markets, farmers markets, craft markets, swap meets and similar uses*. Any person convicted of violating any of the provisions of this chapter relating to flea markets and the like shall be punished by a fine of no less than $50 for any one offense, each day constituting a separate offense, nor may the fine for any one offense be more than $250.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 498, passed 1-18-1994; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013) Penalty, see § 110.99

§ 110.99 PENALTY.

Any person convicted of violating any of the provisions of this chapter shall be punished by a fine not to exceed $250 for any one offense, each day constituting a separate offense.
(1993 Code, Comp. No. 6-4) (Ord. 406, passed 9-21-1987; Ord. 594, passed 1-5-2004; Ord. 659, passed 10-21-2013)

CHAPTER 111: RECREATIONAL MARIJUANA TAX

Section

§ 111.01 PURPOSE.

For the purposes of this chapter, every person who sells marijuana items in the city is exercising a taxable privilege. The tax shall be imposed upon the sale of marijuana items by a marijuana retailer regulated under O.R.S. Chapter 475B; but shall not be imposed on marijuana sold by medical marijuana dispensaries registered under O.R.S. 475B.858.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.02 DEFINITIONS.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

DIRECTOR. The City Manager for the city or his/her designee.

GROSS TAXABLE SALE(S). The total amount received in money, credits, property and/or other consideration from sales of marijuana items.

MARIJUANA ITEM(S). Has the meaning assigned to such terms under O.R.S. Chapter 475B.

MARIJUANA RETAILER(S) or ***SELLER(S).*** A person who sells marijuana items to a consumer in this state and who holds a license under O.R.S. 475B.015(23).

PERSON. Natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

PURCHASE or ***SALE.*** The acquisition or furnishing of marijuana items for consideration by any person within the city.

TAX. Either the tax payable by the seller or the aggregate amount of taxes due from a seller during the period for which the seller is required to report collections under this chapter.

TAXPAYER. Any person obligated to account to the Finance Director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.03 TAX IMPOSED.

To the fullest extent permitted under O.R.S. 475B.491, there is hereby levied a tax which shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items. The amount of tax levied shall be 3% of the gross sales of the marijuana retailer in the area subject to the city's jurisdiction. The seller shall collect the tax at the point of sale of a marijuana item. Subject to applicable law, the tax rate may be adjusted from time to time by Council resolution.
(Ord. 20-689, passed 8-3-2020)

§ 111.04 DEDUCTIONS.

The following deductions shall be allowed against sales received by the seller providing marijuana:

(A) Refunds of sales actually returned to any purchaser; and

(B) Any adjustments in sales which amount to a refund to a purchaser, providing such adjustment pertains to the actual sale of marijuana and does not include any adjustments for other services furnished by a seller.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.05 SELLER RESPONSIBLE FOR PAYMENT OF TAX.

(A) Every seller shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the Director, on forms provided by the city, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The seller may request or the Director may establish shorter reporting periods for any seller if the seller or Director deems it necessary in order to ensure collection of the tax and the Director may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the Director.

(B) At the time the return is filed, the full amount of the tax collected shall be remitted to the Director. Payments received by the Director for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions that are not prejudicial to the interest of the city. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

(C) Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any seller if the Director deems it necessary in order to insure collection of the tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by sellers pursuant to this chapter shall be held in trust for the account of the city until payment is made to the Director. A separate trust bank account is not required in order to comply with this provision.

(D) Every seller required to remit the tax imposed in this chapter shall be entitled to retain 5% of all taxes due to defray the costs of bookkeeping and remittance.

(E) Every seller must keep and preserve in an accounting format established by the Director records of all sales made by the dispensary and such other books or accounts as may be required by the Director. Every seller must keep and preserve for a period of three years all such books, invoices and other records. The Director shall have the right to inspect all such records at all reasonable times.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.06 PENALTIES AND INTEREST.

(A) Any seller who fails to remit any portion of any tax imposed by this chapter within the time required shall pay a penalty of 10% of the amount of the tax, in addition to the amount of the tax.

(B) Any seller who fails to remit any delinquent remittance on or before a period of 60 days following the date the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the penalty first imposed.

(C) If the Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any seller who fails to remit any tax imposed by this chapter shall pay interest at the rate 1% per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(E) Every penalty imposed, and such interest as accrues under the provisions of this section, shall become a part of the tax required to be paid.

(F) All sums collected pursuant to the penalty provisions in divisions (A) through (C) of this section will be distributed to the city's General Fund.

(G) Penalties for late tax payments may be waived or reduced if approved by City Council pursuant to City Council policy. Nothing in this division requires the city to reduce or waive penalties.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.07 FAILURE TO REPORT AND REMIT TAX; DETERMINATION OF TAX BY CITY DIRECTOR.

If any seller should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Director shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Director shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any seller, the Director shall proceed to determine and assess against such seller the tax, interest and penalties provided for by this chapter. In case such determination is made, the Director shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the seller so assessed at the last known place of address. Such seller may make an appeal of such determination as provided in § 111.08. If no appeal is filed, the Director's determination is final and the amount thereby is immediately due and payable.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.08 APPEALS.

Any seller aggrieved by any decision of the Director with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council. Any amount found to be due shall be immediately due and payable upon the service of notice.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.09 REFUNDS.

(A) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded as provided in the following division (B) of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director within one year of the date of payment. The claim shall be on forms furnished by the Director.

(B) The Director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Director shall notify the claimant in writing of the Director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Director to be a valid claim, in a manner prescribed by the Director a seller may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The seller shall notify Director of claimant's choice no later than 15 days following the date Director mailed the determination. In the event claimant has not notified the Director of claimant's choice within the 15 day period and the seller is still in business, a credit will be granted against the tax liability for the next reporting period. If the seller is no longer in business, a refund check will be mailed to claimant at the address provided on the claim form.

(C) No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Director acknowledged the validity of the claim.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.10 ACTIONS TO COLLECT.

Any tax required to be paid by any seller under the provisions of this chapter shall be deemed a debt owed by the seller to the city. Any such tax collected by a seller which has not been paid to the city shall be deemed a debt owed by the seller to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. In lieu of filing an action for the recovery, the city, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the city has complied with the provisions set forth in O.R.S. 697.105, in the event the city turns over a delinquent tax account to a collection agency, it may add a reasonable fee to the amount owing, not to exceed the collection fee of the collection agency.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.11 VIOLATION INFRACTIONS.

(A) In addition to the penalties provided in § 111.06, a violation of this chapter is an offense punishable by fine as well as imprisonment as set forth in this code. It is a violation of this chapter for any seller or other person to:

(1) Fail or refuse to comply as required herein;

(2) Fail or refuse to furnish any return required to be made;

(3) Fail or refuse to permit inspection of records;

(4) Fail or refuse to furnish a supplemental return or other data required by the Director;

(5) Render a false or fraudulent return or claim; or

(6) Fail, refuse or neglect to remit the tax to the city by the due date.

(B) The remedies provided by this chapter are not exclusive and do not prevent the city from exercising any other remedy available under the law.

(C) The remedies provided by this chapter do not prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.
(Ord. 20-689, passed 8-3-2020)

§ 111.12 CONFIDENTIALITY.

Except as otherwise required by law, it is unlawful for the city, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit:

(A) The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana is sold or provided;

(B) The disclosure of general statistics in a form which would not reveal an individual seller's financial information;

(C) Presentation of evidence to a court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the Director or an appeal from the Director for any amount due the city under this chapter;

(D) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or

(E) The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or when the tax exceeds $5,000. The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under O.R.S. 192.501(5).
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.13 AUDIT OF BOOKS, RECORDS OR PERSONS.

The city, for the purpose of determining the correctness of any tax return required, or for the purpose of an estimate of taxes due pursuant to this chapter, may examine or may cause to be examined by an agent or representative designated by the city for that purpose, any books, papers, records, or memoranda, including copies of seller's state and federal income tax return, bearing upon the matter of the seller's tax return. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the Director or an authorized agent of the Director. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the Winston Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any such books, accounts or records for examination.
(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

§ 111.14 FORMS AND REGULATIONS.

The Director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

(A) A form of report on sales and purchases to be supplied to all vendors; and

(B) The records which sellers providing marijuana are to keep concerning the tax imposed by this chapter.

(Ord. 664, passed 10-20-2014; Ord. 20-689, passed 8-3-2020)

CHAPTER 112: SECONDHAND PROPERTY DEALERS

Section

§ 112.01 DEFINITIONS.

For the purpose of this chapter, the following words and phrases are defined as follows:

NON-VALUABLE METALS. Limited to metals not regulated by state law, such as dental gold, unrefined metal ore, gold or silver coins, or bullion in any form.

PEACE OFFICER. A law enforcement official as defined in O.R.S. 133.005.

PERSONAL IDENTIFICATION. An identification card or document issued by a recognized governmental agency which bears the full name, signature, photograph, date of birth, and physical description of the issued person.

SECONDHAND PROPERTY. Merchandise which was previously owned by a private individual.

SECONDHAND PROPERTY DEALER. A person, or employee of any person, who operates, conducts, manages, or engages in any business which, as part or all of the business, purchases or sells secondhand property, and/or lends money on security of regulated property. Secondhand dealer, secondhand property dealer, and used merchandise dealer shall be used interchangeably.

SECONDHAND STORE. A place of business which buys and/or sells secondhand property.
(Ord. 20-686, passed 6-1-2020)

§ 112.02 PURPOSE.

(A) The intent of this chapter is to regulate the buying and selling of secondhand property by businesses located within the City of Winston. Nothing within this chapter is intended to supplant the State of Oregon's Pawnbrokers Act contained in O.R.S. Chapter 726, which relates to pawnbrokers licensed by the state to loan upon the security of secondhand property, nor the Precious Metals Act enacted within O.R.S. Chapter 646A applying to gold of eight karats or higher, silver, platinum, and palladium.

(B) Nothing in this chapter applies to charitable, non-profit organizations or to persons or businesses dealing exclusively in automobiles, farm implements and machinery, used books or audiobooks, secondhand clothing, or commercial and industrial scrap metal recycling.
(Ord. 20-686, passed 6-1-2020)

§ 112.03 PERMIT REQUIRED.

(A) No person shall engage in a secondhand property business without obtaining a secondhand dealer's permit from the city. Agents and employees who engage in the purchase of used merchandise must also obtain a permit from the city and are subject to all requirements of this chapter.

(B) The Council shall set the annual fee for a secondhand dealer's permit by resolution.

(C) Application for a used merchandise dealer's permit must be submitted on a form prescribed by the city. An application must be submitted at least 30 days prior to the date the permit is requested to be effective.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.04 BUSINESS REGISTRATION REQUIRED.

No person may operate as a secondhand property dealer within the City of Winston without first completing and filing a business registration application with the city pursuant to Chapter 110 of this code.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.05 LOCATION AND HOURS OF OPERATION.

Secondhand property dealers must operate out of an established storefront located at the address enumerated upon their business registration, conduct all sales under that business name, and maintain business hours that fall between the time(s) of 5:00 A.M. and 9:00 P.M.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.06 RECORD KEEPING REQUIREMENTS.

(A) Secondhand property dealers shall require, inspect and record the personal identification of all persons from whom they purchase secondhand property except for that purchased from and upon the premises of a privately held yard sale, estate sale, auction, or charitable event. Such records shall include the seller's full name, date of birth, address, type of personal identification used and signature. Such identification shall not be required if the customer's identity was previously recorded by the dealer from prior patronage or the customer is unequivocally known to the dealer as a personal friend or family member, provided such personal knowledge is documented in each individual transaction.

(B) Secondhand property dealers shall inspect and document all items of secondhand property purchased and keep a record of each purchase with the following identifiers, at a minimum, for each item:

(1) The identity of the seller as required in the above division (A);

(2) Date of purchase;

(3) Property type;

(4) Make and model;

(5) Color;

(6) Owner-applied number(s) or identifiers;

(7) Serial number(s);

(8) For jewelry: the weight, color, number of stones, setting and precious metal type;

(9) For collectible coins and stamps: a description of the amount and type;

(10) For non-valuable metals not covered by the Precious Metals Act: a description of the type, weight, and color of the metal(s);

(11) For all items: the purchase price of the secondhand property transaction; and

(12) The name of the representative of the secondhand property dealer who purchased the property. Photographs may serve as a basic description of the property so long as identifying numbers are documented in addition to the basic description, and records may be kept electronically rather than in writing provided the record contains all the required information.

(C) The records required in the above divisions (A) and (B) shall be created and maintained in chronological order by the date of purchase, retained upon the business premises of the secondhand property dealer for a minimum of one year from the date the property was purchased and be made available for inspection upon request by a peace officer during the operating hours of the secondhand property dealer.

(D) In the event the city utilizes an electronic secondhand property reporting system, written notice shall be given to all secondhand property dealers. Within 90 days of the date of such notice, all secondhand property dealers must maintain their secondhand property records in a digital or electronic format compatible with the system utilized by the city. Such form of documentation must comply with all requirements set forth in this section and the secondhand property dealer must submit such records electronically to the system utilized by the city within 72 hours of each individual purchase of secondhand property in addition to maintaining purchase records as described in division (C), above.

(E) Items of secondhand property which are high in volume and low in value such as secondhand clothing, used paperback books, non-valuable metals, vinyl albums, and cassette tapes may be entered into the purchase record more generally so long as the identity of the seller and volume and/or number of items are documented.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.07 RESTRICTION ON CERTAIN SALES.

(A) Secondhand property dealers are prohibited from selling any secondhand property item for a period of seven days for property valued less than $100 and a 20-day period for property with a value of over $100 after the purchase of such item. During such time, the secondhand property shall be maintained in the same form as purchased, kept on the business premises for potential inspection by peace officers and segregated from other merchandise for sale.

(1) Exceptions to the waiting period of seven days prior to selling the secondhand property may be made so long as the purchase record(s) as described in § 112.06 includes photographs of the secondhand property and that property has a value less than $100.

(2) Other exceptions to this waiting period may be made under the following circumstances and items of secondhand property:

(a) Large items such as appliances, furniture, and bicycles need not be segregated during the holding period due to storage limitations which would not allow segregation to be possible.

(b) High-volume items of secondhand music such as compact discs, cassette tapes, and vinyl albums need not be subjected to a holding period so long as their purchase record contains details on the album name and artist.

(c) Secondhand property purchased from yard sales, estate sales, auctions or charitable events need not be subject to this holding period.

(B) Secondhand property dealers shall refrain from selling any secondhand property item for a period of 30 days upon specific request by a peace officer based upon reasonable suspicion that the item of secondhand property may have been stolen and/or illegally sold.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.08 PROHIBITED PURCHASES.

Secondhand property dealers may not purchase secondhand property under any of the following circumstances:

(A) The seller is clearly under the influence of intoxicants or illicit drugs;

(B) The purchaser has reason to believe the seller is not the legal owner of the secondhand property; or

(C) The secondhand property contains any serial numbers or owner-applied identifiers which have been altered or obliterated.

(D) Any gift cards, in-store credit cards, or activated phone cards.

(E) Purchase from a person under the age of 18 years unaccompanied by a parent or guardian.
(Ord. 20-686, passed 6-1-2020) Penalty, see § 112.99

§ 112.99 PENALTIES.

Failure to comply with the requirements set forth in this chapter will subject the business registrant to the penalties set forth in §110.99. The remedies provided in this section are not exclusive and shall not prevent the city from exercising any other remedy available under law, either simultaneously or otherwise, including but not limited to seeking penalties as provided in § 10.99 of this code.
(Ord. 20-686, passed 6-1-2020)

TITLE XIII: GENERAL OFFENSES

Chapter

CHAPTER 130: GENERAL OFFENSES

Section

Drug Paraphernalia and Controlled Substances

Cross-references:

Abatement of chronic disorderly properties, see Ch. 94
Offenses concerning minors, see Ch. 131

STATUTES ADOPTED

§ 130.001 ADOPTION OF STATE STATUTES.

The city hereby adopts by reference and incorporates as offenses against the city all the offenses contained and defined in the following sections of state law as they now exist or as hereafter amended: O.R.S. Chapters 131, 133, 135, 136, 137, 138, 142, 147, 151, 153, 156, 157, 161 through 169, inclusive, 471 and 475.
(1993 Code, Comp. No. 4-17) (Ord. 395, passed 11-17-1986; Ord. 417, passed 12-21-1987)

GENERAL OFFENSES

§ 130.015 DEFINITIONS.

The definitions contained in O.R.S. Chapters 161 through 169, inclusive, as now constituted or as hereafter amended, are adopted by reference and made a part of this chapter. Except where the context clearly indicates a different meaning, the general definitions and the definitions appearing in the definitional and other sections of particular articles of the code shall be applicable throughout this subchapter.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

§ 130.016 DISORDERLY CONDUCT AND RELATED OFFENSES.

(A) *Disorderly conduct at fires*. No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with Fire Department personnel or Fire Department apparatus, behave in a disorderly manner or refuse to observe promptly an order of a member of the Fire or Police Department.

(B) *Unnecessary noise*. No person shall create or assist in creating or permit the continuance of unreasonable noise in the city. The following enumeration of violations of this section is not exclusive, but is illustrative of some unreasonable noises:

(1) The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity;

(2) The use of an engine, thing or device which is so loaded, out or repair or operated in a manner as to create a loud or unnecessary grating, grinding, rattling or other noise;

(3) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;

(4) The construction, including excavation, demolition, alteration or repair of a building other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the city; and

(5) The use or operation of an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof, or in a manner that renders the same a public nuisance; provided, however, that upon application to the Council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.017 WEAPONS AND FIREWORKS.

The following sections of the State Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this subchapter: O.R.S. 480.110, 480.120, 480.140(1) and 480.150.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

§ 130.018 OFFENSES RELATING TO PROPERTY.

(A) *Theft*. O.R.S. 164.015 to 164.045, 164.065 and 164.085 to 164.125 and O.R.S. 131.655, as now constituted or as hereafter amended, are adopted by reference and made a part of this subchapter, save and except penalty provisions.

(B) *Trespass*. No person shall enter or remain unlawfully in or upon premises.

(C) *Violating privacy of another*. No person other than a public official performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his or her own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.019 SEXUAL AND RELATED OFFENSES; PUBLIC INDECENCY.

No person shall, while in or in view of a public place, perform:

(A) An act of sexual intercourse;

(B) An act of deviate sexual intercourse;

(C) An act of exposing his or her genitals with the intent of arousing the sexual desire of himself, herself or another person; or

(D) An act of urination or defecation, except in toilets provided for that purpose.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.020 OBSTRUCTING GOVERNMENTAL ADMINISTRATION; COMMUNICATIONS.

No person shall operate any generator or electromagnetic wave or cause a disturbance of a magnitude as to interfere with the proper functioning of any Police or Fire Department radio communication system.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.021 PHYSICAL OBSTRUCTIONS.

(A) *Obstruction of building entrances*. No person shall obstruct any entrance, stairway or hall leading to any building.

(B) *Obstruction of fire hydrants*. No owner of property adjacent to a street upon which is located a fire hydrant shall place or maintain within eight feet of a fire hydrant any bush, shrub or tree, or other obstruction.

(C) *Vending goods on streets or sidewalks*. No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise, unless a license has first been obtained.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.022 MISCELLANEOUS.

(A) *Injury to fire apparatus*. No person shall lead, ride or drive any animal or operate any vehicle over or upon any fire hose or disturb or injure in any manner any hose, engine, appliance or apparatus belonging to or used by the Fire Department.

(B) *Posted notices*. No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority.

(C) *Offensive littering*.

(1) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permit any rubbish, trash garbage, debris or other refuse to be thrown from a vehicle which he or she is operating; except that this division (C)(1)(c) shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the State Public Utility Commissioner, or a person operating a school bus subject to O.R.S. 820.100 to 820.190.

(2) As used in this section, ***PUBLIC WAY*** includes but is not limited to roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the city, state or county for use by the general public.

(D) *Creating a hazard*. No person shall create a hazard by:

(1) Intentionally maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or

(2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, intentionally fail or refuse to cover or fence it with a suitable protective construction.

(E) *Misconduct with emergency telephone calls*. O.R.S. 166.095, as now constituted, or hereafter amended, is adopted and made a part of this subchapter, save and except penally provisions.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.023 GENERAL PROVISIONS.

(A) *Offenses outside city limits*. Where permitted by state law, an act made unlawful by this subchapter shall constitute an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.

(B) *Soliciting or confederating to violate ordinances*. No person shall solicit, aid, abet, employ or engage another, or confederate with another to violate a provision of this or any other ordinance of the city.

(C) *Attempt to commit offenses*. A person who shall attempt to commit any of the offenses mentioned in this subchapter or any ordinance of the city, but who for any reason is prevented from consummating the act, shall be deemed guilty of an offense.

(D) *Separate violations*. Whenever in this subchapter, or any ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense, or doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

(E) *Nuisance abatement*. No provisions in this subchapter shall preclude the abatement of a nuisance as provided in the general nuisance ordinance of the city.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.024 APPLICATION OF STATE STATUTES.

Provisions of O.R.S. Chapters 161 through 169, as the same now exists, or as hereafter amended, relating to defenses and burden of proof, general principles of justification, shall apply to offenses defined and made punishable by this subchapter.
(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

FLAMMABLE LIQUIDS

§ 130.035 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLASS I FLAMMABLE LIQUIDS. Gasoline, white gas and lacquer thinners or other flammable liquids having a flash point of less than 100°F.

CLASS II FLAMMABLE LIQUIDS. Kerosene, diesel, solvent or any other flammable liquids having a flash point between 100°F and 140°F.

CLASS III FLAMMABLE LIQUIDS. Heavy fuel oils such as lubricating oil, motor oil, mineral oil or other flammable liquids with a flash point in excess of 140°F.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.036 APPROVAL REQUIRED.

An approval issued pursuant to this subchapter shall be obtained by any person, firm or corporation from the authority having jurisdiction for any of the following:

(A) Storage, handling or use of Class I or Class II flammable liquids in excess of one gallon in a dwelling or residence; or in excess of six gallons in any other building or garage; or in excess of ten gallons outside any building; except that no approval shall be required for the following:

(1) The storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant;

(2) For the storage or use of paints, oil, varnishes or similar flammable mixtures when these liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days; or

(3) For the storage or use of home heating oil in a tank of 300 gallons capacity or less when the tank and contents are actually connected to and in use by the heating system of a building or home.

(B) Storage, handling or use of Class III flammable liquids in excess of 25 gallons in a building; or in excess of 60 gallons outside a building;

(C) For the manufacture, processing, blending or refining of flammable liquids; or

(D) For the storage of flammable liquids in stationary tanks.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.037 APPLICATION; INSPECTION.

Application for approval for the storage, handling or use of flammable liquids as herein required shall be made in writing to the authority having jurisdiction for the enforcement of this subchapter. The authority having jurisdiction shall then cause an inspection to be made of the premises and equipment proposed to be used. If they are found to be in compliance with this subchapter, a statement to that effect shall be noted upon the application and the application signed by the person making the inspection. The authority having jurisdiction shall thereupon grant approval as applied for, and on conditions as shall ensure the safety and welfare of the inhabitants of the city.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.038 INSPECTION.

Before operating any equipment or storing any flammable liquid or covering any underground portions of any equipment for which an approval is required, notification shall be given to the authority having jurisdiction; and he or she shall, within two working days thereof, cause the premises or equipment to be inspected.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.039 COMPLAINT OR NOTICE TO CORRECT VIOLATION.

The authority having jurisdiction may at any reasonable time inspect premises, buildings or installations for the storage, handling or use of flammable liquids. If a violation of this subchapter is found to exist, he or she shall either cause a complaint to be filed in the Municipal Court of the city for the violation or shall file with the owner, occupant or operator a notice citing the violation and ordering its correction.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.040 CONTAINERS, TANKS AND EQUIPMENT.

Containers, tanks and equipment meeting the standards of nationally recognized inspection or testing laboratories shall be considered as meeting the requirements of this subchapter.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.041 ENFORCEMENT.

The authority having jurisdiction to enforce this subchapter and to grant approvals thereunder shall be the Winston-Dillard Fire District and the police force of the city.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

FIREARMS AND WEAPONS

§ 130.055 DISCHARGE OF FIREARMS OR WEAPONS.

No person other than an authorized peace officer shall fire or discharge within the city any gun or weapon which acts by force of gunpowder or other explosive, or by the use of air, mechanical device, jet or rocket propulsion, including but not limited to bows and arrows, B.B. guns and sling shots.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975) Penalty, see § 130.999

§ 130.056 IMPOUNDMENT OR FORFEITURE OF WEAPONS.

It is further provided that when any person is convicted under this subchapter, the guns, weapons, explosive devices, rockets, bows and arrows, B.B. guns, sling shots or other weapons used to violate this subchapter shall be subject to impound or forfeiture of the city.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975)

§ 130.057 EXEMPTIONS.

(A) *Exemptions generally*. The City Council reserves the right to exempt individuals and organization from the provisions of this subchapter for good and sufficient reasons upon consultation with the Chief of Police.

(B) *Exemption from prohibition*. The provision of this division (B) shall be construed to prohibit the firing or discharge of a weapon or firearm as follows:

(1) By any person in the defense or protection of his or her home, person or family to the extent that the force is allowed by existing state statutes and case law; and

(2) At any place duly designated by the Chief of Police for target practice.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975; Ord. 507, passed 7-5-1994)

DRINKING IN PUBLIC; CONDUCT IN TAVERNS

§ 130.070 DRINKING IN PUBLIC PROHIBITED.

No person shall consume alcoholic beverages or possess an open alcoholic beverage container in or on a public way, public property or private property open to the general public, unless the premises or location's license has been endorsed by the City Council.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994) Penalty, see § 130.999

§ 130.071 LICENSE REQUIRED.

(A) An OLCC license application to dispense alcoholic beverages on a public way, public property or private property open to the general public must be presented to the City Council for its action at least 30 days prior to the event at which the alcoholic beverages will be dispensed.

(B) For the Council to endorse an application, the following criteria must be met:

(1) If the event is to be held in a city park, the event sponsor must be a nonprofit organization and the event must be open to the general public;

(2) If the event is to be held on or in a public way, the alcoholic beverage dispenser must be licensed by the State Liquor Control Commission to dispense the kind of alcoholic beverage to be dispensed and the event must be held in or on property or premises abutting, adjacent to or providing access to the property owned or controlled by the event sponsor or the OLCC licensee;

(3) The alcoholic beverage dispenser must have accepted responsibility to ensure the liquor consumption laws are observed at the event and must carry commercial general liability insurance in the amount of $500,000, combined single limited per occurrence, for bodily injury, personal injury and property damage for risk arising from the dispensing of alcoholic beverages;

(4) The event and its location must comply with all applicable state and local regulations, including but not limited to obtaining and paying the fee(s) for use of public facilities permits, street closure permits and the like;

(5) During the 12 months preceding an event, the event sponsor has not held more than three events authorized under this subchapter; and

(6) Any other conditions deemed necessary by the Council to protect the public health, safety or welfare.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.072 PUBLIC COMMENT.

Before making its decision, the Council shall provide the public an opportunity to testify concerning the application. The decision of the Council shall be final.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.073 REVOCATION OF ENDORSEMENT.

Even though the city may have authorized the endorsement of multiple events under this subchapter, the Council may revoke the endorsement at a time after the city has given ten days' prior written notice to the applicant of the city's intention to revoke the endorsement for the applicant's remaining events.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.074 EXCEPTIONS.

This subchapter does not apply to events sponsored by the city with City Council approval.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.075 VIOLATIONS.

Violation of this subchapter or any condition required by the City Council in endorsing the OLCC application for the dispensing of alcohol at an event approved under this subchapter constitutes a violation.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994) Penalty, see § 130.999

§ 130.076 DISORDERLY CONDUCT IN TAVERNS; COMPLAINT.

(A) *Disorderly conduct in taverns*. No owner, proprietor, employee or person in charge of any bar, tavern, lounge or other place where intoxicating liquor is regularly sold to the public shall permit or suffer any disorderly conduct to take place on the premises. The conduct of any person or persons which constitutes disorderly conduct shall be immediately reported by the proprietor, owner, employee or person in charge of the establishment to the Police Department of the city.

(B) *Complaint*. Whenever the owner or person in charge of a bar, tavern or lounge has requested the assistance of the City Police Department under this subchapter, that person shall, upon the request of the police officer at the scene, sign a complaint against anyone violating division (A) above. Any member of the Police Department additionally may, at its option, file a complaint in Municipal Court for violation of this subchapter based upon information and belief upon the report of the person in charge of the premises.
(1993 Code, Comp. No. 4-12) (Ord. 237, passed 3-6-1977; Ord. 341, passed 7-5-1983) Penalty, see § 130.999

DRUG PARAPHERNALIA AND CONTROLLED SUBSTANCES

§ 130.090 DEFINITIONS.

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTROLLED SUBSTANCE. O.R.S. 475.005(6) is adopted for the purpose of defining the term ***CONTROLLED SUBSTANCE*** as that term is used in this subchapter.

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in the definition of controlled substance. It includes but is not limited to:

(a) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used or intended for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;

(g) Separation gins and sifters used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

(j) Containers and other objects used or intended for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used or intended for use in parenterally injected controlled substances into the human body; and

(l) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, as a marijuana cigarette, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs; and

13. Ice pipes or chillers.

(B) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object, in time and space, to a direct violation of this subchapter;

(3) The proximity of the object to a controlled substance;

(4) The existence of any residue of controlled substances on the object;

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this subchapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this subchapter should not prevent a finding that the object is intended for use as drug paraphernalia;

(6) Instructions, oral or written, provided with the object concerning its use;

(7) Descriptive materials accompanying the object which explain or depict its use;

(8) National and local advertising concerning its use;

(9) The manner in which the object is displayed for sale;

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(11) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(12) The existence and scope of legitimate uses for the object in the community; and

(13) Expert testimony concerning its use.
(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.091 OFFENSES.

(A) *Possession of drug paraphernalia.* It is unlawful for any person to deliver, use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance except upon prescription of a licensed physician, dentist or other person authorized to prescribe the same under the laws of this state. Violations are subject to the provisions of § 130.999.

(B) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under

circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this subchapter. Violations are subject to the provisions of § 130.999.

(C) *Delivery of drug paraphernalia to a minor.* Any person 18 years of age or over who violates division (B) above by delivering drug paraphernalia to a person under 18 years of age is at least three years his or her junior is guilty of a special offense and upon conviction may be subject to the provisions of § 130.999.

(D) *Advertisement of drug paraphernalia.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended for use as drug paraphernalia. Any person who violates this division (D) is guilty of a crime and upon conviction may be subject to the provisions of § 130.999.
(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.092 CIVIL FORFEITURE.

Any violation of the preceding sections of this subchapter shall result in the civil seizure and forfeiture of all drug paraphernalia as defined by § 130.090 in the possession of any person convicted of any offense described in § 130.091.
(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.093 UNLAWFUL RECEIPT OR PURCHASE OF IMITATION CONTROLLED SUBSTANCE.

(A) No person shall knowingly pay for or offer or agree to pay for, receive or purchase a substance that is not a controlled substance upon the express or implied representation that the substance is a controlled substance. This section does not apply to the lawful dispensing or administering of substances.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTER, CONTROLLED SUBSTANCE and ***DISPENSE.*** As defined in O.R.S. 475.005.

PURCHASE. The actual or constructive transfer, or offer or agreement to transfer, from one person to another, whether or not there is an agency relationship.

RECEIVING. Acquiring possession, control or title.
(1993 Code, Comp. No. 4-18) (Ord. 455, passed 2-5-1990) Penalty, see § 130.999

§ 130.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Violation of any provision of §§ 130.015 through 130.024 is punishable by a fine not to exceed $1,000, or imprisonment not to exceed 365 days, or by both fine and imprisonment; provided, however, if there is a violation of any provision identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law.

(2) If a person has gained money or property through the commission of a violation of a provision of §§ 130.015 through 130.024, then upon conviction thereof the court, instead of imposing the fine authorized for the violation under division (B)(1) of this section, may sentence the person to pay an amount fixed by the court, not exceeding double the amount of the person's gain from the commission of the violation. In that event, O.R.S. 161.625(4) and (5) apply, the provisions of which are incorporated herein by this reference.

(3) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-11)

(C) (1) Any person, firm or corporation who shall violate any provision of §§ 130.035 through 130.041 shall be punished, upon conviction, by a fine of not more than $250 for each day the violation continues.

(2) If a person has gained money or property through the commission of a violation of a provision of §§ 130.035 through 130.041, then upon conviction thereof the court, instead of imposing the fine authorized for the violation under division (C)(1) of this section, may sentence the person to pay an amount fixed by the court, not exceeding double the amount of the person's gain from the commission of the violation. In that event, O.R.S. 161.625(4) and (5) apply, the provisions of which are incorporated herein by this reference.

(3) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-4)

(D) (1) Any person violating §§ 130.055 through 130.057 shall, on conviction thereof, be fined not more than $250 for each offense.

(2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.
(1993 Code, Comp. No. 4-6)

(E) Any person who violates any provision of § 130.076 shall, upon conviction, be fined not more than $300, or committed to the city jail for not more than 30 days, or both the fine and imprisonment. (1993 Code, Comp. No. 4-12)

(F) Violations of § 130.091 shall be fined as follows.

(1) *Possession of drug paraphernalia.* Any violation of § 130.091(A) which consists solely of possession of drug paraphernalia or delivery for no monetary consideration of drug paraphernalia shall be a violation punishable by a fine not to exceed $500 for each violation. Any person who violates any other portion of § 130.091(A) shall be guilty of a crime and upon conviction may be imprisoned for not more than six months or fined not more than $500, or both.

(2) *Manufacture or delivery of drug paraphernalia.* Any violation of § 130.091(B) which consists solely of possession of drug paraphernalia or delivery of drug paraphernalia for no monetary consideration, shall be a violation punishable by a fine not to exceed $500 for each violation. Any person who violates any other portion of § 130.091(B) is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined for not more than $750, or both.

(3) *Delivery of drug paraphernalia to a minor.* Any person violating § 130.091(C) is guilty of a special offense and upon conviction may be imprisoned for not more than one year, fined not more than $1,000, or both.

(4) *Advertisement of drug paraphernalia.* Any person who violates § 130.091(D) is guilty of a crime and upon conviction may be imprisoned for not more than 90 days, fined not more than $250, or both.
(1993 Code, Comp. No. 4-15)

(G) (1) Any person who violates § 130.093 shall be punished, upon conviction, by a fine of not more than $250 for each violation.

(2) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-18)
(Ord. 171, passed 10-21-1974; Ord. 175, passed 2-10-1975; Ord. 203, passed 11-11-1975; Ord. 237, passed 3-6-1977; Ord. 370, passed 9-4-1984; Ord. 408, passed 12-21-1987; Ord. 415, passed 12-21-1987; Ord. 455, passed 2-5-1990; Ord. 507, passed 7-5-1994)

CHAPTER 131: MINORS

Section

GENERAL PROVISIONS

§ 131.01 RESPONSIBILITY.

The city hereby adopts by reference and incorporates as offenses against the city all the offenses contained and defined in the following sections of state law as they now exist or are hereafter amended: O.R.S. Chapter 339.
(Ord. 607, passed 7-5-2005)

CURFEW FOR MINORS

§ 131.15 PROHIBITION.

No minor shall be in or upon any street, highway, park, alley or other public place between the hours of 10:30 p.m. and 5:00 a.m., between Sunday evening and Friday morning, and 12:00 midnight and 5:00 a.m. on Friday and Saturday, unless:

(A) Accompanied by the minor's parent or guardian;

(B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(C) In a motor vehicle involved in interstate travel;

(D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(E) Involved in an emergency;

(F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(I) Married or had been married or had disabilities of minority removed in accordance with state law.

(1993 Code, Comp. No. 4-16) (Ord. 387, passed 3-17-1986) Penalty, see § 131.99

§ 131.16 VIOLATIONS.

Any minor who violates this subchapter may be taken into custody, and if it is determined that the lack of parental supervision is the reason, the responsible parent will be cited into Municipal Court citing this subchapter and section, and shall be fined $25 or one day of community service. Any minor found to be uncontrollable by the responsible parent or guardian will be processed through the County Juvenile Department.

(1993 Code, Comp. No. 4-16) (Ord. 387, passed 3-17-1986) Penalty, see § 131.99

SALE OF WEAPONS TO MINORS

§ 131.30 UNLAWFUL SALE OF CERTAIN WEAPONS TO MINORS; EXCEPTION.

(A) It shall be unlawful to sell, or offer or agree to sell, to any person under 18 years of age, any instrument or weapon of the type described in O.R.S. 166.240(1) which is capable of being concealed upon the person, if the instrument or weapon also constitutes a "deadly weapon" as defined in O.R.S. 161.015(2).

(B) It shall not be a violation of this section to sell or offer or agree to sell any item which is designed for a use other than to cause death or serious physical injury.

(C) ***SALE*** means the actual or constructive transfer, or offer or agreement to transfer, from one person to another, whether or not there is an agency relationship.
(1993 Code, Comp. No. 4-19) (Ord. 473, passed 5-4-1987) Penalty, see § 131.99

§ 131.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person who violates § 131.30 shall be punished, upon conviction, by a fine of not more than $250 for each violation.

(2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.
(1993 Code, Comp. No. 4-19) (Ord. 473, passed 5-4-1987)

TITLE XV: LAND USAGE

Chapter

CHAPTER 150: BUILDING CODES

Section

State Specialty Codes

Excavations

Residential Maintenance Code

STATE SPECIALTY CODES

§ 150.001 ADOPTION OF CODES; AMENDMENTS.

The city adopts the following codes by reference, and each is incorporated and made a part of this subchapter, except as specifically provided by this section:

(A) The State 1993 Edition Structural Specialty Code (OAR 918-460-010 as of January 1, 1993) including §§ 104(d) and 203, except that § 302(b) and (c) are amended to read as follows:

(b) Plans and Specification. Plans, engineering calculations, diagrams and other data shall be submitted in one or more sets with each applications for permit. The building official may require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such. Submittals shall include constructions inspection requirements as defined in Section 302(c).

EXCEPTIONS: The building official may waive the submission of plan, calculations, construction inspections requirement, etc., if he finds that the nature of the work

applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

(c) Construction inspection. The engineer or architect in reasonable charge of the structural design work shall include in the construction documents the following:

1. Special inspection required by Section 206.

2. Other structural inspection required by the engineer or architect in responsible charge of the structural design work.

(B) The State 1993 Edition Mechanical Specialty Code (OAR 918-440-010 as of January 1, 1993);

(C) The State 1993 Edition One and Two Family Dwelling Specialty Code (OAR 918-480-000 as of May 1, 1993);

(D) The State 1992 Edition Plumbing Specialty Code (OAR 918-750-010 as of December 23, 1991);

(E) The State 1993 Edition Electrical Specialty Code (OAR 918-290-010 to 918-290-110 as of July 1, 1993). Electrical plan reviews are required as per OAR 918-320-300 to 918-320-340 for all nonresidential occupancies and residential occupancies in excess of two dwelling units;

(F) (1) Manufactured Dwelling and Cabana Installation Standards (OAR 918–Division 505);

(2) Manufactured Dwelling and Manufactured Dwelling Accessory Building or Structure Standards (OAR 918–Division 510); and

(3) Manufactured Dwelling heat-producing appliances (OAR 918–Division 520) (all rules as of June 15, 1992).

(G) Mobile Home Parks (OAR 918–Division 600 as of October 23, 1991); and

(H) Recreational Parks and Organizational Camps (OAR 918–Division 650 as of October 23, 1991). (1993 Code, Comp. No. 7-4) (Ord. 486, passed 6-21-1993)

§ 150.002 LOCAL INTERPRETATION.

(A) The City Board of Appeals shall be the City Council which shall have no authority to waive requirements of a specialty code.

(B) A person affected by a ruling of the Building Official may appeal the ruling to the Board of Appeals within 30 days of the ruling, with further appeal to the appropriate State Specialty Code Board.

(C) The city recognizes that a person may request a ruling from the Administrator of the State Building Codes Agency prior to submitting an application to the city for permit or after withdrawing a previously submitted application.

(D) Electrical Code appeals shall be processed to the City Lead Electrical Inspector who will render a final decision. Appeals from final decision made by the City Electrical Inspector on electrical installations or electrical products shall be made to the State Chief Electrical Inspector according to the provisions of O.R.S. 479.853 and OAR 918-301-030.
(1993 Code, Comp. No. 7-4) (Ord. 486, passed 6-21-1993) Penalty, see § 150.999

§ 150.003 FEES.

(A) Value or valuation of a building or structure shall be determined a established by Structural Specialty Code §§ 304(b) and 423 as adopted by this subchapter in § 150.01(A).

(B) Permit, plan checking, investigation and other fees charged by the Building Official shall be as established in the specialty codes listed below as adopted by this subchapter in § 150.01(A) and as follows:

(1) 1993 Structural (Building), § 304 and Table No 3-A thereof;

(2) 1993 Mechanical, § 304 and table No. 3-A thereof;

(3) 1993 One and Two Family Dwelling, § R.110.2 and state adopted fee schedules, Tables, structural permit fees page 2.E, mechanical permit fees pages 2.F & 2.G, plumbing permit fees page 2.H, and electrical permit fees page 2.1 thereof;

(4) 1992 Plumbing, § 20.7 and Attachment A;

(5) 1993 Electrical as indicated in Attachment B, Electrical Fee Table. Limited energy permit fees shall be $40 as indicated on the electrical specialty permit application form. Minor electrical labels shall be $50 per ten minor labels;

(6) 1992 Manufactured Dwelling, Cabana, Accessory and Appliances (installations), OAR 918-500-100;

(7) 1991 Mobile Home Parks, OAR 918-600-030; and

(8) 1991 Recreational Parks and Organizational Camps, OAR 918-650-030.
(1993 Code, Comp. No. 7-4) (Ord. 486, passed 6-21-1993) Penalty, see § 150.999

§ 150.004 INVESTIGATIVE AUTHORITY AND CORRECTIVE ACTION OF BUILDING OFFICIAL AND INSPECTOR.

In addition to any other authority and power granted to the Building Official or delegated inspector under the specialty codes adopted by this subchapter, except where inconsistent with other provisions of the law, the Building Official or delegated inspector may enforce the provision of the specialty codes against any person regardless of whether a permit, certificate, license or other indicia of authority has been issued. The Building Official or delegated inspector may investigate, order corrective action and if an immediate hazard to health and safety is imminent, issue an order to stop all or any work under the applicable specialty code.
(1993 Code, Comp. No. 7-4) (Ord. 486, passed 6-21-1993) Penalty, see § 150.999

§ 150.005 EFFECTIVE DATE.

This subchapter shall become effective on July 1, 1993.
(1993 Code, Comp. No. 7-4) (Ord. 486, passed 6-21-1993)

EXCAVATIONS

§ 150.020 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

EXCAVATION. Any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.

FACILITY. Pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place.

PERSON. Any person, firm, partnership, association, corporation, company or organization or any kind.

PUBLIC PLACE. Any public street, way, place, alley, sidewalk, park, square, plaza or any other similar public property owned or controlled by the city and dedicated to public use.

SUBSTRUCTURE. Any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other similar structure located below the surface of any public place.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.021 EXCAVATION PERMIT.

(A) No person shall make any excavation or fill any excavation in any public place without first obtaining a permit so to do from the city, except as otherwise provided in this subchapter. No permit to make an excavation or fill an excavation in a public place shall be issued except as provided in this subchapter.

(B) The city may issue an annual blanket permit for the purpose of placing, replacing or repairing any facility within a public place where the opening or excavation does not exceed two feet in width and four feet in length and other miscellaneous excavations approved by the city to the following:

(1) A public utility regulated by the Public Utilities Commissioner of this state;

(2) A person holding a franchise from the city; and

(3) The Public Works Department of the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971) Penalty, see § 150.999

§ 150.022 APPLICATION.

(A) No excavation permit shall be issued unless a written application on a form provided by the city for the issuance of an excavation permit is submitted to the city. The written application shall state the name and address and principal place of business of the applicant, the name of the person performing the excavation work, the authority of the applicant to occupy the public place for which the permit is sought, the location and dimensions of the installation or removal and the approximate size of the excavation to be made, the purpose of the facility and the approximate time which will be required to complete the work.

(B) In this regard, the city may require full and complete and detailed maps, plans and drawings of the work and shall have a reasonable time to submit the drawings and plans to the City Engineer for study. The city reserves the right to require the applicant to change or alter its plans or specifications or work contemplated to meet the requirements and requests of its Engineering Department. The city may make rules and regulations designating and specifying certain areas or portions of the street which may or shall be used by the various utilities in the installation of their facilities underground, and the

underground installations shall be at depths and installed in a manner as the city may deem necessary or expedient to protect the interests, safety and welfare of the city and the people of the city.

(C) The city may specify the time the applicant shall have to do the work on the city streets, and extensions of time over and above that originally granted may be given by the city for good and sufficient reasons. All maps and plans shall be drawn to scale unless otherwise agreed to by the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.023 EXCAVATION PERMIT FEES.

Except where the fees are covered by franchise payments paid by a utility to the city, a fee of $20 shall be paid to the city for each excavation permit; provided, that in lieu of individual permit fees, a utility may pay the city a blanket fee of $100 annually, payable on or before January 31 of each calendar year. Upon the payment of the blanket fee, excavation permits shall be issued from time to time during the ensuing calendar year upon application by or on behalf of the utility without further charge.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971; Ord. 284, passed 7-7-1980)

§ 150.024 SURETY BOND.

(A) Before any excavation permit is granted, the applicant will have to sign an agreement with the city whereby it covenants and agrees to save and hold harmless the city from any claims or judgments or costs arising out of any excavation or other work covered by the excavation permit, and shall, if requested, file with the city a copy of an insurance liability and property damage policy in an amount as the city may require, and to request that the policy contain a covenant by the carrier holding the city harmless from any and all claims against the applicant and/or the city by reason of the applicant's work in or on the city streets under its permit as granted.

(B) Except where required of a utility by the terms of a franchise granted by the city, the city may, in its discretion, require a surety bond in an amount determined by the city that the applicant will perform the work covered by the permit in accordance with the plans and specifications filed, will replace excavation and repair the city streets on completion of the work, and hold the city harmless from any and all claims against the applicant and/or the city by reason of the applicant's work in or on the city streets as covered by the permit.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.025 PROTECTIVE MEASURES AND ROUTING OF TRAFFIC.

(A) It shall be the duty of every person cutting or making an excavation in or upon any public place to place and maintain barriers and warning devices necessary for the safety of the general public.

(B) Barriers, warning signs, lights and the like shall conform to the requirements of the city. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with roadway repairs or construction and operating on kerosene or similar fluid.

(C) Lanterns shall burn kerosene or a similar fluid, and shall have clear red or ruby globes. Electrical markers or flashers shall emit light sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement but not replace light sources. The city may restrict the use of lanterns or open flame devices in fire hazard areas.

(D) The permittee shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

(E) When traffic conditions permit, the city may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by the permittee if, in his or her opinion, it is necessary. The written approval of the city may require that the permittee give notification to various public agencies and to the general public. In these cases, the written approval shall not be valid until the notice is given.

(F) Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.026 CLEARANCE FOR VITAL STRUCTURES.

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures and all other vital equipment as designated by the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.027 PROTECTION OF TRAFFIC.

The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible, and safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along the sidewalk line.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.028 RELOCATION AND PROTECTION OF UTILITIES.

The permittee shall not interfere with any existing facility without the written consent of the city and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the city shall be moved to accommodate the permittee unless the cost of the work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owners of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as a part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them, and the expense of the repairs shall be charged to the permittee. It is the intent of this section that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of the facility damage, and this assumption of liability is a contractual obligation of the permittee. The only exception will be instances where damage is exclusively due to the negligence of the owning facility. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.029 ABANDONMENT OF SUBSTRUCTURES.

Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling or having an interest therein shall, within 30 days after the abandonment, file with the city a statement in writing, giving in detail the location of the substructure so abandoned. If the abandoned substructure is in the way or subsequently becomes in the way of an installation of the city or any other utility, which installation is pursuant to an authorized function, the owner shall remove the abandoned substructure or pay the cost of its removal during the course of excavation for the construction of the facility by the city or any utility.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.030 PROTECTION OF ADJOINING PROPERTY.

(A) The permittee shall at all times and at his, her or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for that purpose. Where, in the protection of the property, it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall obtain a license from the owner of the private property for that purpose. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the

excavation work, and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out the work.

(B) Whenever it may be necessary for the permittee to trench through any lawn area, the area shall be reseeded or the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this subchapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before the work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the city and property owner.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.031 CARE OF EXCAVATED MATERIAL.

(A) All material excavated from trenches and piled adjacent to the excavated area shall be done in a manner as to not endanger those working in the excavated area or pedestrians and people using the streets of the city and further, so as to create as little inconvenience as possible to the city and the people of the city in the use of its streets and public property. All excess excavated material not used in backfilling shall be forthwith removed from the streets or public areas of the city and properly disposed of by the applicants.

(B) All work done by the applicant on the streets or public properties of the city shall be done in conformance and compliance with the laws, rules and regulations, and safety codes of this state, and particularly any and all rules and regulations as adopted and propounded by the Worker's Compensation Board.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.032 CLEANUP.

As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from that work. All cleanup operations at the location of the excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city. From time to time, as may be ordered by the city, and in any event immediately after completion of the work, the permittee shall, at his, her or its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work, and upon failure to do so within 24 hours after having been notified to do so by the city, the work may be done by the city and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.033 PROTECTION OF WATERCOURSES.

(A) The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of the curb at the gutterline. Whenever a gutter crosses an intersection street, an adequate waterway shall be provided and at all times maintained.

(B) The permittee shall make provisions to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.034 BREAKING THROUGH PAVEMENT.

(A) Heavy duty pavement breakers may be prohibited by the city when the use endangers existing substructures or other property.

(B) Saw cutting of portland cement concrete may be required by the city when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall not be less than one inch in depth; however, depths greater than one inch may be required by the city when circumstances warrant. Saw cutting may be required by the city outside of the limits of the excavation over cave-outs, over breaks and small floating sections.

(C) Approved cutting of bituminous pavement surface ahead of excavations may be required by the city to confine pavement damage to the limits of the trench.

(D) Sections of sidewalks shall be removed to the nearest score line or joint.

(E) Unstable pavement shall be removed over cave-outs and over breaks, and the subgrade shall be treated as the main trench.

(F) Cutouts outside of the trench lines must be normal or parallel to the trench line.

(G) Permittee shall not be required to repair pavement damage existing prior to excavation unless his or her cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

(H) Boring or other methods to prevent cutting of pavement will be given top priority and may be required by the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971; Ord. 284, passed 7-7-1980)

§ 150.035 DEPTH OF STRUCTURES.

(A) No person shall, without written permission of the city, install any substructure, except manholes, vaults, valve casings, culverts and catch basins at a vertical distance as determined by the city within the following limitations.

(1) *Streets*.

(a) Not to exceed 36 inches below the established flow line of the nearest gutter.

(b) If the flow line is not established, then the depth shall not exceed 60 inches below the surface of the nearest outermost edge of the traveled portion of the street; provided, however, that the city may impose any additional installation requirements as may be found reasonable in the interest of the public.

(2) *Parkway*.

(a) The minimum depth of any substructure shall be 36 inches below established gutter grade when the substructure parallels the parkway.

(b) The minimum depth of any substructure shall be 24 inches below the top of the established sidewalk or curb when the substructure is at right angles to the parkway.

(3) *Other public places*. The minimum depth of any substructure in any other public place shall be 36 inches below the surface.

(B) Notwithstanding any of the provisions of divisions (A)(1), (2) and (3) above set forth, the city may require a greater depth or allow installations at a lesser depth when in its judgment the public interests so require.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971) Penalty, see § 150.999

§ 150.036 BACKFILLING.

Immediately after the facility authorized by the permit has been placed in the trench and inspected, the trench shall be backfilled as follows, unless otherwise specified by the permit.

(A) "Class A" bedding shall be provided to a minimum depth of six inches below any pipe carrying gas or liquid and six inches above the pipe. The bedding shall consist of granular material free of lumps, clods, stones and frozen materials, and shall be graded to a firm but yielding surface without abrupt change in bearing value. Unstable soils and rock ledges shall be subexcavated from the bedding zone and replaced by suitable material. The bottom of the trench shall be prepared to provide the pipe with uniform bedding throughout the length of the installation.

(B) Backfill shall be placed in two stages: first, sidefill to the level of the top of the pipe, and second, overfill to the bottom of the foundation material described below.

(1) Sidefill shall consist of granular material laid in six-inch layers, each consolidated by mechanical tamping and controlled addition of moisture, to a density of 95% as determined by AASHTO Method T-99.

(2) Overfill shall be layered and consolidated to match the entrenched material in cohesion and compaction. The use of granular material for overfill may be required if specified by the permit or requested by the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971; Ord. 284, passed 7-7-1980)

§ 150.037 RESTORATION OF SURFACE.

(A) Permanent resurfacing of excavations shall be made by the permittee and shall be commenced immediately after inspection by the city and authorization to complete the resurfacing is issued. The work shall be pursued diligently on a continuous full-time basis until completion.

(B) If weather or other conditions preclude permanent resurfacing immediately, the city may, under any conditions as are reasonable, require the permittee to cover the top surface of the backfill with one inch of bituminous temporary resurfacing material (cold mix). All temporary paving material shall conform closely to the level of adjoining surfacing and shall be compacted and smooth so as to permit normal use of the street. The permittee shall maintain the temporary surfacing until permanent resurfacing is installed.

(C) Permanent resurfacing shall consist of not less than 12 inches crushed rock.

(D) For a period of one year following the patching of any paved surface, the applicant shall be responsible for the condition of the pavement patches, and during that time shall, upon request from the city, repair to the city's satisfaction and to ensure that the patched area matches the adjacent area to provide a continuous smooth surface.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971; Ord. 284, passed 7-7-1980)

§ 150.038 TRENCHES IN PIPE LAYING.

The maximum length of open trench permissible at any time shall be that which is specified by the city when permission for the excavation is given; and under no circumstances may an open ditch extend at any time beyond 200 feet, unless consented to by the City Council of this city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.039 PROMPT COMPLETION OF WORK.

After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit, and shall promptly complete the work and restore the street to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.040 URGENT WORK.

When traffic conditions, the safety or convenience of the traveling public, or the public interest require that the excavation work be performed as emergency work, the city shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day, to the end that the excavation work may be completed as soon as possible.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.041 EMERGENCY ACTION.

Nothing in this subchapter shall be construed to prevent the making of excavations as may be necessary for the preservation of life or property, or for the location of trouble in conduit or pipe, or for making repairs; provided, that the person making the excavation shall apply to the city for that permit on the first working day after the work is commenced.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.042 NOISE, DUST AND DEBRIS.

Each permittee shall conduct and carry out excavation work in a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable, in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m., shall not use, except with the express written permission of the city, or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep of occupants of the neighboring property.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.043 PRESERVATION OF MONUMENTS.

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, a precise survey reference point or a permanent survey benchmark within the city shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the city so to do. Permission to remove or disturb monuments, reference points or

benchmarks shall only be granted upon condition that the person applying for this permission shall pay all expenses incident to the proper replacement of this monument by the city.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.044 INSPECTIONS.

The city shall make inspections as are reasonably necessary in the enforcement of this subchapter, and the permittee shall pay the costs of the inspection on all projects where the cutting of the city streets or the excavation shall be 25 feet or more in length. The costs to be charged for inspection shall be fixed from time to time by the City Council, which shall adopt a written fee schedule therefor. The city shall have the authority to promulgate and cause to be enforced rules and regulations as may be reasonably necessary to enforce and carry out the intent of this subchapter.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971; Ord. 284, passed 7-7-1980)

§ 150.045 MAINTENANCE OF DRAWINGS.

Every person owning, using, controlling or having an interest in substructures under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia or oil in the city shall file with the city, within 120 days after the adoption of this subchapter, a map or set of maps or any other plans or sketches as may be reasonably required by the city to establish and show in reasonable detail the location, size and kind of installation, if known, of all substructures of the utility except service lines for individual properties. From time to time, as reasonably required by the city, these plans, maps or sketches shall be corrected and brought up to date to include any and all installations made subsequent to the last map held by the city, to the end that the city may have reasonably accurate and pertinent information regarding the location of all underground utilities within its corporate boundaries or over which it may have jurisdiction.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

§ 150.046 LIABILITY OF CITY.

This subchapter shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the city or any official or employee thereof be deemed to have assumed the liability by reason of inspections authorized under the issuance of any permit or the approval of any excavation work.
(1993 Code, Comp. No. 7-1) (Ord. 122, passed 8-16-1971)

RESIDENTIAL MAINTENANCE CODE

§ 150.060 SHORT TITLE.

This subchapter shall be known as the city's Residential and Safety Maintenance Code, may be cited as such and will be referred to herein as "this code."
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.061 PURPOSE.

The purpose of this code is to provide minimum requirements for the protection of life, limb, health, property, safety and welfare of the general public and the owners and occupants of residential buildings.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.062 APPLICABILITY.

(A) The provisions of this code shall apply to all buildings or portions thereof used or designed or intended to be used for human habitation. These occupancies in existing buildings may be continued as provided in the State Building Code, except those structures as are found to be substandard as defined in this code.

(B) Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this code shall apply to separate portions as if they were separate buildings.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971; Ord. 200, passed 11-11-1975)

§ 150.063 ENFORCEMENT.

(A) *Authority*. The Building Inspector, under direction of the City Manager, is hereby authorized to administer and enforce all the provisions of this code.

(B) *Right of entry*. Upon presentation of proper credentials, the Building Inspector or his or her duly authorized representatives may enter at reasonable times any duty imposed upon him or her by this code; provided, however, in the event the entry is not voluntarily permitted by the owner or person occupying the building, structure or premises, the Building Inspector must first obtain an order from a court or competent jurisdiction allowing the entry.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971; Ord. 651, passed 12-20-2010)

§ 150.064 ABATEMENT OF NUISANCE.

All buildings or portions thereof which are determined to be substandard, as defined in this code, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971) Penalty, see § 150.999

§ 150.065 PROHIBITED ACTION.

It shall be unlawful for any person, firm or corporation to use, occupy or maintain any building or structure in the city, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971; Ord. 200, passed 11-11-1975) Penalty, see § 150.999

§ 150.066 BUILDING PERMIT.

No person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure, or cause or permit the same to be done, without first obtaining a separate building permit for each building or structure from the Building Inspector in the manner and according to the application conditions prescribed in the State Building Code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971) Penalty, see § 150.999

§ 150.067 BUILDING PERMIT FEES.

Whenever a building permit is required by § 150.066, the appropriate fees shall be paid to this city as set forth in the State Building Code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.068 DEFINITIONS.

For the purpose of this code, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in this code. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. Terms, words, phrases and their derivatives used but not specifically defined in this code shall have the meaning as defined in the State Building Code.

APARTMENT. A dwelling unit as defined in this code.

APARTMENT HOUSE. Any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other in dwelling units as defined in this code.

BASEMENT. The portion of a building between floor and ceiling which is partly below and partly above grade (as defined in this code), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

BOARDING HOUSE. A lodging house where meals are provided.

BUILDING. Any structure or portion thereof which is used or designed or intended to be used for human habitation, for living, sleeping, cooking or eating purposes, or any combination thereof.

BUILDING, EXISTING. A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

BUILDING INSPECTOR. The officer charged with the administration and enforcement of this code, or his or her regularly authorized deputy.

CEILING HEIGHT. The clear vertical distance between the finished floor and the finished ceiling.

CELLAR. The portion of a building between floor and ceiling which is wholly or partly below grade (as defined in this code) and is so located that the vertical distance from grade to floor below is equal to or greater than the vertical distance from grade to ceiling.

COURT. An open, unoccupied space bounded on two or more sides by the walls or a building. An ***INNER COURT*** is one entirely within the exterior walls of a building. All others are ***OUTER COURTS.***

DORMITORY. A room occupied by more than two guests.

DWELLING. Any building or portion thereof, which is not an apartment house, a lodging house, or a hotel as defined in this code, which contains one or two dwelling units or guest rooms used, intended or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes.

DWELLING UNIT. A suite of two or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

EXIT. A continuous and unobstructed means of egress to a public way, and shall include intervening doorways, corridors, ramps, stairways, smoke-proof enclosures, horizontal exits, exterior courts and yards.

FAMILY. [. . .] two or more persons related by blood or marriage.

GRADE (GROUND LEVEL). The average of the finished ***GROUND LEVEL*** at the center of all walls of a building; in case walls are parallel to and within five feet of a sidewalk, the above-ground level shall be measured at the sidewalk.

GUEST. Any person hiring or occupying a room for living or sleeping purposes.

GUEST ROOM. Any room or rooms used or intended for use by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory is a ***GUEST ROOM.***

HABITABLE ROOM. Any room meeting the requirements of this code for sleeping, living, cooking or eating purposes, excluding such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar spaces.

HOTEL. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home or other institution in which human beings are housed and detained under legal restraint.

INTERIOR LOT. A lot other than a corner lot.

KITCHEN. A room used or designed to be used for the preparation of food.

LODGING HOUSE. Any building or portion thereof containing not more than five guest rooms which are used by not more than five guests, where rent is paid in money, goods, labor or otherwise. A ***LODGING HOUSE*** shall comply with all the requirements of this code for dwellings.

NUISANCE. The following shall be defined as ***NUISANCES:***

(1) Any public nuisance known at common law or in equity jurisdiction;

(2) Any attractive nuisance which may prove detrimental to children, whether in a building, on the premises of a building or upon an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

(3) Whatever is dangerous to human life or is detrimental to health;

(4) Overcrowding a room with occupants;

(5) Insufficient ventilation or illumination;

(6) Inadequate or unsanitary sewerage of plumbing facilities; or

(7) Uncleanliness.

OCCUPIED SPACE. The total area of all buildings or structures on any lot or parcel of ground projected on a horizontal plane, excluding permitted projections as allowed by this code.

SERVICE ROOM. Any room used for storage, bath or utility purposes and not included in the definition of habitable rooms.

STATE BUILDING CODE. The specialty codes pertaining to building adopted by the Director of the State Department of Commerce, and the Fire and Life Safety Code adopted by the State Fire Marshal, as these codes are now or hereafter constituted.

STORY. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the uppermost ***STORY*** shall be the portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade, the basement or cellar shall be considered a ***STORY.***

SUPERFICIAL FLOOR AREA. The net floor area within the enclosing walls of the room in which the ceiling height is not less than five feet, excluding built-in equipment such as wardrobes, cabinets, kitchen units or fixtures.

USED. USED or designed to be ***USED.***

VENT SHAFT. A court used only to ventilate or light a water closet, bath, toilet or utility room or other service room.

WINDOW. A glazed opening, including glass doors, which open upon a yard, court or recess from a court, or a vent shaft open and unobstructed to the sky.

YARD. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.069 LOCATION OF BUILDINGS; ACCESS.

(A) All buildings shall be located with respect to property lines and to other buildings on the same property as required by the State Building Code or city zoning ordinance.

(B) Each dwelling unit and guest room in a dwelling or lodging house shall have access to a passageway, not less than three feet in width, leading to a public street or alley. Each apartment house or hotel shall have access to a public street by means of a passageway not less than five feet in width.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.070 SANITATION AND HEALTH.

All buildings shall meet the requirements of the State Building Code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.071 GENERAL SPECIFICATIONS.

(A) *General*. Buildings or structures may be of any type of construction permitted by the State Building Code.

(1) Roofs, floors, walls, foundations and all other structural components shall be capable of resisting any and all forces and loads to which they may be subjected.

(2) All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in appropriate sections of the State Building Code.

(3) Buildings of every permitted type of construction shall comply with the applicable requirements of the State Building Code.

(B) *Shelter*. Every dwelling shall be weather-proofed so as to provide shelter for the occupants against the elements and to exclude dampness.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.072 HEATING, ELECTRICAL AND VENTILATION EQUIPMENT.

(A) *Heating*. Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70°F at a point three feet above the floor in all habitable rooms. The facilities shall be installed and maintained in a safe condition and in accordance with the State Building Code. No unvented or open flame gas heater shall be permitted. All heating devices or appliances shall be of a type complying with nationally recognized standards as determined by an approved testing agency.

(B) *Electrical equipment*. Wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type. Where there is electrical power available within 300 feet of the premises of any building, the building shall be connected to the power. Every habitable room shall contain at least two supplied electrical outlets or one outlet and one supplied light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one supplied electrical light fixture.

(C) *Ventilation*. For all rooms ventilation shall be required as provided in the State Building Code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.073 OUTSIDE EXITS.

Every dwelling unit or guest room shall have access directly to the outside or to a public corridor. All one-story buildings or portions thereof shall be provided with at least one exit. All buildings with two or more stories shall have two exits, which shall be remote from each other.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.074 FIRE-RESISTIVE CONSTRUCTION.

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the State Building Code.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.075 SUBSTANDARD BUILDINGS.

Any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(A) *Inadequate sanitation.* Inadequate sanitation, which shall include but not be limited to the following:

(1) Lack of or improper water closet, lavatory, bath tub or shower in a dwelling unit;

(2) Lack of or improper water closets, lavatories and bath tubs or showers per number of guests in a hotel;

(3) Lack of or improper kitchen sink;

(4) Lack of hot and cold running water to plumbing fixtures in a hotel or dwelling unit;

(5) Lack of adequate heating facilities;

(6) Lack of or improper operation of required ventilating equipment;

(7) Lack of minimum amounts of natural light and ventilation required by this code;

(8) Room and space dimensions less than required by this code;

(9) Lack of required electrical lighting;

(10) Dampness of habitable rooms;

(11) Infestation of insects, vermin or rodents;

(12) General dilapidation or improper maintenance;

(13) Lack of connection to required sewage disposal system; and

(14) Lack of removal of garbage and rubbish.

(B) *Structural hazards*. Structural hazards, which shall include but not be limited to the following:

(1) Deteriorated or inadequate foundations;

(2) Defective or deteriorated flooring or floor supports;

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety;

(4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

(5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;

(6) Members of ceilings, roof, ceiling and roof supports, or other horizontal members that are of insufficient size which sag, split or buckle due to defective material or deterioration;

(7) Members of ceilings, roof, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety;

(8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration; and

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(C) *Nuisance*. Any nuisance defined in this code;

(D) *Hazardous wiring*. All wiring except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner;

(E) *Hazardous plumbing*. All plumbing except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures;

(F) *Hazardous mechanical equipment*. All equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition;

(G) *Faulty weather protection*. Faulty weather protection, which shall include but not be limited to the following:

(1) Deteriorating, crumbling or loose plaster;

(2) Deteriorating or ineffective waterproofing or exterior walls, roof, foundations or floors, including broken windows or doors;

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering; and

(4) Broken, rotten, split or buckled exterior wall covering or roof coverings.

(H) *Fire hazard*. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department or his or her deputy, is in a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause;

(I) *Faulty material of construction*. All materials of construction except those which are specifically allowed or approved by this code and the State Building Code, and which have been adequately maintained in good and safe condition;

(J) *Inadequate maintenance*.

(1) *General*.

(a) All buildings or structures which are construed to be structurally unsafe, not provided with adequate egress, which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, as specified in this code or any other effective ordinance are, for the purpose of this section, ***UNSAFE BUILDINGS.***

(b) All unsafe buildings are hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in divisions (J)(2), (3), (4) and (5) of this section.

(2) *Notice to owner*. The Building Inspector shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged; and if it is found to be an unsafe building as defined in this section, the Building Inspector shall give to the owner and person or persons in possession of the building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours, to commence

either the required repairs or improvements or demolition and removal of the building or structure or portions thereof; and all the work shall be completed within 90 days from date of notice, unless otherwise stipulated by the Building Inspector.

(a) If necessary, the notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the Building Inspector.

(b) Proper service of the notice shall be by personal service upon the owner of record, if he or she shall be found within the city limits. If he or she is not found within the city, the service may be made upon the owner by certified mail; provided, that if the notice is by certified mail, the designated period within which owner or person in charge is required to comply with the order by the Building Official shall begin as of the date he or she receives the notice.

(3) *Posting of signs*. The Building Inspector shall cause to be posted at each entrance to the building a notice to read: "Do not enter. Unsafe to occupy. City of Winston." The notice shall remain posted until the required repairs, demolition or removal are completed. The notice shall not be removed without written permission of the Building Inspector, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

(4) *Right to demolish*. In case the owner shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or to demolish and remove the building or structure or portion thereof, the City Council may order the owner of the building prosecuted as a violator of the provisions of this code, and may order the Building Inspector to proceed with the work specified in the notice. A statement of the cost of the work shall be transmitted to the City Council, who shall cause the same to be paid and levied as a special assessment against the property.

(5) *Costs*. Costs incurred under division (J)(4) above shall be paid out of the City Treasury. The costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located and shall be collected in the manner provided for special assessments.

(K) *Inadequate fire protection or fire-fighting equipment*. All buildings or portions thereof which are not provided with the fire-resistive construction or fire extinguishing systems or equipment required by this code and local fire codes, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire extinguishing systems have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy; and

(L) *Improper occupancy*. All buildings or portions thereof occupied for living, sleeping, cooking or eating purposes which were not designed or intended to be used for the occupancies.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971; Ord. 286, passed 7-21-1980) Penalty, see § 150.999

§ 150.076 ABATEMENT OF SUBSTANDARD BUILDINGS.

(A) *General.* Whenever the Building Inspector determines by inspection that any existing building or portion thereof is substandard, he or she shall order the building or portion thereof vacated, and shall institute proceedings to effect the repair or rehabilitation of the building or portion thereof. If the repair or rehabilitation is impractical, he or she shall then order the building or portion thereof removed or demolished. The owner or other person affected shall then have the right to appeal to the City Housing Board of Appeals for investigation and review of the Building Inspector's determination.

(B) *Notice to the owner.* The Building Inspector shall give notice to the owner or other responsible person in accordance with the procedure specified in § 150.075(J).

(C) *Procedure.* Any building or portion thereof found to be substandard as defined in § 150.075 shall be repaired, rehabilitated, demolished or removed in accordance with the procedure specified in § 150.075.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971)

§ 150.077 HOUSING BOARD OF APPEALS.

(A) *Established.* The County Building Ordinance Board of Appeals is hereby authorized to act as the Housing Appeals Board of the city.

(B) *Appointment of members.* The members of the Board shall be appointed as specified in Chapter 15.20 of the Ordinances of Douglas County.

(C) *Procedures of this Board.* All hearings shall be public; and the appellant, his or her representatives, the official of the municipality and any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard. The Board may affirm, modify or reverse the decision of the Building Inspector by a concurring vote of three members. The Board shall adopt reasonable rules and regulations for conducting its investigations, and shall render all decisions and findings in writing to the Building Inspector, with a duplicate copy to the appellant, and may recommend to the City Council any new legislation as is consistent herewith.

(D) *Appeal to the City Council.* Persons aggrieved under the provisions of this section shall have the right of appeal to the City Council from the decisions of the Board of Appeals. Request for an appeal shall be made within ten days from the date of decision of the Board of Appeals; and in case the Building Inspector is the appellant, the responsible person shall be notified within 48 hours if the Building Inspector wishes to appeal the decision.

(E) *Duties of the Housing Board of Appeals.* The Housing Board of Appeals shall:

(1) Upon receipt of notice of appeal of any decision and order of the Building Inspector filed by the property owner or party in interest within 30 days from the date of service of the decision or order, entertain the appeal, conduct a hearing thereon as provided in division (E)(2) below, or upon

receipt of a request in writing from the Building Inspector to review his or her decision, entertain the request and conduct a hearing as herein provided;

(2) Hold a hearing to hear evidence as may be presented by any official of the city or the owner, occupant, mortgagee, lessee or any other person having interest in the building; and

(3) Resolve all matters submitted to it within 60 days from the date of filing therewith. In the event the Housing Board of Appeals fails to resolve all matters within 60 days as above provided, then the order and findings of the Building Inspector shall be deemed affirmed in full on the sixtieth day, and the parties may appeal therefrom as provided by law.
(1993 Code, Comp. No. 7-2) (Ord. 134, passed 1-18-1971; Ord. 539, passed 2-18-1997)

§ 150.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) It shall be unlawful for a person, form or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure, mechanical system or equipment, plumbing system or fixtures, electrical systems or equipment or cause or permit the same to be done in violation of a specialty code or other regulations established by §§ 150.001 through 150.005.

(2) It shall be unlawful for a person, firm or corporation to construct, enlarge, alter, repair, move, improve, convert or demolish, set up, use, occupy or maintain any manufactured dwelling, accessory structure or appliances, manufactured dwelling park or recreational park or camp, or cause or permit the same to be done in violation of a specialty code or other regulations established by §§ 150.001 through 150.005.

(3) The provisions and penalties herein are in addition to those remedies established for trades licensing under O.R.S. Chapters 446, 447, 455, 479 and 693, more specifically O.R.S. 446.990, 447.156 and 455.895 penalty provisions.

(4) A violation of divisions (B)(1) and (2) above is punishable by a fine not to exceed $1,000 per violation. In the case of a continuing violation, every day's continuance of the violation is a separate offense.
(1993 Code, Comp. No. 7-4)

(C) Violation of §§ 150.020 through 150.046 is a misdemeanor. Every person is guilty of a misdemeanor who willfully violates any provision of this subchapter or fails or neglects to comply with any requirements of that subchapter. The person is guilty of a separate offense for each and every day

during any part of which the violation or noncompliance occurs, and is punishable by a fine of not more than $500, or by imprisonment in the city jail for not more than six months, or by both the fine and imprisonment.
(1993 Code, Comp. No. 7-1)

(D) Any person, firm or corporation violating any of the provisions of §§ 150.060 through 150.077 shall be guilty of a misdemeanor, and each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued or permitted; and upon conviction of the violation, the person shall be punishable by a fine of not more than $100, or by imprisonment for not more than 30 days, or by both the fine and imprisonment.
(1993 Code, Comp. No. 7-2)
(Ord. 122, passed 8-16-1971; Ord. 134, passed 1-18-1971; Ord. 200, passed 11-11-1975; Ord. 486, passed 6-21-1993)

CHAPTER 151: SIGN CODE

Section

§ 151.01 PURPOSE AND INTENT.

The provisions of this chapter are made to establish reasonable and impartial regulations for all exterior signs and to further the objectives of the Comprehensive Plan of the city; 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.
(1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) If the general definitions in the city zoning ordinance conflict, the following definitions shall control for purposes of this chapter.

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.

(B) The following signs shall not be subject to the permit requirements of § 151.04, nor subject to the number and type limitations of this chapter, but shall be subject to all other provisions of this chapter and the requirements of this section.

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.

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 nonprofit organization.

FLAG/PENNANT. A governmental flag with or without letters or numbers and other flags and pennants without letters or numbers. The ***FLAGS*** and ***PENNANTS*** shall be made of non-rigid material.

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.

HOLIDAY SIGN. A sign or decoration used to commemorate a holiday which is removed within seven days following the holiday period.

INTERIOR SIGN. Any sign which is not visible and not directed to people using a public street or public pedestrian way.

MURAL. A large picture painted on the wall of a building not advertising a specific business or product.

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.

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 the 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.

WINDOW SIGN. A sign painted or placed upon a window in a nonresidential zone.

(C) If the exemptions conflict with the city zoning ordinance, that ordinance shall govern. (1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

§ 151.03 PROHIBITED SIGNS.

The following signs are prohibited.

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 the sign may be found.

BILLBOARD. A pole sign exceeding 200 square feet of sign area.

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.

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 chapter may be placed on a lot improved for off-street parking as provided by the city zoning ordinance.

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.

VISION CLEARANCE. Any sign in the clear-vision area as defined in the city zoning ordinance. (1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

§ 151.04 PERMIT PROCEDURES.

(A) *Permit required.* Except as may otherwise be provided in this chapter, no sign or a 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.

(B) *Application.* 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.

(C) *Criteria for permit approval.* A sign permit will be approved if compliance with the following exists:

(1) Conformance to structural requirements and electrical code, if applicable;

(2) It meets location standards; and

(3) The sign is allowed in zoning designation.

(D) *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; and

(5) Proposed location of the sign in relation to the boundaries of the lot upon which the sign is to be placed.

(E) *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 the 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; and

(2) The electrical, repainting, cleaning, repair or maintenance of a sign.

(F) *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.

(G) *Building Code compliances*. All signs and sign structures shall comply with the Uniform Building Code and the State Electrical Safety Specialty Code adopted by the city in § 150.001. 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.
(1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000; Ord. 651, passed 12-20-2010)

§ 151.05 STANDARDS AND CRITERIA.

(A) *General sign provisions*.

(1) Signs may not project over public property beyond six feet. In the event a public street is modified so that the sign or sign structure becomes located over the portion used by motor vehicles, the sign shall be relocated at owner expense so that it is no longer over the portion of the public street used by motor vehicles.

(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 condition 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 nonresidential 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 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 the 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 the 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 the 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. The 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 the 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 lot lines. The sign shall be removed if construction on the subdivision is not in progress within 60 days following the date of the sign permit; and

(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 (C)(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 (C)(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; and

(5) Pole signs shall not exceed 35 feet in height.
(1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

§ 151.06 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 nonconforming signs shall be subject to the regulation of structures as provided in the city zoning ordinance 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.
(1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

§ 151.99 PENALTY.

(A) A person violating a provision of this chapter shall be charged a fine of not more than $300 for each day the violation occurs. A violation of this chapter shall be considered a separate offense for each day the violation occurs. Notwithstanding the foregoing and regardless of whether a permit has been revoked, a person who violates this chapter may be charged in the appropriate court of law.

(B) These penalty fees will terminate upon the inclusion of the sign ordinance with the zoning ordinance during the adoption process of the city's periodic review unless reauthorized in the adoption process.
(1993 Code, Comp. No. 8-3) (Ord. 578, passed 12-4-2000)

CHAPTER 152: PLANNING AND DEVELOPMENT

Section

Plans and Regulations; Adopted by Reference

Minor Partition Vacation Procedures

Cross-reference:

Zoning amendments to the Comprehensive Plan and Zoning Maps, see TSO IX

PLANS AND REGULATIONS; ADOPTED BY REFERENCE

§ 152.01 COMPREHENSIVE PLAN.

The revised Comprehensive Plan text for the city and its urban growth area is hereby adopted by reference as if set out in full herein. Copies are available through city offices.
(1993 Code, Comp. No. 8-4) (Ord. 588, passed 6-23-2003; Ord. 611, passed 10-17-2005; Ord. 621, passed 8-21-2006; Ord. 635, passed 12-17-2007)

§ 152.02 [RESERVED].

§ 152.03 [RESERVED].

§ 152.04 TRANSPORTATION SYSTEM PLAN.

The Transportation System Plan for the city, adopted to assist in providing for future transportation system needs in the city and the city's urban growth area, is hereby adopted by reference as if set out in full herein. Copies are available through city offices.
(Ord. 587, passed 6-23-2003; Ord. 611, passed 10-17-2005)

§ 152.05 PUBLIC FACILITIES PLAN.

The revised Public Facilities Plan for the city and the city's urban growth area is hereby adopted by reference as if set out in full herein. Copies are available through city offices.
(Ord. 589, passed 6-23-2003)

MINOR PARTITION VACATION PROCEDURES

§ 152.20 FINDINGS; DEFINITION.

(A) The City Council finds that no procedure currently exists for vacation of a minor partition.

(B) ***MINOR PARTITION*** means a partition that does not include creation of a street.

(C) The Council further determines it is in the public interest to adopt procedures for application and approval of vacation of minor partitions. Upon receipt of application complying with the terms of this subchapter and following the procedures of this subchapter, the City Council shall be authorized to vacate minor partitions.
(1993 Code, Comp. No. 8-7) (Ord. 368, passed 7-2-1984)

§ 152.21 APPLICATION; FEE.

All applications requesting vacation of a minor partition shall be submitted on forms approved by

the city and shall be accompanied by the fee established by the City Council from time to time by motion. Initially the application fee shall be $100. The application shall be signed by all persons owning an interest in the real property which is the subject of the proposed vacation, including fee title holder, contract sellers, contract purchasers, mortgagees and trust deed beneficiaries.
(1993 Code, Comp. No. 8-7) (Ord. 368, passed 7-2-1984)

§ 152.22 PUBLIC HEARING.

Upon receipt of an application, a public hearing before the Planning Commission shall be scheduled and notice of the public hearing shall be given to all owners of property within 250 feet of the subject property. At the public hearing the Planning Commission shall consider all evidence presented, including any legitimate objections from neighboring property owners and shall consider, among other things, whether grant of the application for vacation would adversely affect construction or development patterns in the area and the existing zoning and Comprehensive Plan for the area. The Planning Commission shall recommend vacation if it finds the vacation is in the public interest.
(1993 Code, Comp. No. 8-7) (Ord. 368, passed 7-2-1984)

§ 152.23 DECISION.

Upon receipt of recommendation from the Planning Commission, the City Council shall schedule a public hearing on the proposed vacation, giving notice thereof to owners of property within 250 feet of the proposed vacation. At the hearing the City Council shall consider the findings and recommendation of the Planning Commission, the evidence submitted at the Planning Commission hearing and may consider any additional evidence presented at the City Council hearing. The City Council shall grant the request for vacation if it finds it is in the public interest, and if the subject property has not been developed as separate parcels.
(1993 Code, Comp. No. 8-7) (Ord. 368, passed 7-2-1984)

CHAPTER 153: SUBDIVISION CODE

Section

General Provisions

List of Table and Illustrations

GENERAL PROVISIONS

§ 153.01 DEFINITIONS.

As used in this chapter the following words and phrases shall mean:

BUILDING LINE. A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.

CITY COUNCIL. The Common Council of the City of Winston.

COMPREHENSIVE PLAN. Plans, maps, reports or any combination thereof, adopted by the City Council for the guidance of growth and improvement of the city, including modification or refinements which may be made from time to time.

EASEMENT. A grant of the right to use land for specific purposes.

LOT. A unit of land that is created by a subdivision of land.

MAJOR PARTITION. Partitioning land into three or more parcels/units/lots.

MINOR PARTITION. Partitioning land into two parcels/units/lots.

PARCEL OF LAND. A unit of land that is created by a partitioning of land.

PARTITION. Either an act of partitioning land or an area or tract of land partitioned as defined in this section.

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 single ownership at the beginning of such year.

(1) ***PARTITIONING LAND*** does not include:

(a) Divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosures of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots;

(b) Any adjustment of a lot or parcel 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 or parcel size established by any applicable zoning ordinance;

(c) The sale of a lot or parcel in a recorded subdivision, even though the lot or parcel may have been acquired prior to the sale with other contiguous lots or parcels or property by a single owner; and

(d) 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 purposed provided that such road or right-of-way complies with the comprehensive plan.

PEDESTRIAN WAY. A right-of-way for pedestrian traffic.

PERSON. An individual, firm, partnership, corporation, company, association, syndicate or any legal entity, including any trustee, receiver, assignee or other similar representative thereof.

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

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

PLANNING CONTROL AREA. An area in a state of incomplete development within which special control is to be exercised over land partitioning.

RIGHT-OF-WAY. The area between boundary lines of a street or other easement.

ROADWAY. The portion of a street right-of-way developed for vehicular traffic.

SIDEWALK. A pedestrian walkway with permanent surfacing to city standards.

STREET. The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic, and the placement of utilities.

(1) *Alley*. A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

(2) *Arterial*. Arterial streets form the primary roadway network within and through a region. They provide a continuous roadway system that carries traffic through the city. Generally, arterial streets are high capacity roadways that carry high traffic volumes with 6,000 to 15,000 Average Daily Trips (ADTs) and minimal localized activity. On-street parking is rarely provided on new arterial streets. Arterial streets are intended to move traffic, loaded from collector streets, between areas and across portions of the city or region. New residential property other than major complexes of multi-family dwellings should not face or be provided with individual access onto arterial streets.

(3) *Collector, major*. Major collectors provide for the connection of major residential and commercial for public activity centers. Such roads primarily accommodate through traffic and channel traffic from residential collector and residential streets onto arterial and state or county highways. Access to adjacent properties should be limited. If traffic volume forecasts exceed 2,000 vehicles per day, driveways serving most residential uses should be discouraged. For new major collector streets, driveways serving single family houses, duplex, or triplex shall not be permitted on a section that will carry 2,000 or more vehicles per day. When upgrading existing major collector streets, combined driveways or other access management tools should be considered. In urban areas, major collectors should help to establish neighborhood identity and define land use patterns. Traffic volumes on major collector streets generally range from 1,000 to 6,000 ADTs.

(4) *Collector, residential*. Residential collectors are intended to distribute local traffic onto other residential collectors, major collectors or arterial streets. Property access onto residential collectors is often allowed. In urban areas, residential collectors should border neighborhoods thereby helping to establish neighborhood identity. In rural areas, residential collectors also connect rural residential areas. Traffic volumes generally range from 500 to 4,000 ADTs.

(5) *Cul-de-sac (dead-end street)*. A short street having one end open to traffic and being terminated by a vehicle turn-around.

(6) *Half street*. A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

(7) *Local access way*. A local access way is a public street with a maximum street length of 400 feet designed to provide access for a maximum of ten dwelling units (100 ADTs) to a residential, collector or arterial street.

(8) *Marginal access street*. A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

(9) *Residential street*. Residential streets are intended to serve adjacent land without carrying through traffic. These streets shall be designed to carry less than 1,200 ADTs. To maintain low volumes, local residential streets shall be designed to encourage low speed travel. Street standards have been established for the local residential streets, allowing either 28 or 32 feet of paved surface. Narrower streets generally improve the neighborhood aesthetics and discourage speeding as well. They also reduce right-of-way needs, construction cost and storm water run-off.

SUBDIVIDE LAND. To divide an area or tract of land into four or more lots 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.

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

SUBDIVIDER. Any person who undertakes the subdividing of an area or tract of land, including changes in street or lot lines, for the purposes of transfer of ownership or development.
(Ord. 591, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 153.02 SCOPE OF REGULATIONS.

(A) All tentative plans, subdivision plats, partition maps and all streets or ways created for the purpose of partitioning land shall be approved by the City Manager, Planning Commission or City Council in accordance with the City Subdivision and Zoning regulations. A person desiring to subdivide land, desiring to partition land, or desiring to sell any portion of land within a planning control area, shall submit preliminary plans and final documents for approval, as provided in this chapter and state law.

(B) *Prohibition of sale.*

(1) No person shall sell any lot in any subdivision until the subdivision has been approved in accordance with this chapter. No person shall negotiate to sell any lot in a subdivision until a tentative plan has been approved. A person may negotiate to sell any parcel in a partition prior to approval of the tentative plan for the partition, but no person may sell any parcel in a partition prior to approval of the tentative plan.

(2) No person shall sell any lot in any subdivision until the plat has been recorded.

(3) No person shall sell any lot in any subdivision by reference to or exhibition or use of a plat before the plat has been recorded. In negotiating to sell a lot in a subdivision, a person may use the approved tentative plan for such subdivision.
(Ord. 591, passed 6-23-2003) Penalty, see § 153.99

§ 153.03 APPLICATIONS.

(A) *Application submitted.* Application for tentative plan, final plat, land partitions, and variances to the subdivision ordinance, shall be checked by the City Manager or the designee for completeness who shall notify the applicant of any missing materials within 30 days of receipt of the application. 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 materials, 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 Chapter 154 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 under this chapter or Chapter 154 of this code, or any combination thereof, shall be made within 120 days of the date the application is complete. The 120 days applies only to decisions wholly within the authority and control of the city and not land use regulation decisions required to be forwarded to the Director of the Department of Land Conservation 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 the standards and criteria that were applicable at the time the application was first submitted. 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. The writ shall be issued unless the city can show that approval will violate the comprehensive plan, of implementing ordinances.
(Ord. 591, passed 6-23-2003)

§ 153.04 TENTATIVE PLAN.

(A) *Preparation*. The subdivider shall prepare a tentative plan together with other supplementary material as may be required to indicate the general program and objectives of the project. To assure knowledge of existing conditions and city requirements and to obtain compliance with existing city development plans, the subdivider is encouraged to confer with the City Engineer prior to preparation of the tentative plan.

(B) *Scope*. The tentative plan need not be a finished drawing, but it should show all pertinent information to scale in order that the Planning Commission may properly review the proposed development.

(C) *Scale*. The tentative plan shall be drawn at a scale of one inch for each 100 feet. The scale may be increased or decreased, if necessary, in order to fit the drawing on the legal sized plat of 18 x 24 inches, but in all cases, the scale to be used shall be multiples of ten.

(D) *Partial development*.

(1) Where the subdivision includes only part of the area owned by the subdivider, the Planning Commission shall determine the remaining area for which a Master Development Plan of future development shall be submitted by the subdivider or developer showing streets, tentative uses and lotting, drainage, major utilities and other features that will have a bearing on and guide future development of the property in question and surrounding areas. The property may be proposed for

development in phases, and the limits of each phase shall be shown on the Master Development Plan. The approved master Development Plan may be revised by the subdivider or developer from time to time, or with each phase, but it shall serve the purpose of providing comprehensive guidance to the overall development of the property to facilitate and achieve optimum street design and traffic circulation, proper storm drainage, integrated utilities, etc.

(2) The Master Development Plan shall be reviewed by the Planning Commission and, with necessary and appropriate revisions and conditions, shall be approved as the plan to which future development of the subject property shall conform. The adopted Master Development Plan shall apply to development of the subject property, regardless of change in applicant. Changes desired by a new applicant must be approved by the Planning Commission, and in no case shall a subdivision be approved that is not in conformance to the latest approved Master Development Plan.

(E) *Information required.* The tentative plan shall include the following information:

(1) *General information.* The following general information shall be shown on the tentative plan:

(a) Proposed name of the subdivision. This name must not duplicate nor resemble the name of another subdivision in the county and shall be approved by the Planning Commission.

(b) Date, northpoint and scale of drawing.

(c) Appropriate identification clearly stating that the map is a preliminary plan.

(d) Location of the subdivision by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract.

(e) The City Manager may require the names and addresses of all adjacent property owners.

(2) *Existing conditions.* The following existing conditions shall be shown on the tentative plan:

(a) The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract; railroad rights-of-way and other important features, such as section lines and corners, city boundary lines and monuments.

(b) Contour lines having the following minimum intervals:

1. One foot contour intervals for ground slopes less than 2%.

2. Two foot contour intervals for ground slopes between 2% and 5%.

3. Five foot contour intervals for ground slopes exceeding 10%.

4. Contours shall be related to the City of Winston datum.

(c) Location of areas subject to inundation by storm water; location, width and direction of flow of all water courses, with notation as to whether each water course is continuous or intermittent, and such other information required to comply with the city's floodplain development ordinance and standards, as codified in §§ 154.100 through 154.105.

(d) Natural features, such as rock outcroppings, riparian vegetation and marshes, wooded areas and isolated preservable trees.

(e) Existing uses of the property, including location of all existing structures and indicating those to remain on the property after platting.

(f) Elevation of adjoining property to evaluate drainage and view blockage.

(g) Show existing and proposed access to adjoining property.

(3) *Hazardous areas*. Where development is proposed in an area of potential slope or soil hazards, the tentative plan shall be accompanied by an analysis by a qualified, licensed civil engineer stating whether or not each proposed lot is stable and suitable for its intended use, and any conditions necessary to insure that each lot is stable and suitable for its intended use.

(a) If a development is located within the steep slope overlay, the requirements of that section shall also apply. Where regulations are found to be similar, the more restrictive shall apply.

(4) *Proposed plan of land subdivision*. The following information shall be included on the tentative plan:

(a) Proposed bicycle and pedestrian paths and streets; locations, widths, names and approximate radii of curves; the relationship of all streets to any projected streets as shown in the complete comprehensive plan, as suggested by the City Engineer.

(b) Locations of easements on the site or on abutting property, showing the width and purpose of all existing and proposed easements.

(c) Approximate dimensions of all lots.

(d) *Proposed land use*. Sites, if any, allocated for:

1. Multiple family dwellings.

2. Shopping centers.

3. Churches.

4. Industry.

5. Parks, schools, playgrounds, and open space or undeveloped areas.

6. Subdivisions or condominiums.

7. Public or semi-public buildings.

(5) *Utility specifications*. Approximate plan and profiles of proposed sanitary and storm sewers with grades and pipe sizes indicated and plan of the proposed water distribution system, showing pipe sizes, materials, and the location of valves and fire hydrants and how they will be extended from existing utilities.

(6) *Explanatory information*. Any of the following information which may be required by the Planning Commission and which may not be shown practically on the tentative plan may be submitted in separate statements accompanying the tentative plan.

(a) Proposed deed restrictions in outline form, if more restrictive than current city codes.

(b) Approximate centerline profiles showing the finished grade of all streets as approved by the City Engineer, including extensions for a reasonable distance beyond the limits of the proposed subdivision.

(c) Typical cross-sections of proposed streets showing the widths of rights-of-way, pavement and curbs, and the location and widths of sidewalks.

(7) *Development phasing*.

(a) A tentative plan may provide for platting in as many as three phases. The tentative plan must show each phase and be accompanied by proposed time limitations for approval of the final plat for each phase.

(b) Time limitations for the various phases must meet the following requirements:

1. Phase 1 final plat shall be approved within 12 months of approval of the tentative plan.

2. Phase 2 final plat shall be approved within 24 months of approval of the tentative plan.

3. Phase 3 final plat shall be approved within 36 months of approval of the tentative plan.

4. The City Manager may, under unique circumstances, approve a one year extension. A copy of the City Manager's extension decision shall be provided to the Planning Commission.
(Ord. 591, passed 6-23-2003)

§ 153.05 SUBMISSION OF TENTATIVE PLAN.

(A) *Submission.* The subdivider shall submit the filing fee, ten prints, or more as requested, of the tentative plan and supplemental information with the City Manager who shall check it for completeness as per § 153.03. Once the application is deemed complete, the City Manager shall distribute copies as necessary. The subdivider shall also submit the tentative plan to those special districts and agencies specified by the city or otherwise requested. Within 30 days from the time the application is deemed complete, the City Manager shall set a hearing. Prior to taking any action at the hearing, all members of the Planning Commission shall disclose the content of any significant prehearing 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.

(B) *Filing fee.* The filing fee for a tentative plan is contained in a fee schedule set by City Council to defray costs in the review and investigation of the plan and action upon the plan including staff and engineering expense, public notification and consultation with affected agencies. Said fee is non-refundable and is in addition to the fee required for filing a final plat as laid out in § 153.06.

(C) *Review of tentative subdivision plan.* Within 30 days following acceptance of the subdivision application, tentative plan and supplementary information.

(1) A hearing shall be scheduled before the Planning Commission to consider tentative approval to the application as submitted or as it may be modified or conditioned, or to disapprove the application and, in all cases, express its reasons therefore, or continue the hearing.

(2) Approval of the application is the first step toward the approval of the final plat provided there is no change in the plan of subdivision as shown on the tentative plan. Final approval is pursuant to the full compliance with all conditions of approval assigned to meet the requirements of this chapter.

(D) *Appeal.* Any person aggrieved by a decision of the Planning Commission on the tentative plan may appeal the decision to the City Council in writing within 14 days of the written decision. Appeals to decisions made under the provisions of this chapter shall follow the procedures for appeals established in Chapter 154 of this code. City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided for in O.R.S. 227.180(2).
(Ord. 591, passed 6-23-2003)

§ 153.06 FINAL PLAT.

(A) *Duration of tentative plan approval.*

(1) Approval of a tentative plan shall be valid for 12 months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the limitations of § 153.04.

(2) If any time limitation is exceeded, approval of the tentative plan, or of the phase of the tentative plan, and any subsequent phases, shall be void. Any subsequent proposal by the applicant for division of the property shall require new application.

(B) *Granting of extensions.*

(1) An applicant may request an extension of a tentative plan approval, or, if the tentative plan provides for phased development, an extension of tentative approval with respect to the phase the applicant is then developing. Requests for extension of any land use approval shall be submitted to the City Manager for consideration. Such request shall be considered an application, and shall be submitted in writing, stating the reason why an extension should be granted.

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

(b) Further extensions of up to one year each may be granted by the City Manager if extraordinary circumstances are shown by the applicant. If the tentative plan is subject to security under § 153.20 to assure the developer's full and faithful performance of required improvements, then the approved security must also be renewed or extended to equal the extended approval period of the tentative plan.

(C) *Preparation of final plat.* Before expiration of the tentative plan approvals and any extensions hereinabove, the plat and improvement plans shall be prepared and submitted for ensuring compliance with the provisions of O.R.S. 92.050. The plat and improvement plans shall incorporate the recommendations made by the Commission.

(1) The final plat shall be prepared in the form required by these regulations and state laws, including O.R.S. 92.080, and O.R.S. 91.120, for plats of record.

(D) *Basic information required.* In addition to that specified by state law, the following information shall be shown on the final plat:

(1) Date, northpoint and scale of drawing.

(2) Written legal description of the subdivision tract boundaries.

(3) Name and address of the owner or owners, subdivider or surveyor, and land planner or landscape architect, if used.

(4) Subdivision boundary lines, right-of-way lines of streets, and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents and chords. All bearings and angles shall be shown to the nearest ten seconds and all dimensions to the nearest 0.01 foot.

(5) Location, dimensions and purpose of all easements.

(6) Any building setback lines if more restrictive than the city zoning ordinance.

(7) Location and purpose for which sites, other than residential lots, are dedicated or reserved.

(8) Location and dimensions of easements and any other areas for public use dedicated without any reservation or restriction whatever.

(9) A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of the plat.

(10) Description and location of all permanent reference monuments, set or found, and all monuments required by O.R.S. 92.060.

(11) Certification by a licensed land surveyor registered by the State of Oregon, who prepared the survey and the plat.

(12) Dedication statement by the property owners with their notarized signatures.

(13) The name of the subdivision.

(14) Location, names and width of present and proposed streets.

(15) Spaces and titles for signatures of the Planning Commission President, Mayor, City Manager, County Surveyor and county officers.

(E) *Supplementary information required*. In addition, the following shall be supplied by the applicant:

(1) Certification of title showing ownership of the land and also written proof that all taxes and assessments on the property are paid to date.

(2) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of said plat.

(3) A certificate by the City Engineer or City Manager certifying that the subdivider has complied with one of the following alternatives:

(a) All improvements have been installed in accordance with the requirements of these regulations as specified in §§ 153.09 through 153.12, and §§ 153.15 through 153.17 and with the action of the Planning Commission giving conditional approval of the tentative plan; or

(b) An improvement agreement and security as specified in §§ 153.19 and 153.20 have been submitted.

(F) *Amendments to preliminary plans and final plats.*

(1) *Definitions.*

(a) ***MINOR AMENDMENT*** means a change which:

1. Does not increase the number of lots or parcels created by the subdivision or partition;

2. Does not enlarge the boundaries of subdivided or partitioned area;

3. Does not change the general location or amount of land devoted to a specific land use; or

4. Includes only minor shifting of the established lines, location of buildings, proposed public or private streets, pedestrian ways, utility easements, parks or other public open spaces.

(b) ***MAJOR AMENDMENT*** means any change which is not a minor amendment.

(2) *Approval of minor amendments.* A minor amendment to an approved preliminary subdivision or partition plan or to an approved final subdivision plat or final partition plat may be approved by the City Manager.

(3) *Approval of major amendments.* Approval of a major amendment to an approved preliminary subdivision or partition preliminary plan or to an approved final subdivision plat or final partition plat shall be a land use action as provided by and subject to the provisions of §§ 154.170 through 154.191.
(Ord. 591, passed 6-23-2003)

§ 153.07 SUBMISSION OF FINAL PLAT.

(A) *Submission.* The subdivider shall file the original drawings, a copy on good quality transparent drafting film, and at least three prints or more as requested, of the final plat and any supplementary information with the City Manager, who shall check it for completeness as per § 153.03. Once the application is deemed complete, the City Manager shall promptly submit the plat to the City Engineer and/or County Surveyor.

(B) *Review*. The City Engineer and County Surveyor shall examine the plat and all required information to determine that the subdivision as shown is substantially the same as it appeared on the approved tentative plan and as required by this chapter and city specifications, and that the plat as prepared is technically correct.

(C) *Approval.*

(1) Approval of the plat shall be indicated by the signatures of the chairperson of the Planning Commission, Mayor, City Manager, and, as required by O.R.S. 92.100, by the County Surveyor. Any offers of dedication shall be referred by the City Manager to the City Council for acceptance.

(2) If the City Engineer and/or County Surveyor determine that the final plat and supplementary information are in full conformance with the approved tentative plan and city standards and specifications, the City Manager shall be so advised. If the final plat or supplemental information are not, in the judgment of the City Engineer or County Surveyor, in full conformance, the City Engineer shall return the plat or supplemental information to the applicant, stating the reason the plat or supplemental information does not conform to the tentative plan, city standards, or city specifications. The City Manager, in its review of the plat and supplemental information, shall examine the plat and supplemental information for conformance with the approval of the tentative plan. If the City Manager finds the plat and supplemental information conform to the tentative plan as approved, the chairperson of the Planning Commission shall sign the plat and forward it to the City Council for review of any offers of dedication.
(Ord. 591, passed 6-23-2003)

§ 153.08 FILING OF PLAT, TIME LIMIT.

Approval of the plat by the city, as provided by this chapter, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the County Assessor and the county governing body for signatures, as required by O.R.S. 92.100. Approval of the plat shall be null and void if the plat is not recorded within 30 days after the date the last required approving signature has been obtained.
(Ord. 591, passed 6-23-2003)

§ 153.09 MAJOR AND MINOR PARTITIONING.

A major or minor partition shall be processed as follows:

(A) *Submission of tentative plan.* There shall be submitted to the City Manager the filing fee, and ten oversized copies, or more if requested or one 11 x 17 copy, of the tentative plan of the partition. The City Manager shall check it for completeness as per § 153.03. Once the application is deemed complete, the City Manager shall process the land use action as identified in §§ 154.170 through 154.191. The

partitioner shall also submit the tentative plan to those special districts and agencies specified by the city or otherwise requested. The tentative plan shall be 11 x 17 inches in size and contain the following information:

(1) The date, northpoint, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.

(2) The name and address of the record owner and of the person who prepared the tentative plan.

(3) The City Manager may require a listing of the names and addresses of all adjacent property owners.

(4) Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.

(5) For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets; location, width and purpose of other existing easements; and location and size of sewer and waterlines and drainage ways and the location of power poles.

(6) Outline and location of existing buildings to remain.

(7) Parcel layout, showing size and relationship to existing or proposed streets and utility easements.

(8) Location of areas subject to inundation by storm water; location, width and direction of flow of all water courses, with notation as to whether each water course is continuous or intermittent, and such other information required to comply with the city's floodplain development ordinance and standards as codified in §§ 154.100 through 154.105.

(9) Such additional information as requested by the City Manager including, but not limited to, contours and natural features.

(B) *City Manager approval*. The City Manager shall give its approval to the tentative plan as submitted, as it may be modified or conditioned, or disapprove the tentative plan, and in all cases, expressing its reasons for the action taken, or may continue the hearing. The plan shall be evaluated for conformance to this and other city ordinances, city policies, standards and specifications, and the comprehensive plan. The City Council shall review any offers of dedication.

(C) *Approved document*. The action of the City Manager shall be noted on two copies of the tentative plan, including reference to any attached documents describing any conditions. One copy shall be returned to the partitioner and one copy retained by the City Manager.

(D) *Appeal*. Any person aggrieved by a decision of the City Manager on the tentative plan may appeal the decision to the Planning Commission in writing within 14 days of the decision. Appeals to decisions made under the provisions of this chapter shall follow the procedures for appeals established in §§ 154.170 through 154.191. City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided for in O.R.S. 227.180(3).

(E) *Final map*. The final map to be recorded shall show the right-of-way lines of streets and lot lines with dimensions, bearings and radii, arcs, points of curvature, lengths and bearings of tangents and chords. All bearings and angles shall be shown to the nearest ten seconds; all dimensions to the nearest 0.01 foot, and the location and description of all permanent reference monuments set or found shall be shown. All lot corners shall be marked with monuments as provided in O.R.S. 92.060.

(F) *Certificate*. Included with the final map to be recorded shall be a certificate by the City Engineer or City Manager certifying that the partitioner has complied with one of the following alternatives:

(1) All improvements have been installed in accordance with the requirements of these regulations as specified in §§ 153.09 through 153.12 and §§ 153.15 through 153.17, and with the action of the City Manager giving approval of the map; or

(2) An improvement agreement and security as specified in §§ 153.19 and 153.20 have been submitted; or

(3) An agreement has been signed by the property owner agreeing to sign any and all waivers, petitions, consents and all other documents necessary to obtain the improvements under any proposed or adopted improvement act and agreeing to waive all rights to remonstrate against such improvements, but not the right to protest the amount and manner of spreading the assessment thereof. Such agreement shall run with the land therein described.

(G) *Final authorization*. Following tentative approval of the minor land partition by the City Manager, the final partition map shall be approved if found to be in accordance with all applicable ordinances, rules, statutes and any special conditions placed on the partition by the City Manager. The partition shall become final upon signature by the City Manager, County Surveyor, and county officers. The final partition map shall be recorded within 90 days after the date the last required approving signature has been obtained or the map shall be null and void.

(H) *County Surveyor fee*. The partitioner shall pay a fee to the County Surveyor for checking partition maps and such fee shall be established by the County Surveyor.
(Ord. 591, passed 6-23-2003)

§ 153.10 DESIGN STANDARDS AND PRINCIPLES OF ACCEPTABILITY.

The subdivision or partition shall be in conformity with the comprehensive plan, and shall take into consideration any preliminary studies thereon or applying thereto. The subdivision or partition shall conform with the requirements of state laws, this and other city ordinances, standards and specifications. (Ord. 591, passed 6-23-2003)

§ 153.11 STREET AND SIDEWALKS.

(A) *General*. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.

(B) *Creation of streets*.

(1) The Planning Commission may approve the creation of a street to be established by deed without full compliance with these regulations provided such conditions as are necessary to preserve the objectives of the standards of this chapter are accepted and provided either of the following conditions exists:

(a) The establishment of such street is initiated by the City Council or Board of Commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the creation.

(b) The tract in which the street is to be dedicated is an isolated ownership of one acre or less. The creation of all other streets shall be in conformance with requirements for subdivision, except as provided in division (C) below.

(C) *Creation of ways*. The Planning Commission or City Manager may approve an easement-of-way to be established by deed without full compliance with these regulations provided such an easement is the only reasonable method by which a portion of a lot large enough to warrant partitioning into two parcels may be provided with access. If the existing lot is large enough so that more than two parcels not having frontage on an existing street may be created, an easement-of-way will not be acceptable and a street must be dedicated.

(D) *Minimum right-of-way and roadway widths*. Unless otherwise adopted in the transportation system plan, the width of streets and roadways shall not be less than the minimum shown in the tables and illustrations in Appendices A through F of this chapter.

(E) *Reserve strips*. Reserve strips or street plugs controlling the access to streets will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case unless the control and disposal of the land composing such strips is placed definitely within the jurisdiction of the city under conditions approved by the Planning Commission.

(F) *Alignment*. All streets shall, as far as practical, be in alignment with existing streets by continuations of the center lines thereof.

(G) *Future extensions of streets*. Where a land decision adjoins unplatted acreage, streets, which in the opinion of the division of the unplatted acreage, will be required to be provided through to the boundary lines of the tract. Reserve strips and street plugs may be required to preserve the objectives of street expansions.

(H) *Intersection angles*. Streets shall intersect one another at an angle as near to a right angle as practical, and no intersections of streets at angles of less than 60 degrees will be approved unless necessitated by topographic conditions. When intersections of other than 90 degrees are unavoidable, the right-of-way lines along the acute angle shall have a minimum corner radius of 15 feet, provided, however, that all right-of-way lines at intersections with arterial streets shall have a corner radius of not less than 20 feet.

(I) *Existing streets*. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way and improvement to city standards shall be provided at the time of subdivision.

(J) *Half streets*. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.

(K) *Cul-de-sacs*. A cul-de-sac shall be as short as possible and shall in no event be more than 300 feet long. All cul-de-sacs shall terminate with a circular turn-around with a minimum radius of 50 feet.

(L) *Grades and curves*. Grades shall not exceed 6% on major or secondary arterials, 10% on collector streets, or 15% on any other street. In flat areas, allowance shall be made for finished street grades having a minimum slope of ½%. Center line radii of curves shall not be less than 300 feet on primary arterials, 200 feet on secondary arterials, or 100 feet on other streets.

(M) *Marginal access streets*. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(N) *Alleys*. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the Planning Commission.

(O) *Sidewalks*.

(1) Except as provided in division (2), below, sidewalks shall be installed adjacent to the curb in all residential and commercial partitions or subdivisions. The Planning Commission or City Manager may in residential zones, where special circumstances prohibit a standard sidewalk, reduce the width of sidewalks as long as the width is not less than four and one-half feet; for commercial zones the width shall be not less than eight feet.

(2) Where the location and grade of the sidewalk in a partition cannot practically be determined, either a waiver shall be signed for such improvements or the developer shall deposit with the city an amount estimated to be the actual cost of the installation. Such a waiver shall state the sidewalks will be installed upon demand by the city.

(P) *Curbs and gutters*.

(1) Except as provided in division (2) below, concrete curbs and gutters shall be installed along all public streets. Rolled curbs shall be installed along all private drives serving more than one lot approved in accordance with this chapter.

(2) Where the location and grade of the curb and gutter in a partition cannot practically be determined, either a waiver shall be signed for such improvements or the developer shall deposit with the city an amount estimated to be the actual cost of the installation. Such a waiver shall state the curbs and gutters will be installed upon demand by the city.
(Ord. 591, passed 6-23-2003)

§ 153.12 BLOCKS.

(A) *General*. The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites available to the special needs of the type of use contemplated, needs for convenient access, traffic circulation, control and safety of street traffic, and limitations and opportunities of topography.

(B) *Sizes*. Blocks shall not exceed 1,200 feet in length, except blocks adjacent to arterial streets, or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

(C) *Easements*.

(1) *Utility lines*. Easements for electric lines or other public utilities may be required. Easements for utilities shall be a minimum of ten feet in width, may be centered on rear or side lot or parcel lines or along the front setback. Tieback easements centered on the lot or parcel line six feet by 20 feet long shall be provided for utility poles along lot or parcel lines at change of direction points of easements.

(2) *Water courses*. Where a land division is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose. Streets parallel to major water courses may be required.
(Ord. 591, passed 6-23-2003)

§ 153.13 LOTS OR PARCELS.

(A) *Size and shape*. The lot or parcel size, width, shape and orientation shall be appropriate for the location of the land division and for the type of development and use contemplated.

(B) *Minimum lot or parcel sizes*. Lot or parcel sizes shall conform with requirements of the city zoning ordinances in effect at the date of application for land division.

(C) *Lot or parcel side lines*. The side lines of lots or parcels shall run at right angles to the street upon which the lots or parcels face, as far as practicable, provided, however, that on curved streets they shall be radial to the curve as far as practicable.

(D) *Resubdivision*. In subdividing tracts into large lots or parcels which at some future time are likely to be resubdivided, the location of lot or parcel lines and other details of the layout shall be such that resubdivision may readily take place without interfering with the orderly development of streets. Restriction of building locations in relationship to future street right-of-way shall be made a matter of record if the Planning Commission considers it necessary.
(Ord. 591, passed 6-23-2003)

§ 153.14 PUBLIC OPEN SPACES.

(A) Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

(B) Where a proposed park, playground, school or other public use shown in the comprehensive plan is located in whole or in part in a subdivision, the Planning Commission may request the dedication or reservation of such area within the subdivision in those cases in which the Planning Commission deems such requirements to be reasonable.
(Ord. 591, passed 6-23-2003)

§ 153.15 PRESERVATION OF NATURAL FEATURES.

(A) In order to preserve the natural amenities of the city, land clearing and grading should, as much as feasible, retain existing trees. Existing trees may be removed when the trunk of any tree over six inches in diameter measured four feet above the ground level is:

(1) Inside or within four feet of any proposed exterior wall;

(2) In an area needed for parking or access and such area cannot be easily located elsewhere;

(3) Diseased, or weakened in such a manner as to cause imminent danger to persons or property;

(4) Adjacent to other trees which will benefit from its removal; or

(5) A threat to existing or proposed facilities.

(B) Riparian vegetation located along water courses and in the 100-year floodplain should, as much as feasible, be retained to protect the stability of the stream bank and enhance and preserve the attributes of the area. Replanting where vegetation was removed may be required to aid stream bank stability. All such vegetation in the floodway shall be preserved unless removal is necessary for flood control purposes.
(Ord. 591, passed 6-23-2003) Penalty, see § 153.99

§ 153.16 INSTALLATION OF IMPROVEMENTS.

In addition to other requirements, improvements installed by the subdivider or partitioner, either as a requirement of these regulations or at his own option, shall conform to the requirements of this chapter and improvements standards and specifications established by the city. The improvements shall be installed in accordance with the following procedures:

(A) Work shall not begin until plans have been checked for adequacy and approved by the city. All such plans shall be prepared by a registered engineer licensed to practice in the State of Oregon.

(B) All such work shall be guaranteed with a form of security as specified in § 153.20.

(C) Improvements shall be constructed under the inspection and to the reasonable satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant the change in the public interest.

(D) Underground utilities installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

(E) A map showing all public improvements as built shall be filed with the City Recorder upon completion of the improvements.

(F) All improvements must be properly inspected to demonstrate full compliance with this chapter. The city may require inspection report(s) from a private organization at the developer's expense for all improvements to ensure they meet city standards.
(Ord. 591, passed 6-23-2003; Ord. 21-692, passed 3-1-2021)

§ 153.17 SPECIFICATIONS FOR IMPROVEMENTS.

All improvements shall be constructed to current specifications and standards, as approved by the City Council.
(Ord. 591, passed 6-23-2003)

§ 153.18 REQUIRED IMPROVEMENTS.

The following improvements are required in conjunction with a subdivision or partition. These improvements are required for the public interest, convenience, health, safety and welfare.

The development of all improvements, at the size necessary to serve a subdivision or partition, are the responsibility of the subdivider or partitioner, regardless of zoning district, except that division (K) shall apply only in residential districts. The city and subdivider, or partitioner may negotiate on the size of public facilities necessary for the proposed development.

(A) *Water supply*. Lots or parcels within a subdivision or partition shall either be served by a public domestic water supply system conforming to city specifications, or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the Oregon State Department of Environmental Quality (DEQ) considers adequate for soil and water conditions. In any case, lot sizes in an area without a public water supply shall be adequate to maintain a separation of at least 100 feet between each well and sewage disposal facility, and no lot without a public water supply shall be less than 100 feet wide and 15,000 square feet in area.

(B) *Sewage*. Lots or parcels within a subdivision or partition shall be served by a public sewage disposal system conforming to city specifications or the lot size shall be increased to provide sufficient area for a septic tank disposal system approved by the Oregon Department of Environmental Quality (DEQ) as being adequate for soil and water conditions and water supply. In no event shall a lot or parcel without a public sewer connection be less than 15,000 square feet in area.

(C) *Streets, curbs, sidewalks*. Streets within a subdivision or bordering a partition shall be constructed according to the requirements in § 153.10.

(D) *Underground utility and service facilities.* All utility lines in subdivision or partitions including but not limited to, those required for electric, natural gas, communications, lighting and cable television services and related facilities shall be placed underground, except surface mounted transformers, surface mounted connections boxes and meter cabinets which may be placed aboveground, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above. The subdivider or partitioner shall make all necessary arrangements with the servicing utility to provide the underground services. Installation shall be according to the specification of the respective utility.

(E) *Street light fixtures.* Street light fixtures shall be installed in accordance with standards adopted by the city, where necessary for subdivisions or partitions.

(F) *Street signs.* Street name signs shall be installed at all street intersections and dead end signs for all cul-de-sacs in accordance with standards adopted by the city for subdivisions or partitions. Other signs may be required upon the recommendation of the City Engineer.

(G) *Monuments.* Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, at intermediate points and shall be of such material, size and length as required by State Law. Any monuments that are disturbed before all improvements are completed by the subdivider or partitioner shall be replaced to conform to the requirements of state law.

(H) *Fire hydrants.* Fire hydrants and water mains of suitable size shall be installed according to the standards of Winston-Dillard Rural Fire District #5, as necessary for partitions and subdivisions.

(I) *Storm sewer.* Lots or parcels within the subdivision or partition shall be built to be adequately served by on-site storm drainage systems without substantial off-site impact. The City Engineer may recommend additional on-site improvements to minimize adverse downstream impacts.

(J) *Bikeways.* Subdivision and partitions approved in areas to be served by designated bikeways shall dedicate sufficient land for such purpose and construct same according to city standards. Bikeway requirements may be satisfied in conjunction with other transportation-related requirements of this chapter (i.e. streets, sidewalks, pedestrian ways).

(K) *Parks.* All residential subdivisions and partitions shall make provisions for community park and open space needs reasonably related to needs of the particular subdivision or partition. (In order to maintain the city's park system at current service levels, new residential developments will be subject to an improvement fee. The fee is based upon the replacement value of the city's park facilities and established by ordinance.) If suitable land exists on site, a dedication of land may be proposed and negotiated by the Planning Commission and the Winston Park Board, as guided by the city's public facilities plan and park master plan, subject to final review and approval by the City Council.

(L) *Coordination of construction.* Subdivider and partitioner shall coordinate installation of improvements to minimize disruption of natural features of the site and maintain the integrity of improvements once installed (i.e. street surface).
(Ord. 591, passed 6-23-2003) Penalty, see § 153.99

§ 153.19 IMPROVEMENT AGREEMENT.

Where utilized in accordance with this chapter, an improvement agreement shall be executed and filed by a developer with the City Recorder for City Council review and approval or disapproval. The agreement between the developer and the city shall specify the period within which required improvements and repairs shall be completed and provide that, if such work is not completed within the period specified, the city may complete the same and recover the full cost and expense thereof, including legal and administration costs from the developer. Such agreement may also provide for the construction of the improvements in units, for an extension of time under conditions therein specified, and for the termination of the agreement upon the completion of proceedings under an assessment district program for the construction of improvements specified in said agreement. It shall also specify 10% of the bond amount shall be retained for one year after completion of the requirements to guarantee their performance. The agreement shall also provide for reimbursement to the city for the cost of inspection by the city which shall not exceed 10% of the cost of the improvements to be installed.
(Ord. 591, passed 6-23-2003)

§ 153.20 SECURITY.

(A) *Security required.* Where an improvement agreement as specified in § 153.19, is utilized, security to assure the developer's full and faithful performance shall also be submitted to the City Recorder for City Council review and approval. The security shall be one of the following, to be approved by the city:

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

(2) A cash deposit; or

(3) 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.

(B) *Amount.* Such assurance of full and faithful performance shall be for a sum recommended by the City Manager and approved by the City Council as sufficient to cover the cost of the improvements and legal and administrative cost.

(C) *Failure to carry out agreement.* In the event the developer fails to carry out provisions of the agreement or the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the security for reimbursement of such costs or to carry out the improvements. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the land divider shall be liable to the city for the difference.

(D) If the tentative plan that is subject to security under this section is granted an extension under § 153.06, then the approved security must also be renewed or extended to equal the extended approval period of the tentative plan so as to assure the developer's full and faithful performance of required improvements.
(Ord. 591, passed 6-23-2003) Penalty, see § 153.99

§ 153.21 ACCEPTANCE OF IMPROVEMENTS.

After completion of all public improvements as specified in this chapter, the City Engineer or City Manager shall give a report on the performance of the completion of the improvements to the Council. If the improvements are satisfactory, the City Council shall accept the improvements for maintenance and release the maintenance bond or security, if any. If the improvements are unsatisfactory, deficiencies shall be corrected by the developer or the city shall call on the bond or security for reimbursement. In such case, if the amount of the bond or security exceeds cost and expense incurred by the city, the city shall release the remainder and if the amount of the bond or security is less than the cost and expense incurred by the city, the developer shall be liable to the city for the difference.
(Ord. 591, passed 6-23-2003)

§ 153.22 VARIATIONS AND EXCEPTIONS.

(A) *Hardship*. Where the Planning Commission finds that extraordinary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the comprehensive plan or these regulations.

(B) *Conditions*. In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements to be varied or modified.

(C) *Circumstances for granting a variance*. Any such variance request shall be heard with the hearing on the tentative plan. In granting a variance to provisions of this chapter, all of the following must be found to exist:

(1) 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 or parcel size or shape, topography or other circumstances over which the owners of property since enactment of this chapter have had no control.

(2) 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.

(3) 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.

(4) The variance requested is the minimum variance which would alleviate the hardship.

(D) The Planning Commission shall express its reasons for the action taken based on division (C), above, this and other city ordinances, policies, standards and specifications.
(Ord. 591, passed 6-23-2003)

§ 153.23 APPROVAL OF ACCESS.

No subdivision or partition shall be approved unless the access to and within the proposed division is also approved. Written approval must be obtained from ODOT for access onto a state highway and the Douglas County Public Works Department for access must provide written approval for access onto a county road. In granting approval, the City Manager, Planning Commission or City Council can require the applicant to improve the access to state, county or city standards and dedicate all such access to the city.
(Ord. 591, passed 6-23-2003) Penalty, see § 153.99

§ 153.24 VALIDITY.

If any provision of this chapter shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, such judgment shall not affect the validity of the remaining portion of this chapter.
(Ord. 591, passed 6-23-2003)

§ 153.99 PENALTIES FOR VIOLATION.

Any person offering to sell, contracting to sell or selling land contrary to the provisions of these subdivision regulations shall, upon conviction thereof, be guilty of a misdemeanor and be punished by a fine of not more than $500, or imprisonment in the city jail for not more than 100 days, or by both such fine and imprisonment.
(Ord. 591, passed 6-23-2003)

LIST OF TABLES AND ILLUSTRATIONS

APPENDIX A: TABLE D - MINIMUM RIGHT-OF-WAY AND ROADWAY WIDTHS.

D. Table for Minimum Right-of-Way and Roadway Widths

Right of Way Width	Number of Lanes	Travel Lane Width	Parking Lane	Bike Lane Width	Sidewalk Width**	Center Turn Lane	Curb/ Gutter
Illustration 1 – Arterial* **							
90 '	5	12'	No	6 '	6 ' (2)	14 ' (1)	2 ' (2)
76 '	4	12'	No	6 '	6 ' (2)	No	2 ' (2)
66 '	3	12'	No	6 '	6 ' (2)	14 ' (1)	2 ' (2)
Illustration 2 – Major Collector							
68 '	2	12'	8 ' (2)	6 '	6 ' (2)	No	2' (2)
56 '	2	12'	8 ' (2)	No	No	No	2' (2)
44'	2	14'	No	No	6' (2)	No	2' (2)
52'	2	12'	No	6'	6' (2)	No	2' (2)
Illustration 3 – Residential Collector							
64'	2	10'	8' (2)	6'	6' (2)	No	2' (2)
52'	2	10'	8' (2)	No	6' (2)	No	2' (2)
36	2	10'	No	No	6' (2)	No	2' (2)
48'	2	10'	No	6'	6' (2)	No	2' (2)
Illustration 4 – Residential							
36'	2	10'	No	No	6' (2)	No	2' (2)
36'	2	10'	No	6'	6' (1)	No	2' (2)
52'	2	10'	8' (2)	No	6' (2)	No	2' (2)
Illustration 5 – Local Access Way							
30'	2	10'	No	No	6' (1)	No	2' (2)
Cul-de-sac Radius Standards							
50'		40' pavement width					

** Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.

*** Minimum right-of-way and roadway widths must comply with the State of Oregon standards

(Ord. 591, passed 6-23-2003)

APPENDIX B: ILLUSTRATION 1: ARTERIALS.

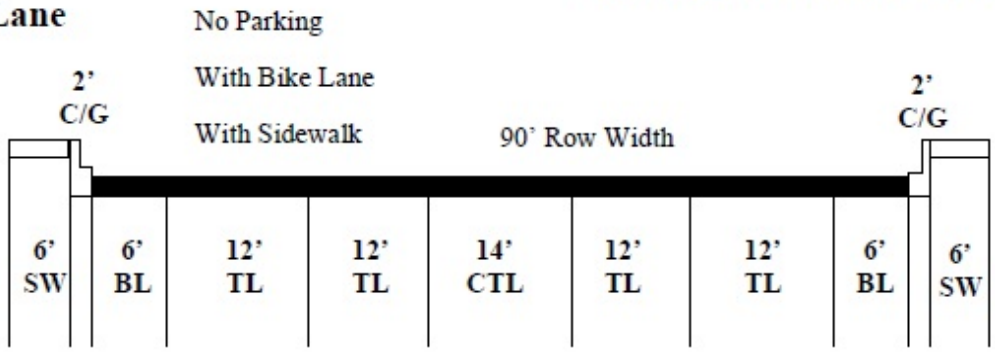
Illustration 1

Arterials

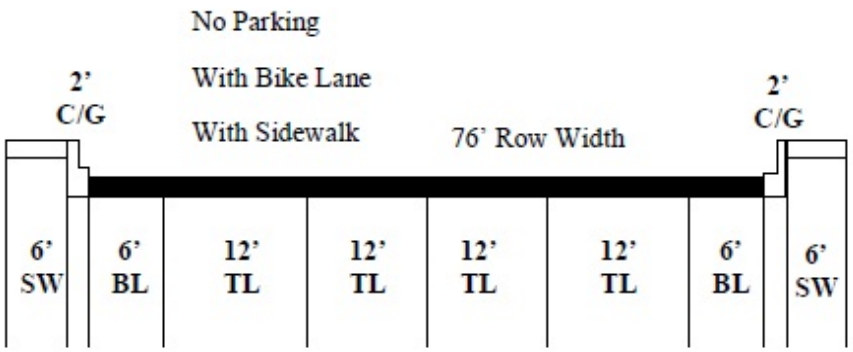
**Footnote: Pursuant with the standards contained in the Subdivision Ordinance Section 11.O, the Planning Commission or City Manager has the authority to approve a lesser sidewalk width for residential zones.

***Arterial cross sections for State Highway facilities must comply with the State of Oregon standards.

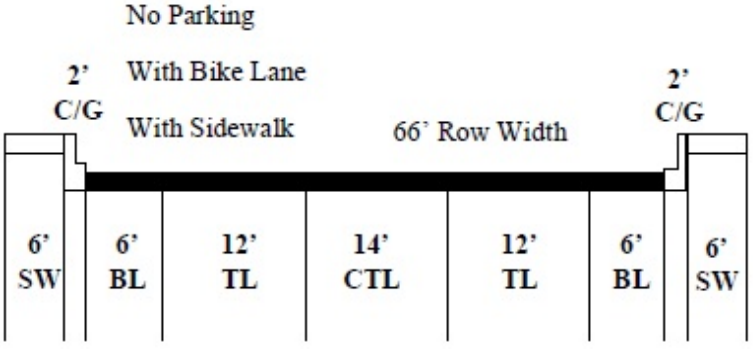
5-Lane



4-Lane

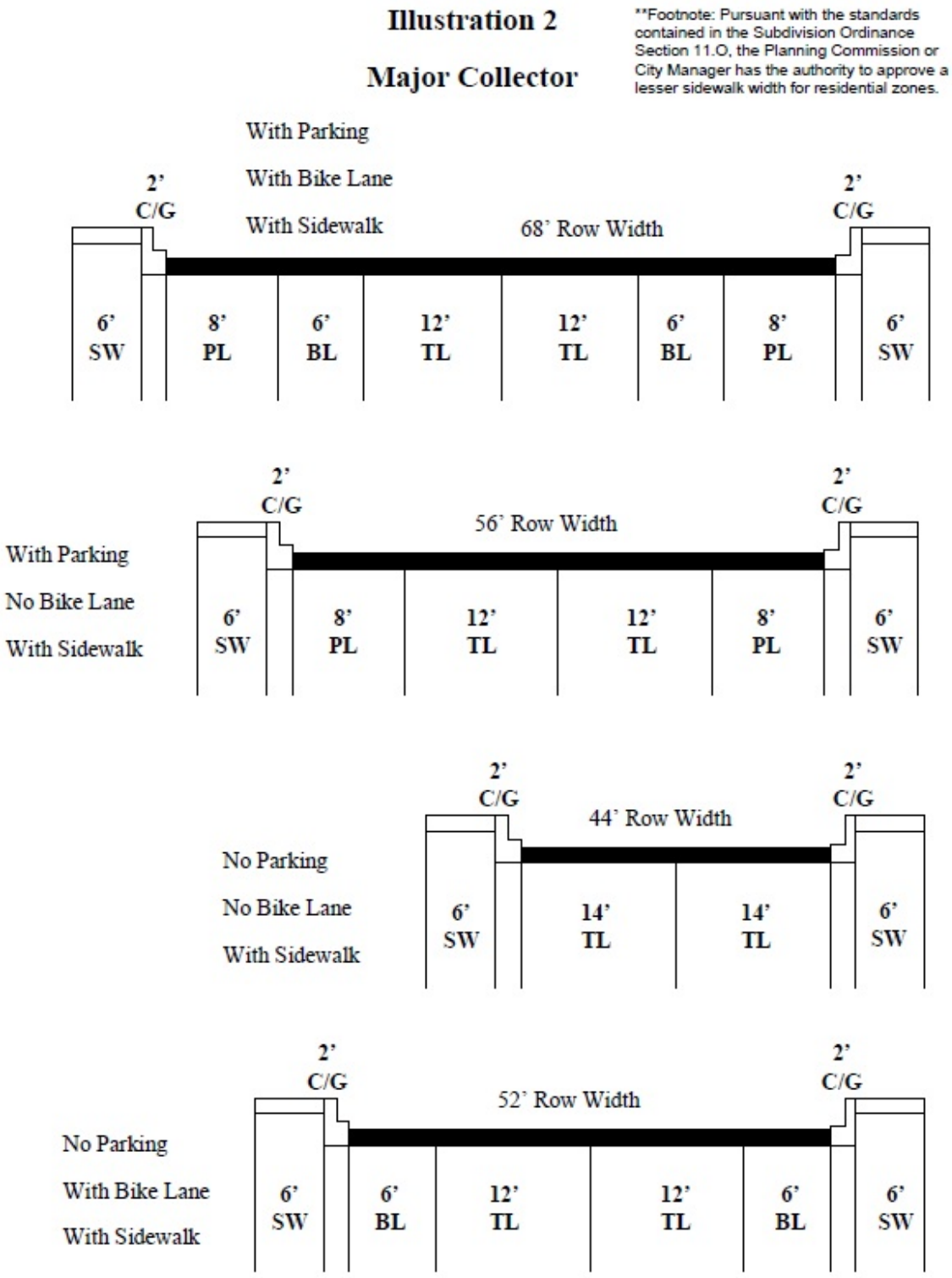


3-Lane



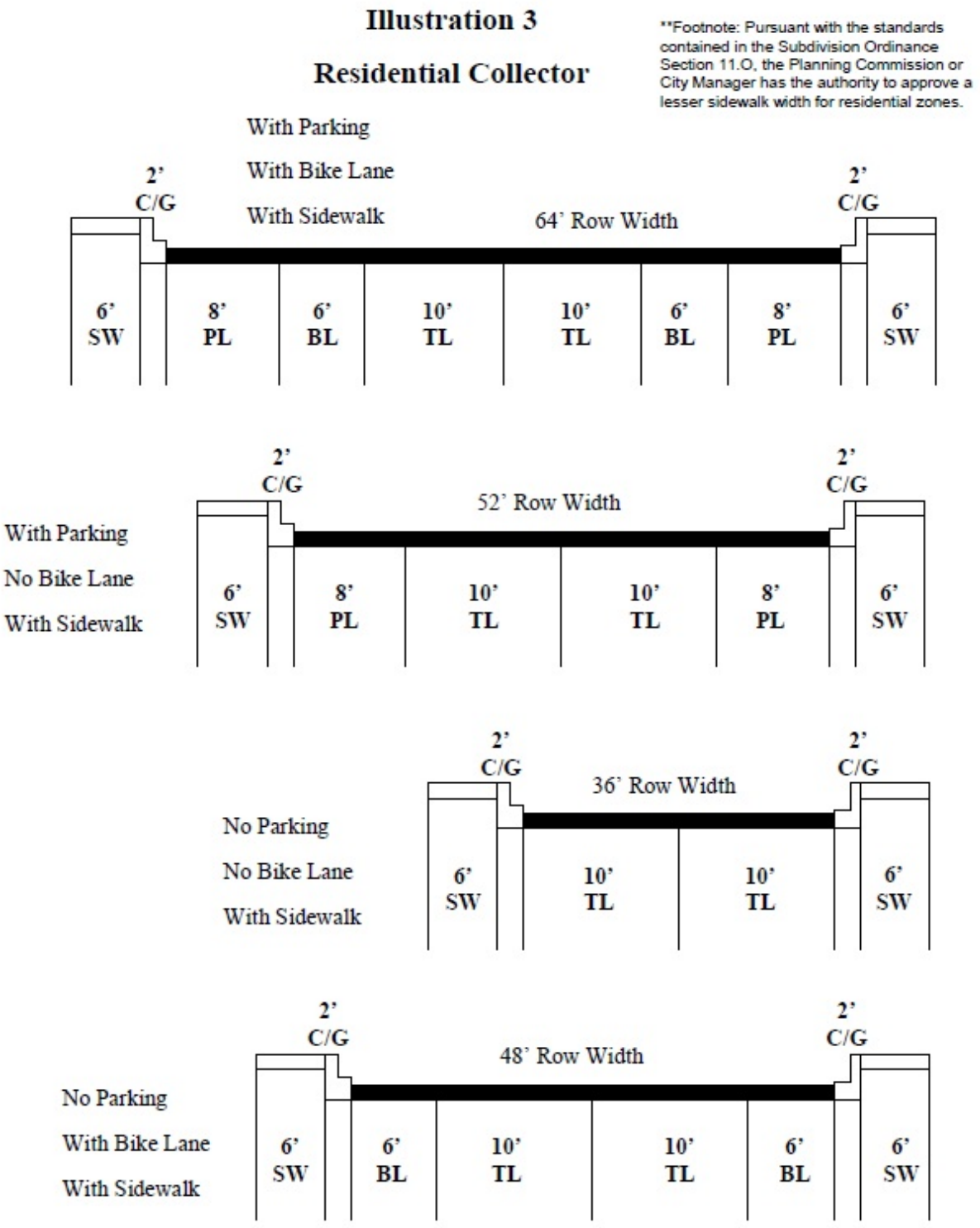
(Ord. 591, passed 6-23-2003)

APPENDIX C: ILLUSTRATION 2: MAJOR COLLECTOR.



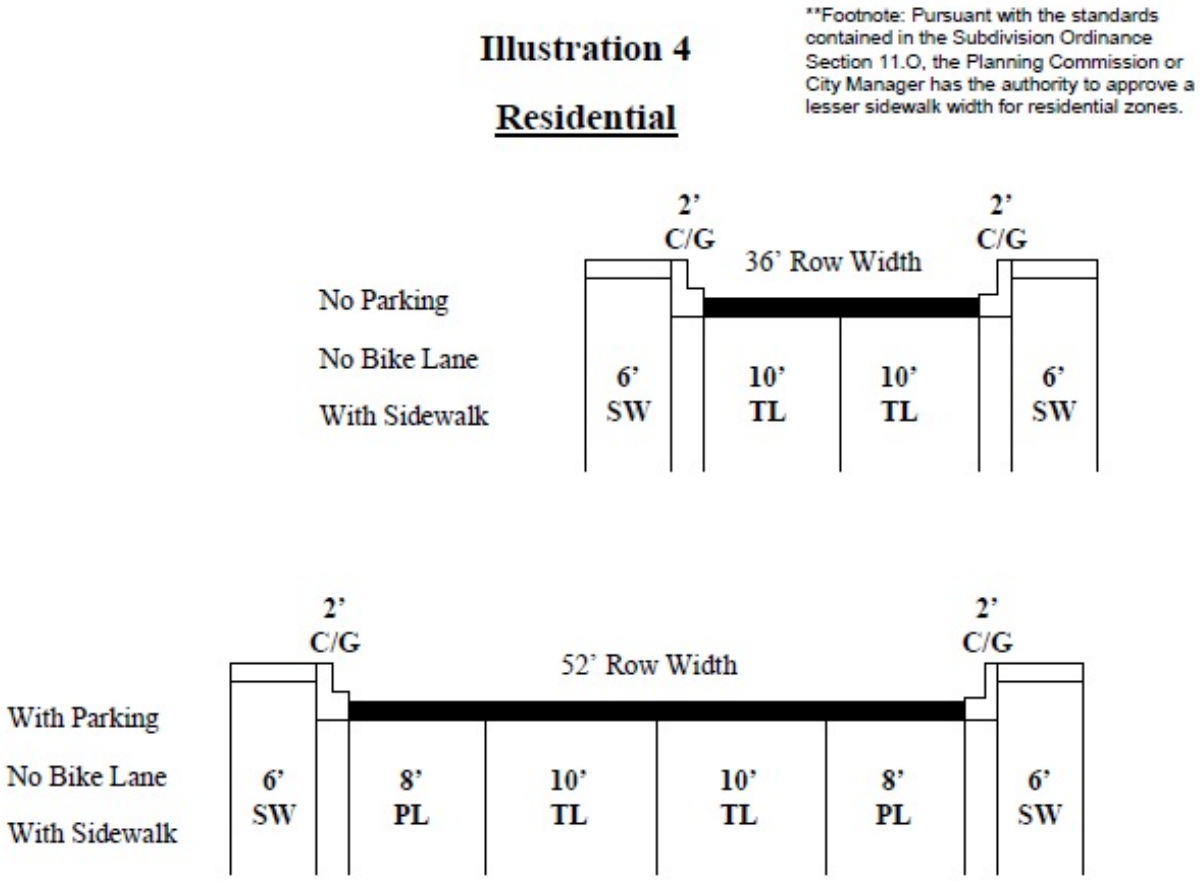
(Ord. 591, passed 6-23-2003)

APPENDIX D: ILLUSTRATION 3: RESIDENTIAL COLLECTOR.



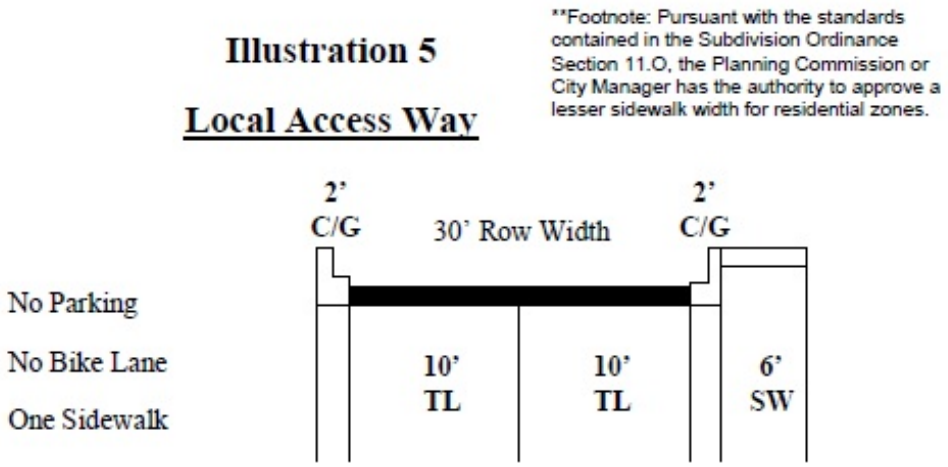
(Ord. 591, passed 6-23-2003)

APPENDIX E: ILLUSTRATION 4: RESIDENTIAL.



(Ord. 591, passed 6-23-2003)

APPENDIX F: ILLUSTRATION 5: LOCAL ACCESS WAY.



(Ord. 591, passed 6-23-2003)

CHAPTER 154: ZONING CODE

Section

Supplementary Provisions

Floodplain Development

Conditional Use Permit

Variances

Amendments

Nonconforming Uses

Development Approval Procedures

Remedies

Historical Review

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)

TABLE OF SPECIAL ORDINANCES

Table

TABLE I: AGREEMENTS AND CONTRACTS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
534	8-4-1996	–	Intergovernmental agreement creating UMPQUA Regional Council of Governments
574	6-5-2000	–	Intergovernmental agreement to establish regional fiber consortium for ownership and operation of fiber optic system

TABLE II: ANNEXATIONS; EXPANSION OF URBAN GROWTH BOUNDARY

Ord. No.	*Date Passed*	*1993 Code*	*Description*

[missing page]

218	10-4-1976	Spec. Ord. List A	Declaration, see Ord. 217
232	9-26-1977	Spec. Ord. List A	Hearing, south 205 feet of Lot 4, Plat F, Home Orchard Tracts
233	10-24-1977	Spec. Ord. List A	Declaration, see Ord. 232
238	3-20-1978	Spec. Ord. List A	Hearing, portion Lots 2 and 3, Plat F, Home Orchard Tracts
239	3-20-1978	Spec. Ord. List A	Hearing, portion of T28S-R6W-S21, W.M., metes and bounds description
244	4-17-1978	Spec. Ord. List A	Declaration, see Ord. 238
245	5-1-1978	Spec. Ord. List A	Declaration, see Ord. 239
250	8-21-1978	Spec. Ord. List A	Hearing, metes and bounds description
251	8-21-1978	Spec. Ord. List A	Declaration, see Ord. 250
255	2-5-1979	Spec. Ord. List A	Hearing, Lots 17 and 18, Park View Homesites
262	7-23-1979	Spec. Ord. List A	Declaration, Clarence H. and Velma R. Bratton property
265	11-5-1979	Spec. Ord. List A	Hearing, Tax Account Nos. 66005.04, 66009.04, 66010.01, 66010.02, 66010.05, 66010.06, 66011.01, 66011.03, 66011.04, 66011.05, 66011.07, 66011.08, 66011.09, 66011.10

Ord. No.	*Date Passed*	*1993 Code*	*Description*
268	12-17-1979	Spec. Ord. List A	Declaration, metes and bounds description
275	4-7-1980	Spec. Ord. List A	Hearing, Tax Account Nos. 66004.01, 66004.03, 66004.05, 66004.06, 66004.07, 66004.08, 66004.09, 66005.02, 66005.03, 66005.04
296	2-2-1981	Spec. Ord. List A	Hearing, Tax Account Nos. 66006.02, 66006.03, 66007.01, 66008.01, 66009.02, 66014.02, 66014.05, 66035.01
297	2-9-1981	Spec. Ord. List A	Hearing, Tax Account Nos. 66006.02, 66006.03, 66007.01, 66008.01, 66008.02, 66009.02, 66014.02, 66014.05, 66035.01
298	4-6-1981	Spec. Ord. List A	Declaration, metes and bounds description
299	4-20-1981	Spec. Ord. List A	Declaration, metes and bounds description
300	6-15-1981	Spec. Ord. List A	Hearing, Tax Account Nos. 66006.01, 66006.04, 66007.03
303	7-20-1981	Spec. Ord. List A	Declaration, metes and bounds description
322	7-19-1982	Spec. Ord. List A	Hearing, Tax Account Nos. 66012.02, 67001.00
346	9-6-1983	Spec. Ord. List A	Declaration, metes and bounds description
347	9-6-1983	Spec. Ord. List A	Declaration, see Exhibit B attached to ordinance
363	6-4-1984	Spec. Ord. List A	Hearing, see Exhibit A attached to ordinance
364	- -	Spec. Ord. List A	Declaration, see Ord. 263
386	3-17-1986	Spec. Ord. List A	Hearing, Tax Account Nos. 66001.03, 66002.04, 66002.05, 66004.01, 66004.05, 66004.08, 66004.09, 66005.02, 66005.03, 66005.04

Ord. No.	*Date Passed*	*1993 Code*	*Description*
423	6-20-1988	Spec. Ord. List A	Declaration, Lot 19, Park View Homesites, Douglas County; Tax Account No. 67019.00 (Tax Lot [TL] 5400, T28-R06-S22CC)
431	12-19-1988	Spec. Ord. List A	Declaration, Lot 20, Park View Homesites, Douglas County; Tax Account No. 67020.00 (TL5300, T28-R06-S22CC)
439	8-21-1989	Spec. Ord. List A	Declaration, Douglas High School and the intervening right-of-way of State Highway 42
444	9-18-1989	Spec. Ord. List A	Amends Ord. 439
474	6-1-1992	Spec. Ord. List A	Declaration, parcel in TL7100, T28-R06-S22CC, Tax Account No. 66014.01, located at 1757 Winston Section Road
478	7-20-1992	Spec. Ord. List A	Declaration, TL5700, T28S-R06W-S22CC, on Edgewood Street
479	8-3-1992	Spec. Ord. List A	Declaration, TL5000 of T28-R06-S22CC located at 581 SE Thompson
480	8-3-1992	Spec. Ord. List A	Declaration, TL100 of T28-R06-S16DD located at 501 NE Main
487	6-7-1993	–	Declaration, TL500 of T28-R06-S20 located at 2461 Brockway Road and Lookingglass Road right-of-way
488	6-21-1993	–	Extending the Urban Growth Boundary to include Wildlife Safari and certain adjoining properties
491	6-21-1993	–	Declaration, part of TL1400 and TL1401 of T28-R06-S20 located south of Lookingglass Road
496	12-20-1993	–	Declaration, TL901 in T28-R06-S16 located on NW Lookingglass Road

Ord. No.	*Date Passed*	*1993 Code*	*Description*
504	6-20-1994	–	Declaration, part of TL1400 in T28-R06-S20, phase 1 of First Addition to Trinity Estates
505	6-20-1994	–	Declaration, TL2900 in T28-R06-S15CB located on Winston Section Road, known as Orchard Trailer Park
508	8-1-1994	–	Declaration, Lot 7 of Block 1 in Winston Homes Subdivision, part of TL1300 in T28S-R06W-S15CB located on Barnes Road
510	1-3-1995	–	Declaration, part of TL800 in T28S-R06W-S20C located at the intersection of Highway 42 and Brockway Road
517	8-21-1995	–	Declaration, part of TL200 in T28S-R06W-S20D and part of TL800 in T28S-R06W-S20C located adjacent to the NE corner of Douglas High School in the Willamette Meridian
521	9-5-1995	–	Declaration, TL400 in T28S-R06W-S20 located north of the intersection of Brockway Road and Lookingglass Road (Byrd property)
522	9-5-1995	–	Declaration, part of TL800 in T28S-R06W-S20 located at 2231 Brockway Road (Collins property)
523	10-2-1995	–	Declaration, metes and bounds, known as Brockway Oaks
526	5-6-1996	–	Declaration, TL6100 in T28S-R06W-S22CC located at 651 SE Thompson (White property)
527	6-17-1996	–	Declaration, TL900 in T28S-R06W-S20BC located at 136 Woodland Drive (Quilhaugh property)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
528	6-17-1996	–	Declaration, TL5500 in T28S-R06W-S22CC located at 652 SE Edgewood (Hanson property)
529	6-17-1996	–	Declaration, TL1300 in T28S-R06W-S20 located at 13437 NW Lookingglass Road (Johnson property)
532	8-5-1996	–	Declaration, TL4300 in T28S-R06W-S21DC located at 31 SE Thompson Avenue (Sargent property)
535	9-3-1996	–	Declaration, TL101 in T28S-R06W-S20BC located at the SW corner of the Lookingglass/Brockway Road intersection (Leisinger property)
538	12-2-1996	–	Declaration, portions of TL300 and TL400 in T28S-R06W-S20AA located on Timber Terrace north of Lookingglass Road (Mellor property)
541	4-21-1997	–	Extending the urban growth boundary to include 3.98 acres of the 18.13-acre parcel described as part of TL400 in T28S-R06W-S22B, legal description as in Exhibit B
543	6-2-1997	–	Declaration, portion of TL400 in T28S-R06W-S22B located on Winston Section Road
545	9-2-1997	–	Declaration, TL300 in T28S-R06W-S27BB located at 678 SE Edgewood (Bohnenkamp property)
546	10-6-1997	–	Declaration, TL1100 and TL1200 in T28S-R06W-S15CB located at 166 and 186 NW Barnes Road (Garcia property)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
547	10-6-1997	–	Declaration, TL5800 in T28S-R06W-S22CC located at 600 SE Edgewood (Wait property)
548	10-20-1997	–	Declaration, TL902 in T28S-R06W-S16 located at the SW corner of the Highway 42/Lookingglass Road intersection (South Umpqua Investments property)
551	2-2-1998	–	Declaration, TL2800 in T28S-R06W-S15CB located at 120 Winston Section Road (Jacobsen property)
553	4-6-1998	–	Declaration, TL800 in T28S-R06W-S20 located at 2231 NW Brockway (Collins property)
557	7-20-1998	–	Declaration, TL700 in S28S-R06W-S20BC located at 163 NW Woodland Drive (Duncan property)
558	7-20-1998	–	Declaration, TL701 in T28S-R06W-S20BC located at 161 NW Woodland Drive (Mann property)
560	11-2-1998	–	Declaration, part of TL500 in T28S-R06W-S15CB located at 215 NW Barnes Road (Smith property)
562	3-1-1999	–	Declaration, Abraham Avenue right-of-way lying through TL1400 and TL1500 in T28S-R06W-S20
565	5-3-1999	–	Extending the urban growth boundary to include TL300, TL1300 and TL1400 in T28S-R06W-S27BB located on Edgewood Street
566	5-3-1999	–	Extending the urban growth boundary to include portion of TL700 in T28S-R06W-S22C located on Winston Section Road (Kearney property)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
567	6-7-1999	–	Declaration, TL1400 and TL1500 in T28S-R06W-S20 (Siebum property)
576	8-21-2000	–	Declaration, TL900 and TL901 in T28S-R06W-S20 located south of Lookingglass Road (Byrd property)
577	11-6-2000	–	Declaration, TL200, TL202 and TL203 in T28S-R06W-S17 located north of Lookingglass Road (Byrd property)
580	1-15-2001	–	Declaration, TL401 in T28S-R06W-S20 located north of the Lookingglass/Brockway Road intersection (Winston-Dillard School District property)
581	9-17-2001	–	Declaration, TL1600 in T28S-R06W-S15CB located at 156 NE Cola (Murray property)
582	9-17-2001	–	Declaration, TL1700 in T28S-R06W-S15CB located at 124 NE Cola (Glass property)
586	6-23-2003	–	Extending the urban growth boundary to include TL100 in T28S-R06W-S28A; TL101 in T28S-R06W-S28A; TL300 in T28S-R06W-S20C; TL700 in T28S-R06W-S22C; and TL1700 in T28S-R06W-S22B
595	3-15-2004	–	Declaration, TL1700 in T28S-R06W-S22B located on Winston Section Road (Umpqua Valley Christian School property)
597	2-7-2005	–	Declaration, TL06900, Assessors Map No. 28-06-22CC, known as 1859 Winston Section Road, legal description as in Exhibit A
598	2-7-2005	–	Declaration, TL01200, Assessors Map No. 28-06-20AD, known as 1080 NW Matthew Street, legal description as in Exhibit A

Ord. No.	*Date Passed*	*1993 Code*	*Description*
603	6-20-2005	–	Declaration, TL1000, Assessors Map No. 28-06-22BB, known as 425 NE Brosi Orchard Drive
605	7-5-2005	–	Declaration, TL06200, Assessors Map No. 28-06-22CC, legal description as in Exhibit A
619	7-17-2006	–	Declaration, TL1500, Assessors Map No. 28-06-15CB, legal description as in Exhibit A
622	9-5-2006	–	Declaration, TL7300, Assessors Map No. 28-06-22CC, legal description as in Exhibit A
625	1-2-2007	–	Declaration, TL700, Assessors Map No. 28-06-22BB (Conrad property), legal description as in Exhibit A
627	2-20-2007	–	Amending Ord. 562
628	3-5-2007	–	Amending Ord. 595
629	3-5-2007	–	Amending Ord. 598
632	5-7-2007	–	Declaration, TL100 and TL102, Assessors Map No. 28-06-20D, known as Harold and Sid Nichols Park, legal description as in Exhibit A
642	4-5-2010	–	Declaration, TL101, Assessors Map No. 28-06-28A, known as the southern portion of Riverbend Park, legal description as in Exhibit A
650	12-20-2010	–	Declaration, three island territories, being: Area 1, 58.87 acres and Area 2, 4.75 acres, located north of State Highway 42, south of Lookingglass Road and east of Brockway Road; and Area 3, 0.58 acre, located on Thompson Road
652	7-5-2011	–	Amending Ord. 650

Ord. No.	*Date Passed*	*1993 Code*	*Description*
660	10-21-2013	-	Annexing 1.70 acres of land owned by Randy E. and Sherry D. Rutledge situated in Section 22, Township 28 South, Range 6 West, Willamette Meridian
661	10-21-2013	-	Annexing 1.07 acres of land owned by John Eugene Mellor, identified as TL200, Assessors Map No. 28-06-20AA
667	1-5-2015	-	Annexing 2.71 acres of land owned by Marc A. Mauze, identified as TL100, TL400 and TL500, Assessors Map No. 28-06-20AA (portion outside city limits) and TL3600, Assessors Map No. 28-0621BB
22-704	6-20-2022		Annexing land known as “2022 Island Annexations Properties”, a total of 7.7 acres located in Township 28 South, Range 6 West, Sections 15CB, 20AA, 22CA and 22CC, Tax Lots 1400, 200, 300, 5100, 5200, 5600, 5900, 6000 and 7000

TABLE III: BUDGETS AND TAX LEVIES

Ord. No.	*Date Passed*	*1993 Code*	*Description*
16	5-17-1955	Spec. Ord. List C	$25,263.40; 1955-56 operating budget, election date of 6-1-1955
17	6-7-1955	Spec. Ord. List C	$25,238.40; 1955-56 operating budget, election date of 6-21-1955
41	6-3-1957	Spec. Ord. List C	$24,087.00; 1957-58 operating budget, election date of 6-21-1957
48	5-5-1958	Spec. Ord. List C	$28,648.25; 1958-59 operating budget, election date of 5-19-1958
49	5-5-1958	Spec. Ord. List C	$10,000.00; Surface water removal and disposition costs, election date of 5-19-1958
55	4-20-1959	Spec. Ord. List C	$39,172.00; 1959-60 operating budget, election date of 5-15-1959
56	4-20-1959	Spec. Ord. List C	$3,000.00; City shop building, election date of 5-15-1959
57	5-11-1959	Spec. Ord. List C	$38,492.00; Amends Ord. 55, election date of 5-22-1959

TABLE IV: CHARTER AMENDMENTS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
13	12-21-1954	Spec. Ord. List D	For the January, 1955 election, proposal of new charter

TABLE V: FINANCIAL ELECTIONS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
229	7-25-1977	Spec. Ord. List E	Declaration of election to receive state revenues
248	6-26-1978	Spec. Ord. List E	Declaration of election to receive state revenues
260	6-18-1979	Spec. Ord. List E	Declaration of election to receive state revenues
282	6-16-1980	Spec. Ord. List E	Declaration of election to receive state revenues
302	6-29-1981	Spec. Ord. List E	Declaration of election to receive state revenues
319	7-6-1982	Spec. Ord. List E	Declaration of election to receive state revenues
338	6-6-1983	Spec. Ord. List E	Declaration of election to receive state revenues
367	6-18-1984	Spec. Ord. List E	Declaration of election to receive state revenues
378	6-17-1985	Spec. Ord. List E	Declaration of election to receive state revenues
392	7-30-1986	Spec. Ord. List E	Declaration of election to receive state revenues
404	6-30-1987	Spec. Ord. List E	Declaration of election to receive state revenues

Ord. No.	*Date Passed*	*1993 Code*	*Description*
424	6-20-1988	Spec. Ord. List E	Declaration of election to receive state revenues
436	6-19-1989	Spec. Ord. List E	Declaration of election to receive state revenues
457	4-16-1990	Spec. Ord. List E	Declaration of election to receive slate revenues
466	5-20-1991	Spec. Ord. List E	Declaration of election to receive state revenues
500	6-6-1994	–	Declaration of election to receive state revenues

TABLE VI: FRANCHISES

Ord. No.	*Date Passed*	*1993 Code*	*Description*
2	3-15-1954	Spec. Ord. List F	Roseburg Garbage Disposal Co. for garbage collection for a term of five years
3	4-17-1954	Spec. Ord. List F	Pacific Telephone & Telegraph Co. for telephone and telegraph service for a term of ten years
4	6-15-1954	Spec. Ord. List F	Pacific Telephone & Telegraph Co. for telephone and telegraph service for a term of 20 years
34	1-21-1957	Spec. Ord. List F	California-Oregon Power Co. for electricity for a term of ten years
58	7-6-1959	Spec. Ord. List F	Roseburg Garbage Disposal Co. for garbage collection for a term of five years
83	5-21-1962	Spec. Ord. List F	California-Pacific Utilities Co. for natural gas for a term of 11 years
92	5-18-1964	Spec. Ord. List F	Winston Sanitary Service for garbage collection for a term of five years
99	7-6-1965	Spec. Ord. List F	Carl Hooker for TV cable for a term of ten to 20 years
103	1-17-1966	Spec. Ord. List F; Comp. No. 9-1	Pacific Power & Light for electricity for street lights, for a term of one year, renewable
104	5-2-1966	Spec. Ord. List F	Amends Ord. 92

Ord. No.	*Date Passed*	*1993 Code*	*Description*
112	1-2-1968	Spec. Ord. List F	Ralph B. John: authorizes Richard C. John to transfer his rights to Ralph B. John pursuant to Ord. 92
118	6-2-1969	Spec. Ord. List F	Ralph B. John for garbage collection for a term of five years
150	7-17-1972	Spec. Ord. List F; Comp. No. 9-3	Betterview Cable-vision/Jones Intercable Inc., for TV cable for a term of ten years
160	7-16-1973	Spec. Ord. List F; Comp. No. 9-3	Amends Ord. 150
185	7-7-1975	Spec. Ord. List F	Amends Ord. 150, changes name of franchisee to Betterview Cablevision of Oregon, Inc.
234	10-24-1977	Spec. Ord. List F; Comp. No. 9-3	Amends Ord. 150
344	8-1-1983	Comp. No. 9-3	Amends Ord. 150, changes name of franchisee to Jones Intercable Inc.
366	6-18-1984	Comp. No. 9-3	Amends Ord. 150, term
369	8-20-1984	Comp. No. 9-3	Amends Ord. 150
374	12-3-1984	Comp. No. 9-8	Ralph B. John, d.b.a. Winston Sanitary Service, for solid waste collection for a term of five years, continuing
388	5-19-1986	Comp. No. 9-3	Amends Ord. 150
485	5-17-1993	Comp. No. 9-4	WP Natural Gas, gas utility franchise, until 6-4-2003
493	8-16-1993	Comp. No. 9-5	US West Communications, Inc., communications business franchise for 20 years

Ord. No.	*Date Passed*	*1993 Code*	*Description*
533	8-5-1996	–	Pacificorp, d.b.a. Pacific Power & Light Co., electricity franchise for ten years and one successive renewal period
610	10-3-2005	–	Amends Ord. 533
612	11-7-2005	–	Falcon Community Ventures I LP, d.b.a. Charter Communications, cable system franchise for ten years, with option to renew
640	3-1-2010	–	Avista Utilies, natural gas franchise, for ten years
654	5-3-2010	–	Douglas Services, Inc., telecommunications franchise for three years
16-671	7-18-2016	-	Granting a non-exclusive electric utility franchise to Pacificorp for ten years
16-672	7-18-2016	-	Granting a non-exclusive sewer utility franchise to the city sewer utility for ten years
16-673	7-18-2016	-	Granting a non-exclusive storm sewer utility franchise to the city storm sewer utility for ten years
20-690	9-21-2020	-	Avista Utilities, natural gas franchise, for ten years
21-693	3-15-2021	-	Amends Ord. 374
21-697	5-3-2021	-	Amends Ord. 21-693
21-698	5-17-2021	-	Granting a water franchise to the Winston Dillard Water District for the use of rights-of-way, easements and alleys within the city for ten years
21-699	6-22-2021	-	Amends Ord. 21-698

Ord. No.	*Date Passed*	*1993 Code*	*Description*
22-702	4-18-2022	-	Granting a non-exclusive, five-year franchise to Spectrum Pacific West, LLC, commonly known as Charter Communications, for the maintenance and operation of a cable system

TABLE VII: PUBLIC IMPROVEMENTS/ASSESSMENTS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
5	7-19-1954	Spec. Ord. List G	Conveyance of sewage system to city by Winston Sanitation Co. for property in South Slopes Subdivision
30	5-3-1956	Spec. Ord. List G	Construction of municipal sewage disposal plant and sewerage system
47	4-7-1958	Spec. Ord. List G	Assessment of $132,953.95 for property benefitted by sanitary sewers
51	6-16-1958	Spec. Ord. List G	Extension of bonding time, see Ord. 47
52	7-21-1958	Spec. Ord. List G	Assessment refund, see Ord. 47
53	8-4-1958	Spec. Ord. List G	Extension of bonding time, see Ord. 47
60	7-14-1959	Spec. Ord. List G	Construction, west on Elwood Drive from Carey Street
63	12-21-1959	Spec. Ord. List G	Assessment of $1,453.25, Elwood Drive
73	1-9-1961	Spec. Ord. List G	Assessment of $1,388.92, Oak Street
74	1-23-1961	Spec. Ord. List G	Assessment of $997.66, Blk. 1, Suksdorf Coos Junction Orchard Tracts; Blk. 1, Suksdorf Winston Heights
78	11-6-1961	Spec. Ord. List G	Assessment of $1,561.60, Sherry Street from Morgan Street to Glenhart Street

Ord. No.	*Date Passed*	*1993 Code*	*Description*
79	2-5-1962	Spec. Ord. List G	Assessment of $8,380.65, Gurney's Subdivision; Botsford's Plat; Gurney's Addition to city
88	7-15-1963	Spec. Ord. List G	Construction, curbs and gutters, Cary Street between Highway 42 and county road on the north
89	8-8-1963	Spec. Ord. List G	Construction, curbs and gutters, Jorgen Street between Highway 99 and Rose Street
93	6-15-1964	Spec. Ord. List G	Assessment of $1,709.92, Midway Street
97	1-4-1965	Spec. Ord. List G	Assessment, curbs and gutters, $8,727.31, Cary Street and Jorgen Street
105	8-15-1966	Spec. Ord. List G	Assessment, curbs and gutters, $1,128.50, Tumlin Street from Cary Street to east end of Tumlin Street
106	11-21-1966	Spec. Ord. List G	Assessment, curbs and gutters, Tower Street from Highway 42 to south end of Tower Street
126	4-9-1970	Spec. Ord. List G	Construction, Bender's Subdivision
127	5-4-1970	Spec. Ord. List G	Construction, curbs, gutters and sidewalks, Carroll Street
129	9-8-1970	Spec. Ord. List G	Assessment of $10,358.23, Park Street
131	10-19-1970	Spec. Ord. List G	Assessment of $6,782.16, Carroll Street from Grape Street to cast end of Carroll Street
133	1-4-1971	Spec. Ord. List G	Construction, Carter Subdivision; Suksdorf Coos Junction Orchard Tracts; TL65725-2; Lots 5 and 6 of First Addition to Darrell Avenue

Ord. No.	*Date Passed*	*1993 Code*	*Description*
136	6-14-1971	Spec. Ord. List G	Assessment of $6,861.93, Carter Subdivision; Suksdorf Coos Junction Orchard Tracts; TL65725-2; Lots 5 and 6 of First Addition to Darrell Avenue
137	6-14-1971	Spec. Ord. List G	Construction, Plum Avenue Tracts; Suksdorf Winston Heights; Suksdorf Coos Junction Orchard Tracts; metes and bounds
140	11-22-1971	Spec. Ord. List G	Assessment of $19,027.60, Plum Avenue Tracts; Suksdorf Winston Heights; Suksdorf Coos Junction Orchard Tracts; metes and bounds
148	6-5-1972	Spec. Ord. List G	Construction, Glenhart Avenue; Illinois Heights; Winston Acres; Edwards Subdivision; Dobbins Subdivision; Suksdorf Coos Junction Orchard Tracts; Glen D. Hart Tracts; Wagler Terrace; metes and bounds
156	12-18-1972	Spec. Ord. List G	Assessment of $97,070.32, see Ord. 148
174	2-3-1975	Spec. Ord. List G	Construction, curbs, gutters sidewalks, street paving, Glenhart Street between Lookingglass Road and Highway 42
188	9-2-1975	Spec. Ord. List G	Construction, street improvement, Jorgen Street between Rose Street and westerly terminus
207	1-5-1976	Spec. Ord. List G	Assessment, sidewalks, streets, curbs and gutters, Glenhart Street between Lookingglass Road and Highway 42
208	2-2-1976	Spec. Ord. List G	Amends Ord. 207
216	9-20-1976	Spec. Ord. List G	Assessment, street; portion of Jorgen Street from Rose Street to westerly terminus
219	10-19-1976	Spec. Ord. List G	Construction, streets, curbs, and gutters, Hungerford Lane

Ord. No.	*Date Passed*	*1993 Code*	*Description*
230	8-1-1977	Spec. Ord. List G	Construction, sidewalks, street, surfaces, curbs, gutters, storm sewers, sanitary sewers and water lines, Plum Lane from Lookingglass Road to southerly terminus
249	7-24-1978	Spec. Ord. List G	Construction, sidewalks, street surfaces, curbs, gutters, storm sewers, sanitary sewers and water lines, Division Street
264	9-17-1979	Spec. Ord. List G	Assessment, see Ord. 230
274	4-7-1980	Spec. Ord. List G	Assessment, see Ord. 249
279	6-16-1980	Spec. Ord. List G	Construction, sidewalks, street surfaces, curbs and gutters, Thompson Street from Highway 99 to city limits
287	8-18-1980	Spec. Ord. List G	Construction, East Side Sewer Project (Improvement District No. 1)
291	10-6-1980	Spec. Ord. List G	Construction, Hall Street, Shigley Street Sewer Project (Improvement District No. 2)
292	10-6-1980	Spec. Ord. List G	Amend Ord. 287
293	11-10-1980	Spec. Ord. List G	Amend Ord. 291
304	8-3-1981	Spec. Ord. List G	Supplement Ord. 279
309	2-22-1982	Spec. Ord. List G	Assessment of $334,156.08, see Ord. 287
310	2-22-1982	Spec. Ord. List G	Assessment of $47,465.30, see Ord. 291
311	3-1-1982	Spec. Ord. List G	Amend Ord. 310
312	3-1-1982	Spec. Ord. List G	Amend Ord. 309
317	3-1-1982	Spec. Ord. List G	Amend Ord. 309
318	6-7-1982	Spec. Ord. List G	Amend Ord. 309

Ord. No.	*Date Passed*	*1993 Code*	*Description*
330	3-7-1983	Spec. Ord. List G	Authorizes use of surplus sewer sinking revolving fund for retirement of public improvement warrants, Eastside-Hall-Shigley Sanitary Sewer Project
336	5-16-1983	Spec. Ord. List G	Construction, west side of Winston Road
349	11-7-1983	Spec. Ord. List G	Assessment of $16,357.00, see Ord. 336
392	- -	Spec. Ord. List G	Assessment of $16,474.22, Tokay Sewers Local Improvement District
394	9-2-1986	Spec. Ord. List G	Construction, Dawna Court
402	4-20-1987	Spec. Ord. List G	Amends Ord. 394, Dawna Court
403	7-6-1987	Spec. Ord. List G	Assessment, see Ord. 394
438	7-3-1989	Spec. Ord. List G	Amend Ord. 392, Tokay Sewers Local Improvement District
513	4-17-1995	–	Final assessments for Sherry Street Phase I Local Improvement District
542	5-7-1997	–	Amending Ords. 47 and 1, establishing system development charges to spread the cost of capital improvements to new development and dedicated accounts for revenues
549	11-3-1997	–	Amends Ord. 542
646	9-7-2010	–	Spreading final assessments for Tokay Street Local Improvement District
656	7-16-2012	-	Relinquishing a portion of the access and accepting a portion of the access along Highway 42 in order to relocate the driveway to the Harold and Sid Nichols Park

TABLE VIII: VACATIONS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
618	7-5-2006	–	Vacating a five-foot portion of Lenore Street right-of-way adjacent to TL2300, Assessors Map No. 28-06-22CB, legal description as in Exhibit A

TABLE IX: ZONING MAP/COMPREHENSIVE PLAN AMENDMENTS

Ord. No.	*Date Passed*	*1993 Code*	*Description*
305	9-14-1981	Comp. No. 8-5	171 and 191, Gregory Street, change to C-G
327	11-1-1982	Comp. No. 8-5	See Exhibit D attached to ordinance
335	5-16-1983	Comp. No. 8-5	181 NE Baker, change from RLA to R-H
358	4-2-1984	Comp. No. 8-5	Lot 7, Block 1, Two Oaks Subdivision, change to C-OP
381	9-3-1985	Comp. No. 8-5	West 1/2 of Lot 1, Block 2, of Marion Acres, change to RLA
382	9-3-1985	Comp. No. 8-5	Suksdorf Coos Junction Hill Tract, part of Lot 10, Block 2, change to R-M
391	6-30-1986	Comp. No. 8-5	Lot 11, Block 5, of Suksdorts Winston Heights, change to R-M
465	12-3-1990	Comp. No. 8-5	Part of Lot 14 of the Glen D. Hart Tracts Subdivision, change from C-G to R-H
484	3-15-1993	–	Rezoning Glen property at 80 NW Lost Lane and 300 NW Main, from General Commercial (C-G) to Residential Low Density (RLA)
492	7-25-2012	-	Rezoning 13653 Lookingglass Road (approximately 34 acres) from Residential Low Density (RLB) to Residential Low Density (RLA)
497	12-20-1993	–	Rezoning Jehovah Witness property at corner of Lookingglass and Safari Roads, from General Commercial (C-G) to Residential Low Density (RLA)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
499	6-16-1994	–	Rezoning TL700, TL800 and TL900 of T28-R06-S21CD, Tax Account Nos. 10410.03, 10410.02 and 10410.00 located at 140, 150 and 160 SW Oak, from Residential Low Density (RLA) to Residential Medium Density (R-M)
503	6-20-1994	–	Rezoning 0.71 acre of a 2.41-acre parcel, TL1000 in T28-R06-S21BD, Tax Account No. 65593.01 in the Glen D. Hart Tracts Subdivision, located on Civil Bend Avenue, from General Commercial (G-C) to Residential Low Density (RLA)
509	9-19-1994	–	Rezoning TL2000 and TL2100 in T28S-R06W-S21AA, Tax Account Nos. 10400.05 and 10412.00, located at 11 NE Brosi, from General Commercial (C-G) to Residential Low Density (RLA)
511	1-3-1995	–	Rezoning part of TL800 in T28S-R06W-S20, located at the NE corner of the intersection of Highway 42 and Brockway Road, from Residential Low Density (RLC) to Historic Commercial (C-HIS)
516	6-19-1995	–	Rezoning part of TL8300 in T28S-R06W-S21AB located on Hillside Avenue between Jorgen Street and Baker Street, from Residential Low Density (RLA) to Residential High Density (RH)
518	8-21-1995	–	Rezoning two properties: a 0.93-acre portion of TL200 in T28S-R06W-S20D and a portion of TL800 in T28S-R06W-S20C, located near the NE corner of the Winston-Dillard School property, from Residential Low Density (RLB) to Public Reserve (PR); and 1.03-acre portion of TL1000 in T28S-R06W-S20C located near the NW corner of the Winston-Dillard School property, from Public Reserve (PR) to Residential Low Density (RLB)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
519	8-21-1995	–	Rezoning three parcels: TL3700, TL3800 and TL3900 in T28S-R06W-S21AC, located along Gregory Drive, from Residential High Density (RH) to General Commercial (C-G)
520	8-21-1995	–	Rezoning a 12.05-acre parcel, TL806 in T28S-R06W-S20C, located at the NE corner of the Highway 42/Brockway Road intersection, as General Commercial (C-G), in conjunction with a Planned Development in a Special Historic Commercial Zone (C-SH)
530	6-17-1996	–	Rezoning approximately 15 acres of the 30.5-acre parcel, TL1300 in T28S-R06W-S20, located at 13437 NW Lookingglass Road, from Residential Low Density (RLB) to Residential Medium Density (RM)
531	7-1-1996	–	Rezoning approximately 250 acres located at the SE and SW corners of the Brockway Road/Highway 42 intersection, as described in Exhibit B, as Planned Development (PD) in conjunction with existing zoning designations
540	4-7-1997	–	Rezoning a 3.55-acre parcel, TL100 in T28S-R06W-S21CA, located on Ford Street, from Residential Medium Density (RM) to Residential High Density (RH)
550	11-3-1997	–	Rezoning 0.71 acres, part of TL1000, TL1001 and TL1002 in T28S-R06W-S21BD, located on Civil Bend Avenue, from Residential Low Density (RLA) to Residential High Density (RH)
552	3-16-1998	–	Rezoning 3.18 acres of a 4.38-acre parcel, TL2800 in T28S-R06W-S15CB, located at 120 Winston Section Road, from Residential Low Density (RLA) to Residential Medium Density (RM) (Jacobsen property)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
556	7-20-1998	–	Rezoning 6 acres of a 28.82-acre parcel, TL1300 of T28S-R06W-S20, located at 13435 NW Lookingglass Road, from Agricultural Open Space (A-O) to Residential Medium Density (RM)
563	4-5-1999	–	Rezoning two parcels in T28S-R06W-S20: TL400, a 6.02-acre parcel, maintaining 1.9 acres of Agricultural Open Space around the dwelling and accessory structures and changing the remaining 4.12 acres from Agricultural Open Space to Residential Medium Density (RM); and TL403, a 68.13-acre vacant parcel, increasing the Agricultural Open Space designation from 4.29 acres to 12.1 acres, and decreasing the Residential use from 63.84 acres to 56.03 acres and rezoning it from Residential Low Density (RLA) to Residential Medium Density (RM) (Byrd property)
565	5-3-1999	–	Rezoning urban growth boundary additions TL300, TL1300 and TL140 in T28S-R06W-S27BB, located on Edgewood Street, from the county's Rural Residential (RR) to Residential Low Density (RLA)
571	9-20-1999	–	Rezoning two parcels in T28S-R06W-S20: TL1400, a 44.78-acre parcel, changing 38,273 square feet from Residential Low Density (RLA) to General Commercial (C-G); and TL1500, a 3.90-acre parcel, changing 7,223 square feet from General Commercial (CG) to Residential Low Density (RLA)
583	7-15-2002	–	Rezoning part of two parcels in T28S-R06W-S20: TL400 and TL403, each having a mixed zoning designation of A-O and RM, increasing the total combined A-O area from 14 to 18.8 acres and decreasing the total combined RM area from 60.15 acres to 55.35 acres

Ord. No.	*Date Passed*	*1993 Code*	*Description*
584	11-4-2002	–	Rezoning TL3200, a 0.96-acre parcel in T28S-R06W-S21AB, from dual zoning designations Residential Low Density (RLA) and Residential Medium Density (RM) to Residential High Density (RH) (Fox property)
586	6-23-2003	–	Rezoning the following additions to the Urban Growth Boundary from Agricultural as follows: TL101 in T28S-R06W-S28A (6.77 acres), to Public Reserve (PR); TL700 in T28S-R06W-S22C (0.71 acre), to Residential Medium Density (RM); and TL1700 in T28S-R06W-S22B (9.0 acres), to Public Reserve (PR)
599	2-7-2005	–	Rezoning TL02900, Assessors Map No. 28-06W-15CB, located at 250 Winston Section Road, from Medium Residential (RM) to Agriculture Open Space (A-O)
602	5-2-2005	–	Rezoning TL01300, TL01400 and TL01500, Assessors Map No. 28-06W-21CD, located at 40, 60 and 70 SW Oak Street, from General Commercial (C-G) to Residential Low Density (RLA)
604	6-20-2005	–	Rezoning TL07000, Assessors Map No. 28-06W-21AB, located at 130 NW Rose Street, from General Commercial (C-G) to Residential High Density (RH)
609	9-19-2005	–	Rezoning TL400 in T28S-R06W-S20BD, W.M. property ID R40153, from Residential Low Density B to Residential Low Density A (RLA)

Ord. No.	*Date Passed*	*1993 Code*	*Description*
613	3-6-2006	–	Rezoning TL200, TL202 and TL203 in T28S-R06W-S17, property IDs R38977, R38993 and R39001, and part of TL404 in T28-R06W-S20, property ID R122608, from Agriculture Open Space (A-O) to Residential Medium Density (RMD); removal of large lot overlay and adding Planned Development overlay
616	7-5-2006	–	Rezoning TL803 in T28S-R06W-S20, W.M. Property ID R119867, from Residential Low Density B to Residential Low Density A (RLA)
620	8-7-2006	–	Rezoning TL02900, Assessors Map No. 28-06W-15CB, located at 250 Winston Section Road, from Medium Residential (R-M) to Agriculture Open Space (A-O)
626	2-20-2007	–	Rezoning three parcels: TL206 and TL300 in T28S-R06W-S17, property IDs R39033 and R128587; part of TL300 in T28S-R06W-S20, property IDs R39009 and R39041; and part of TL101 in T28S-R06W-S20BA, property ID R127586, from Agriculture Open Space (A-O) to Residential Low Density A (RLA); removing Large Lot overlay and adding Planned Development overlay
635	12-17-2007	–	Designating areas without a designation as Agriculture Open Space (A-O), correcting areas along Abraham Road to Residential RLA, and correcting areas within Plum Ridge Subdivision to Residential RLA, legal descriptions as set forth in Exhibit A

Ord. No.	*Date Passed*	*1993 Code*	*Description*
663	6-16-2014	-	Amending comprehensive plan map from Commercial Office/Professional to Commercial General and amending the zoning map from (C-OP) Office-Professional to (C-G) General Commercial for property identified as TL2800, Assessors Map No. 28-06-15DD (owner: Richard G. Muniz)
19-684	11-4-2019	-	Amending comprehensive plan map from Residential 4.5 DU/ACRE to Residential 16 DU/Acre and the zoning map from (RL-A) Residential Low Density-A to (RH) Residential High Density for property identified as Tax Lot No(s). 3900, 4100 & 4200, Assessors Map No. 28-06-21AB (owner: Safari Properties I, LLC)
21-692	3-1-2021	-	Amending the comprehensive plan to preserve agricultural and forest lands, using for urbanization only to those areas with low agricultural capability and low septic suitability

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92.100	153.07, 153.08, 154.041
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133.005	112.01
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