TITLE XV: LAND USAGE

Chapter

CHAPTER 150: BUILDING REGULATIONS

Section

GENERAL PROVISIONS

§ 150.01 PLANS AND SPECIFICATIONS REQUIRED.

Every person desiring to erect, enlarge, or repair any building or to move any building within the fire limits of the city shall, before commencing work, file with the City Recorder for inspection by the City Council plans and specifications of the proposed building, enlargement, alterations, or repairs and,

in case of a removal of a building, the plans and specifications thereof together with its present location and the location on which it is proposed to remove the same.
(Prior Code, § 150.01)

§ 150.02 BUILDING MATERIALS PERMISSIBLE IN FIRE LIMITS.

(A) All buildings hereafter erected within the fire limits shall have the outer walls, including foundations and footings, made of brick, tile, stone and mortar, cement concrete, or other fire-resistant materials that may be approved through the variance process as listed in the zoning ordinances of this code; the outer walls shall extend from the bottom of the footings to the top and above the roof of the buildings, and the roof shall be covered with metal or some other noncombustible or fire-resistant materials that may be approved through the variance process as listed in the zoning ordinances of this code. Any commercial building or any building accommodating the public which is constructed within the city limits shall be built to these standards even if it is located outside the fire limits.
(Prior Code, § 150.02)

(B) No wooden building composed mostly of wood or tent now existing or which may hereafter be erected within the fire limits shall in any manner be enlarged, altered, or repaired, and no wooden building, the outer walls of which are composed chiefly of wood or other combustible material, shall be moved into the fire limits or moved from one part thereof to another unless permission therefor shall first be obtained from the City Council, which permission shall be evidenced by a writing signed by a majority of the members of the City Council.
(Prior Code, § 150.03)
(Ord. 96-8, passed 10-2-1996) Penalty, see § 150.99

§ 150.03 BUILDINGS DECLARED NUISANCES.

Every building or tent or addition to a building or tent erected within or moved within the fire limits contrary to the provisions of this chapter is hereby declared and ordained to be a nuisance and liable to be abated as such unless the same shall be removed within ten days after notice to do so given by the city police to the person occupying the same or the person owning the same or causing the same to be erected, repaired, or removed within the fire limits. Such officer together with such persons as he or she may summon to his or her assistance, or as the City Council may direct to assist him or her, shall immediately proceed to tear down and remove such building or tent or addition thereto, and the costs and expenses of so doing and of the removal thereof shall be charged to and against and collected from the owner of such building, tent, or addition thereto or from the owner of the land upon which the same shall be so unlawfully erected, moved, or repaired if the same shall have been so erected, moved, or repaired with his or her knowledge and consent or from both such owner and such occupant.
(Prior Code, § 150.04)
Cross-reference:
Nuisances generally, see Chapter 92

§ 150.04 EXCEPTIONS.

There is hereby excepted from the provisions of this chapter, the limits between the intersection of Frazer Street and Main Street and the intersection of Second Street with Main Street within which limits it shall be lawful to erect frame or wooden buildings to be used and occupied solely and exclusively as dwellings and to enlarge, remodel, and repair the same.
(Prior Code, § 150.05)

DANGEROUS BUILDINGS

§ 150.15 FINDINGS AND PURPOSE.

The City Council finds and declares that dangerous buildings are public nuisances by virtue of their conditions or defects to the extent that the life, health, property, or safety of the public or its occupants are endangered. The City Council further finds and declares that immediate abatement of dangerous buildings by repair, rehabilitation, demolition, or removal is necessary to protect and preserve the safety of the citizens and neighborhoods where such structures are found. The procedures established in this subchapter shall be in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of any applicable city ordinance. This subchapter does not affect or alter other nuisance abatement procedures.
(Prior Code, § 150.20) (Ord. 04-06, passed 4-7-2004)

§ 150.16 DEFINITIONS.

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

CITY. The City of Condon.

DANGEROUS BUILDING. Any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a ***DANGEROUS BUILDING*** provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or of the occupants of the building are endangered. The following circumstances constitute a ***DANGEROUS BUILDING***:

(1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Whenever the walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe as not to provide a safe and adequate means of exit in case of fire or other emergency;

(3) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed by the Uniform Building Code for new buildings of similar structure, purpose, or location;

(4) Whenever any portion, member, or appurtenance of the building or structure which has been damaged by fire, earthquake, wind, flood, or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Uniform Building Code for new buildings of similar structure, purpose, or location;

(5) Whenever any portion or member or appurtenance of the building is likely to fail or to become detached or dislodged or to collapse and thereby injure persons or damage property;

(6) Whenever any portion of the building has wracked, warped, buckled, or settled to such an 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;

(7) Whenever the building or structure, or any portion thereof, is likely to collapse because of:

(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 such building;

(d) The deterioration, decay, or inadequacy of its foundation; or

(e) Any other cause.

(8) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children or a harbor for transients, vagrants, or criminals;

(9) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(10) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members or 50% damage or deterioration of its non-supporting members enclosing or outside walls or coverings;

(11) Whenever the building or structure, used or intended to be used for dwelling purposes, is unsanitary, unfit for human habitation, or is in such a condition that it is likely to cause sickness or

disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or other cause;

(12) Whenever the building or structure creates a fire hazard by virtue of its obsolescence, dilapidated condition, deterioration, damage, inadequate exiting, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause;

(13) Whenever the building or structure constitutes a public nuisance as defined by law;

(14) Whenever any portion of the building, including the foundation and slab or grade or structure, remains on a site after the demolition or destruction of the building or structure;

(15) Whenever there are defective or overloaded electrical systems, faulty or leaking fuel piping systems, or deteriorated fuel combustion equipment or combustion product vents; and

(16) Whenever the existing use or occupancy violates any applicable fire, health, or building codes or regulations.

DIRECTOR OF BUILDINGS. The City Administrator of the City of Condon, or the City Administrator's authorized designee.
(Prior Code, § 150.21) (Ord. 04-06, passed 4-7-2004)

§ 150.17 PROCEDURES FOR NOTICE AND ORDER.

(A) *Commencement of proceedings*. When the Director of Buildings has inspected or caused to be inspected any building and has found and determined the building is a dangerous building, the Director of Buildings shall commence proceedings to cause the repair, vacation, or demolition of the building.

(1) The Director of Buildings shall issue a notice and order directed to the record owner of the building. The notice and order shall contain the following:

(a) The street address and a legal description sufficient for identification of the premises upon which the building is located;

(b) A statement that the Director of Buildings has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of § 150.16; and

(c) A statement of the action required to be taken as determined by the Director of Buildings.

(2) If the Director of Buildings has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced

within such time not to exceed 60 days from the date of the order and completed within such time as the Director of Buildings shall determine is reasonable under all of the circumstances.

(3) If the Director of Buildings has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Director of Buildings to be reasonable.

(4) If the Director of Buildings has determined the building or structure must be demolished, the order shall require that the building be vacated within such time as the Director of Buildings shall determine is reasonable, not to exceed 60 days from the date of the order; all required permits be secured therefor within 60 days from the date of the order; and the demolition be completed within such time as the Director of Buildings shall determine is reasonable.

(5) The Director of Buildings shall advise the owner that if any required repair or demolition work, without vacation also being required, is not commenced within the time specified, the Director of Buildings will order the building vacated and posted to prevent further occupancy until the work is completed, and the Director may proceed to cause the work to be done and charge the costs thereof against the property or its owner.

(6) The Director of Buildings shall advise the owner that any person having any record title or legal interest in the building may appeal from the notice and order of any action of the Director of Buildings provided the appeal is made in writing as set forth in § 150.20. Failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.

(B) *Service of the notice and order.*

(1) The notice and order shall be served upon the record owner or his or her agent and the person in possession of the property by any one of the following methods:

(a) Personal service;

(b) Certified mail, postage prepaid, return receipt requested; or

(c) Posting the notice and order conspicuously on or in the front of the property.

(2) The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this section.
(Prior Code, § 150.22) (Ord. 04-06, passed 4-7-2004)

§ 150.18 FILING OF NOTICE AND ORDER.

(A) If the owner fails to comply with the notice and order within the time specified and no appeal has been properly and timely filed, the Director of Buildings shall file in the County Clerk's office a certificate describing the property and certifying that:

(1) The building is dangerous; and

(2) Notice has been provided to the owner and person in possession of the property.

(B) Whenever the corrections stated in the notice and order have been completed or the building demolished so that it no longer constitutes a dangerous building, the Director of Buildings shall file a new certificate with the County Clerk certifying the building is no longer dangerous.
(Prior Code, § 150.23) (Ord. 04-06, passed 4-7-2004)

§ 150.19 REPAIR, VACATION, AND DEMOLITION.

(A) *Standards*. The Director of Buildings shall follow these standards in ordering the repair, vacation, or demolition of any dangerous building.

(1) Any building declared dangerous under this subchapter shall be repaired in accordance with the provisions of the Uniform Building Code in effect at the time of such declaration.

(2) The owner of the property, in cooperation with the Director of Buildings, shall assist in the relocation of any tenants which are displaced as a result of this abatement process.

(B) *Notices of vacation and/or demolition.*

(1) *Posting of signs*. When the Director of Buildings orders the vacation of tenants and when the building is secured, signs shall be posted at or near each entrance of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building
or to remove or deface this notice.
City Ordinance No. 04-06
Director of Buildings

(2) *Order*. The notice to vacate shall also be posted, and it shall recite the conditions in the notice issued by the Director of Buildings.

(C) *Trespass*. No person shall remain in or enter any building which has been so posted except that entry may be made to repair or demolish such building after the proper permits have been issued.

(D) *Defacement*. No person shall remove or deface any such sign or notice after it has been posted until the required repairs have been completed and all necessary permits have been obtained or until demolition is finished and all debris removed pursuant to the demolition permit.
(Prior Code, § 150.24) (Ord. 04-06, passed 4-7-2004) Penalty, see § 150.99

§ 150.20 APPEAL OF DIRECTOR OF BUILDINGS' NOTICE.

(A) *May appeal.* Any person having any title or legal interest in the property, building, or structure may appeal from the notice and order or any action or determination made by the Director of Buildings. The notice to appeal must be made in writing and filed with the Director of Buildings within ten calendar days from the date the notice and order to be appealed is mailed.

(B) *Processing of appeal.* As soon as practicable after receiving the written notice of appeal, the Director of Buildings shall notify the City Clerk who shall schedule a date, time, and place for a hearing before the City Council. Notice of the hearing shall be served upon each party having a legal interest in the property by any of the methods listed herein for service of a notice and order at least seven days prior to the hearing.

(C) *Scope of hearing on appeal.* The City Council shall consider any written or oral evidence regarding the following issues.

(1) The Director of Buildings shall present information relating to the condition of the property, the respective health and safety hazards, and the appropriate means of abatement.

(2) The owner or agent or person in possession of the property or any other interested person may present testimony or evidence concerning the condition of the property, the existence of a public nuisance, and any proposed methods and time frame to abate the nuisance conditions.

(D) *Stay of order pending appeal.* Except where the circumstances require emergency action to abate an imminent hazard or to vacate tenants or to secure the building, enforcement of any notice and order of the Director of Buildings issued under this subchapter shall be stayed during the pendency of a proper and timely filed appeal.

(E) *Procedures for conducting hearings.* The City Administrator, in consultation with the City Attorney, shall establish and promulgate all appropriate rules and procedures for conducting hearings and rendering decisions pursuant to this subchapter.

(F) *Final decision.* The decision of the City Council regarding any appeal is the final administrative order and decision of the city.
(Prior Code, § 150.25) (Ord. 04-06, passed 4-7-2004)

§ 150.21 DEMOLITION HEARING.

Upon the failure of the owner or his or her agent to demolish the property by the date specified in the notice and order, the Director of Buildings shall refer the matter to the City Council for a demolition hearing.

(A) *Notice.* As soon as practicable after the deadline expires in the Director of Buildings' notice and order, the Director shall request the City Clerk to set a date, time, and place for a demolition hearing

before the City Council. Such date shall be not less than ten days nor more than 60 days from the date the Director of Buildings requests the demolition hearing. Written notice of the time and place of the hearing shall be given at least ten calendar days prior to the hearing date to each party having an interest in the property. The notice of the demolition hearing shall be served in the same manner as described herein for the notices and orders.

(B) *Scope*. The City Council shall consider any written or oral evidence consistent with its rules and procedures for public hearings regarding the issues of whether the building or structure is a public nuisance and whether demolition is a reasonable remedy under the circumstances.

(1) The Director of Buildings shall present information relating to the condition of the property, the respective health and safety hazards, and the justifications for demolition.

(2) The owner or agent or person in possession of the property or any other person with a legal interest may present testimony or evidence concerning the existence of a public nuisance and whether demolition is necessary.

(C) *Decision*. The City Council may confirm the determination of the Director of Buildings that a public nuisance exists by virtue of the dangerous building and that demolition is the appropriate remedy under the circumstances. The decision of the City Council is the final administrative order.

(D) *Owner's response*. The owner or agent or person in possession of the premises, however, may obtain proper permits and demolish the building or structure within 60 calendar days after the City Council orders demolition.

(E) *Demolition*. In the event the owner or agent or person in possession of the property does not abate the conditions determined to be a public nuisance, the building or structure shall be demolished by personnel designated by the City Administrator or by a private contractor hired by the city.
(Prior Code, § 150.26) (Ord. 04-06, passed 4-7-2004)

§ 150.22 ENFORCEMENT OF NOTICE OR ORDER.

(A) *Failure to obey*. When any notice and order of the Director of Buildings or the City Council made pursuant to this subchapter has become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. If after any such notice and order of the Director of Buildings or decision by the City Council the person to whom such order is directed shall fail, neglect, or refuse to obey such order, the Director may:

(1) Cause such person to be prosecuted for such violation; or

(2) Institute any appropriate action to abate such building as a public nuisance.

(B) *Failure to commence work.* Whenever the required repair or demolition is not commenced within the 30 days after any final notice and order is issued under this subchapter, the following rules apply:

(1) The Director of Buildings may cause the building described in such notice and order to be vacated by giving reasonable notice to the tenants and by posting at each entrance a sign in substantially the following form.

DANGEROUS BUILDING
DO NOT OCCUPY
It is a misdemeanor to occupy this building
after or to remove or deface this notice.
City Ordinance No. 04-06
Director of Buildings

(2) After the date specified in the notice, no person shall occupy any building which has been posted as specified in this section.

(3) No person shall remove or deface any such notice so posted until the repairs ordered by the Director of Buildings have been completed and all necessary permits have been obtained or until demolition is finished and all debris removed pursuant to a demolition permit.

(4) The Director of Buildings may, in addition to any other remedy provided by law, correct only those conditions which render the building dangerous as set forth in the notice and order or, if the notice required demolition, schedule a demolition hearing.

(C) *Extension of time.*

(1) Upon a written request from the person required to obey the notice and order and a written agreement by such person that he or she will comply with the notice and order if allowed additional time, the Director of Buildings may, in his or her discretion, grant an extension of time, not to exceed an additional 120 days, to complete the repairs, rehabilitation, or demolition if the Director of Buildings determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property and the circumstances which justify the delay are beyond the control of the applicant.

(2) The Director of Buildings' authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect the time to appeal any notice and order or previously scheduled hearings.

(D) *Interference with repair of demolition work prohibited.* No person shall obstruct, impede, or interfere with any officer, employee or contractor, or authorized representative of the city or with any person who owns or holds any estate or interest in any building while conducting repairs, vacation of tenants, or demolition pursuant to the provisions of this subchapter.
(Prior Code, § 150.27) Penalty, see § 150.99

§ 150.23 WHO MAY REPAIR OR DEMOLISH.

When any repair or demolition is done by the city, the City Administrator shall accomplish the work by using city work crews or hiring a private contractor.
(Prior Code, § 150.28) (Ord. 04-06, passed 4-7-2004)

§ 150.24 WORK AND ADMINISTRATIVE COSTS.

All costs to repair or demolish the structure incurred by the city and an administrative fee of $500 shall be assessed against the owner as a personal obligation and may be made a lien against the real property in the same manner as liens imposed for special assessments for local improvement districts; the following rules apply.

(A) *Accounting report*. The Director of Buildings shall keep an itemized account of the expenses incurred in the repair or demolition of any dangerous building. Upon completion of the repairs or demolition, the Director of Buildings shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice.

(B) *Confirmation of costs; hearing*. Upon receipt of this report, the City Clerk shall fix a date, time, and place for a public hearing before the City Council regarding this report and any protests or objections. The Director of Buildings shall cause notice of this hearing to be served upon the owner and occupant or person in possession. This notice shall be given at least ten days prior to the date set for the hearing and shall specify the day, hour, and place when the City Council will consider and pass upon the Director of Buildings' report.

(C) *Protests and objections*. Any person affected by the proposed assessment may file written protests or objections with the Director of Buildings at least 48 hours prior to the time set for the public hearing. Each such protest or objection must contain a legal description of the property in which the signer has an interest or sufficient information to identify the property and the grounds of such protest or objection. The Director of Buildings shall present such protests or objections to the City Council at the hearing.

(D) *Hearing*. Upon the day and hour set for the hearing, the City Council shall hear and pass upon the Director of Buildings accounting and report together with any such oral or written objections or protests. The City Council may make such revisions, corrections, or modifications in the report or the cost of the work as it may deem just. When the hearing has been completed, the report as submitted or as revised, corrected, or modified and the cost of the work shall be confirmed or rejected by resolution of the City Council. The decision of the City Council on the report and the cost of the work and on all protests or objections is final.
(Prior Code, § 150.29) (Ord. 04-06, passed 4-7-2004)

§ 150.25 ENTRY FOR INSPECTION.

Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Director of Buildings has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such buildings or premises unsafe, dangerous, or hazardous, the Director of Buildings may enter such building or premises at all reasonable times to inspect the same in regard to such condition or conditions; provided, if such building or premises be occupied, the Director shall first present proper credentials and request entry, and if such building or premises be unoccupied, the Director shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If such entry is refused, the Director shall seek an appropriate order from a court of competent jurisdiction.
(Prior Code, § 150.30) (Ord. 04-06, passed 4-7-2004) Penalty, see § 150.99

§ 150.26 INJUNCTION AND COURT ACTION.

In addition to all other remedies and penalties provided by this subchapter and other city ordinances, the City Attorney may bring suit in a court of competent jurisdiction to seek an injunction or other appropriate relief to halt any violation of this subchapter. Such action may include seeking a temporary restraining order or temporary injunction and other appropriate temporary relief. Nothing in this subchapter shall be deemed to restrict a suit for damages on behalf of the city or on behalf of any other person or entity.
(Prior Code, § 150.31) (Ord. 04-06, passed 4-7-2004)

§ 150.99 PENALTY.

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

(B) Any person, firm, or corporation violating any provision of §§ 150.15 through 150.26 shall be subject to a fine not to exceed the sum of $500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs continues.
(Prior Code, § 150.99) (Ord. 04-06, passed 4-7-2004)

CHAPTER 151: STREETS, SIDEWALKS, AND PROPERTY

Section

GENERAL PROVISIONS

§ 151.01 DEFINITIONS.

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

PUBLIC RIGHTS-OF-WAY. Include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including subsurface and air space over these areas.

WITHIN THE CITY. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.
(Prior Code, § 95.01) (Ord. 97-5, passed 3-5-1997; Ord. 00-04, passed 11-3-1999)

§ 151.02 JURISDICTION AND REGULATORY CONTROL.

(A) The city has jurisdiction and exercises regulatory control over all public rights-of-way within the city under the authority of the charter and state law.

(B) The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way.

(C) The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or by other means.
(Prior Code, § 95.02) (Ord. 97-5, passed 3-5-1997; Ord. 00-04, passed 11-3-1999)

§ 151.03 CITY PERMISSION REQUIRED.

(A) No person may occupy or encroach on a public right-of-way without the permission of the city.

(B) The city grants permission to use rights-of-way and does not obligate the city to maintain or repair any part of the right-of-way.
(Prior Code, § 95.03) (Ord. 97-5, passed 3-5-1997; Ord. 00-04, passed 11-3-1999) Penalty, see § 10.99

§ 151.04 PROHIBITED SIDEWALK USAGE.

(A) No person shall store, maintain, or display property on any part of sidewalks located within a residential district.

(B) No person shall store, maintain, or display property on sidewalks within a business district which narrows the unobstructed straight path for pedestrian traffic to less than five feet in width.
(Prior Code, § 95.04) (Ord. 00-04, passed 11-3-1999) Penalty, see § 10.99

SIDEWALK CONSTRUCTION

§ 151.15 CONSTRUCTION REQUIRED BY CITY COUNCIL RESOLUTION.

Whenever the City Council shall deem it expedient and necessary that any new sidewalk shall be constructed within the city, the City Council shall pass a resolution declaring that the construction of such sidewalk is expedient and necessary and describe in the resolution, with convenient certainty, the location thereof, the kind of material required to be used in the construction thereof, and the time within which the same shall be completed; provided, owners of property resident within the city shall be allowed at least 20 days, and the owner of property nonresident in the city shall be allowed at least 30 days within which to complete the construction of any such sidewalk. The City Council may allow such additional time as may be determined necessary. The resolution shall provide that such sidewalk is to be constructed at the expense of the adjacent and abutting property or at the general expense of the city or in such proportions as may be determined to be equitable under the circumstances. When, in the opinion of the City Council, on account of topographical or physical conditions or other character of the work involved or when the City Council otherwise believes the situation warrants it, the City Council may contribute what it deems a fair proportion of the cost of such sidewalk construction from general funds of the city, and the amount to be assessed to the property on which the sidewalk fronts or abuts shall be proportionately reduced.
(Prior Code, § 95.15)

§ 151.16 NOTICE TO PROPERTY OWNERS.

If the sidewalk is to be constructed at the expense of the abutting and adjacent property, a notice containing the substance of the resolution provided for in § 151.15 herein shall be personally served by the police of the city on each owner of property required to construct such walk; if the property owner is a resident of the city or if a resident owner cannot be served with reasonable diligence on the part of the police, a notice containing the substance of such resolution shall be posted in a conspicuous place upon the adjacent or abutting property or at some point adjacent to and within plain view of the location of the proposed sidewalk for a period of 20 days. If the address of such nonresident owner of abutting or adjacent property is known or can, with reasonable diligence on the part of the police, be ascertained, a copy of such notice shall be mailed by registered mail, postage prepaid, to such nonresident owner and such posting and mailing of notice shall be deemed equivalent to personal service.
(Prior Code, § 95.16)

§ 151.17 CONSTRUCTION BY CITY; COSTS.

(A) In all cases of failure of any owner of such property to construct such sidewalk according to said resolution and notice as herein provided, the City Council may advertise, by one insertion in a weekly newspaper, for bids for the construction of such walk and may cause a contract to be entered into for the construction thereof by the lowest responsible bidder provided that the City Council shall have the right to reject all bids when they are deemed unreasonable or unsatisfactory. The City Council may order and

direct such work to be constructed by the Street Commissioner with city forces or day labor rather than to let the same for contract.

(B) Upon the completion of such sidewalks, the City Council shall, by ordinance, assess upon each lot, or parcel of land liable therefor, its proportionate share of the cost thereof and shall order and direct such assessments to be entered in the docket of city liens and make the same a lien upon each lot or part thereof or parcel of land liable for the cost of construction of such walk.

(C) Each owner of a lot or part thereof or parcel of land shall be liable for the full cost of the construction of such sidewalk in front of and abutting upon such lot or part thereof extending to the curb line. If such assessment is not paid after notice thereof, the City Council may proceed to levy the cost of the sidewalk construction upon such lot or part thereof or parcel of land liable for such assessment and cause the lien thereof to be satisfied by execution and sale in the manner provided by law.
(Prior Code, § 95.17)

§ 151.18 PERMIT REQUIRED.

(A) Any person desiring to repair sidewalks or construct new sidewalks shall apply to the City Recorder for a permit to build, improve, or repair the same describing the location, the kind of material, and the width of such walk. Upon compliance with the requirements of this subchapter, the permit shall be furnished to the applicant without charge, and the official grade for such sidewalk shall be provided for the applicant.

(B) When constructing a new residence, office, shop, or other building within the city limits which requires the services of any city utility, water, or sewer, it shall be the duty of any property owner to also apply for and obtain a permit for the construction of the necessary sidewalks and curbs according to the requirements of this subchapter. Such permit for sidewalks and curbs shall be issued with the necessary building permit issued by the city.
(Prior Code, § 95.18) (Ord. passed 8-7-1963)

§ 151.19 GRADE AND CONSTRUCTION SPECIFICATIONS.

(A) *Within street rights-of-way*. All sidewalks and service driveways shall be constructed of cement concrete.

(B) *Subgrade*. Foundations, upon which concrete shall be laid, shall be of a substantial construction, of sufficient depth, and of suitable material to properly carry the concrete overload intended without sinking or spreading, as determined by the Building Official or engineer. No concrete is to be placed on frozen subgrade or on subgrade containing frozen materials.

(C) *Grade*. All sidewalks constructed in the city shall be laid on the official grade unless specifically ordered otherwise by the City Council, and all sidewalks shall meet the curb flush with the top thereof at all street intersections.

(D) *Width.* All sidewalks hereafter constructed or re-laid within the corporate limits of the city shall be at least four feet in width except on Main Street from Walnut Street to Spring Street, which shall be 12 feet in width.

(E) *Depth.* All sidewalks shall be constructed to at least three and five-eighths inches thick except sections constructed as part of a driveway and Main Street from Walnut Street and Spring Street shall be six inches thick.

(F) *Curb dimensions.* Curb dimensions shall be as follows.

(1) The curb shall extend at least ten inches into the ground from the ground level after the street has been graded; six inches of curb shall be above ground level. The curb shall be six inches wide at the top and have a slope on the front of one inch in six inches and perpendicular on the back side.

(2) All curbs within the city shall conform to the official street grades and shall be uniform as to material, dimensions, and distance from the property lines along which they are built.

(3) Curbs at driveways shall be cut away slopingly for a distance of three feet.

(4) On all streets 60 feet or more in width, the outer edge of the curbing shall be eight feet from the property line.

(5) On all streets less than 60 feet but not less than 40 feet in width, the outer edge of the curbing shall be eight feet from the property line.

(6) On all streets less than 40 feet in width, the outer edge of the curbing shall be such distance from the property line as the City Council shall, from time to time, direct provided nothing herein shall be construed to require the curb lines to be altered or changed on streets where the same have been permanently improved at the expense of the adjacent and abutting property unless by order of the City Council and provided that nothing herein shall be construed to preclude the City Council, in cases of permanent street improvement, from providing a different method and manner of constructing the curb lines along such proposed improvement.

(G) *Pattern.* On any side of any street on which concrete sidewalks already exist, the pattern established by the existing sidewalks, concerning the location of the sidewalk in relation to the curb and owner's property line, shall determine the location for all sidewalks on the side of the street concerned for that block. No deviation is to be made from established patterns without special permission of the City Council. On any side of any street where no pattern has been set by existing sidewalks, no sidewalk shall be constructed until the City Council has rendered a decision on whether the walk shall be built next to the curb or next to the owner's property line.

(H) *Fall.* The sidewalk shall have a fall of one-fourth inch per foot from the property line toward the curb line.

(I) *Joints*. All sidewalks shall be divided by contraction joints no greater than seven feet running across the walk at right angles to their length. Joints shall be one-fourth inch in depth with deep knife joints to provide for aggregate separation at each section boundary. Expansion joints shall be placed along the sidewalk at points not greater than 50 feet and between sidewalks and curbs. The joints shall be made by means of a prepared bituminous felt material one-half inch thick or such other suitable material approved by the City Council. The joint material shall be exact to the cross-section of the sidewalk and shall be flush with the top surface and edges of the walk. Unless otherwise directed by the city, sidewalk slabs shall be broom-finished to provide a nonskid surface.

(J) *Concrete mix*. The concrete mix for sidewalks and curbs shall have a minimum compressive strength of 3,000 pounds per square inch after a 28-day cure and a minimum of five 94-pound sacks of cement per cubic yard of clean aggregate with a five-inch slump and 4% air content. The contractor or property owner may be required to furnish quality assurance testing and results.

(K) *Curing*. All concrete shall be cured by maintenance of proper moisture content and temperature. Concrete shall be protected against premature curing with burlap mats frequently sprinkled with water for a period of at least 96 hours after placement or by the application of a liquid membrane-forming curing compound to the freshly placed concrete of not less than 150 square feet per gallon. In cold weather, concrete shall be protected as necessary from frost action for a period of at least 96 hours after placement.
(Prior Code, § 95.19) (Ord. 06-01, passed 8-3-2005)

§ 151.20 CLEAN UP OF CONSTRUCTION MATERIALS.

The owner or contractor, as the case may be, shall remove all refuse material or rubbish resulting from his or her operations. He or she shall not use adjoining property as a dumping ground nor shall discarded forms, material, or tools be left in any of the streets or alleys of the city longer than is necessary in the construction of walks or curbs. If not so removed, the Street Commissioner may remove the same at the expense of the owner or contractor, as the case may be, and the cost of removing any rubbish, material, or tools shall constitute a lien against the property and shall be enforced as other city liens.
(Prior Code, § 95.21) Penalty, see § 10.99

§ 151.21 SUPERVISION OF CONSTRUCTION.

The Street Commissioner or other employee of the city so designated shall have supervision over the construction of all curbs and walks and all repairs thereof mentioned in this subchapter. The Street Commissioner or designated employee shall have power to stop the construction of any walk or curb whenever the person constructing the same shall neglect or refuse to comply with the specifications contained in this subchapter or in any permit issued, and he or she shall not allow the construction of any such walk or curb or the repair thereof to proceed until the specifications are complied with.
(Prior Code, § 95.22)

§ 151.22 SIDEWALK MAINTENANCE.

(A) *General provisions.*

(1) It shall be the duty of the Street Commissioner of the city to require all persons maintaining sidewalks along their property to keep the same clean and in good repair, and in case any sidewalk shall be out of repair or unsafe, it shall be the duty of the Street Commissioner to serve notice immediately on the owner of such property, as provided in § 151.16, along which such walk or curb shall be constructed to repair or clean the same as conditions may require.

(2) Each property owner shall be liable for the full cost of the repair or cleaning of the sidewalk along the property where the same shall be constructed or repaired. Upon the refusal or neglect of any property owner to repair or clean his or her sidewalk after notice by the Street Commissioner as herein provided, in cases of property owners residing in the city for not less than ten days and in cases of property owners residing outside the city for not less than 20 days, the Street Commissioner shall proceed to repair or clean such sidewalk as the case may require and report the expenses thereof to the City Council at the next regular meeting following which expenses shall, unless paid by the owner thereof, be made a lien upon the property as in the case of construction of new sidewalks.

(B) *Removal of snow and ice.* All property owners bordering Main Street on the north to Frazier Street and the south to Court Street are required to have snow removed and ice dri-walked or salted on the walks or walkways by 10:00 a.m., excluding Sundays, or a fine of $25 will be imposed.

(C) *Failure to maintain sidewalks; injury to persons.* If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duties which this subchapter imposes, the person shall compensate the city for the amount of the damages thus paid. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this subchapter.
(Prior Code, § 95.20) (Ord. passed 8-7-1963) Penalty, see § 10.99

NUMBERING OF BUILDINGS

§ 151.35 UNIFORM SYSTEM ESTABLISHED.

There is hereby established a uniform system of numbering of all houses, stores, establishments, and other buildings, except minor sheds and outbuildings, now situated or which may hereafter be erected within the city limits which for convenience are hereafter designated as ***STRUCTURES***. Pursuant to such system, the numbers shall be placed on said structures in accordance with the map and plan now on file in the office of the City Recorder, which map shall be known as the "Official Numbering Map of the City of Condon, Oregon."
(Prior Code, § 95.35)

§ 151.36 BASE LINES.

For the purpose of establishing and adopting a uniform system of numbering structures, the following shall be in effect.

(A) Main Street shall constitute the east-west base line for numbering streets.

(B) Walnut Street shall constitute the north-south base line for numbering streets.

(C) All streets lying north of Walnut Street and east of Main Street shall be designated "northeast."

(D) All streets lying south of Walnut Street and east of Main Street shall be designated "southeast."

(E) All streets lying north of Walnut Street and west of Main Street shall be designated "northwest."

(F) All streets lying south of Walnut Street and west of Main Street shall be designated "southwest."
(Prior Code, § 95.36)

§ 151.37 NUMBERING STRUCTURES.

Numbers on all structures on the north side of streets extending east and west and on all structures on the west side of streets extending north and south shall be odd numbers commencing with the numbers 101 for the first block. The numbering shall be fixed by blocks, and in cases where the properties are not platted blocks, the confines of a block shall be fixed by the City Recorder. Each block extending north and south shall contain 18 numbers beginning with the appropriate block number and continuing three numbers for each 50-foot lot beginning with 102 through 136 for the east side of streets and beginning with 101 through 135 for the west side of streets. Each block extending east and west shall contain eight numbers beginning with the appropriate block number and continuing four numbers for each 100-foot lot beginning with 102 through 116 for the south side of streets and beginning with 101 through 115 for the north side of streets. The numbering shall be assigned to structures on a frontage basis proportionate to the position in the block; in the event a question arises as to the proper number for a particular structure, the question shall be decided by the City Recorder.
(Prior Code, § 95.37)

§ 151.38 NUMBER PLACEMENT AND SPECIFICATIONS.

(A) It shall be the duty of every ***PERSON***, which term shall be construed to include persons, firms, and corporations owning, occupying, or controlling any structure within the city, to obtain from the City Recorder the correct number for such structure and to number the same in accordance with the provisions hereof. The same is to be done within 60 days after the effective date hereof or within 60 days after the erection of any structure which may be constructed after the effective date hereof.

(B) All numbers shall be placed on the front of each structure as near the main entrance as possible in such manner as to be easily seen from the public way. All numbers shall be not less than three inches in height for the number proper and shall be distinctly legible.
(Prior Code, § 95.38) (Ord. 5-B, passed 9-6-1961)

CHAPTER 152: LOCAL IMPROVEMENTS

Section

Making Local Improvements

Reimbursement District

MAKING LOCAL IMPROVEMENTS

§ 152.01 TITLE.

This subchapter shall be known as the "Local Improvement Ordinance."
(Prior Code, § 153.01) (Ord. 07-02, passed 8-2-2006)

§ 152.02 DEFINITIONS.

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

LOCAL IMPROVEMENT.

(1) The grading, graveling, paving, or other surfacing of any street or opening, laying out, widening, extending, altering, or changing the grade of or constructing any street;

(2) The construction or reconstruction of sidewalks;

(3) The installation of street lights;

(4) The installation of underground wiring or related equipment;

(5) The reconstruction or repair of any street improvement;

(6) The construction, reconstruction, or repair of any sanitary or storm sewer;

(7) The acquisition, establishment, construction, or reconstruction of any off-street motor vehicle parking facility;

(8) The construction, reconstruction, alteration, relocation, or repair of any flood-control dike, dam, flood way, or drainage facility;

(9) The construction, reconstruction, installation, and equipping of a park, playground, or neighborhood facility; and

(10) Any other local improvement 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 local improvement and the property on which the local improvement is located.

LOT. A lot, block, or parcel of land.

OWNER. The record holder of legal title or the purchaser where land is being purchased under a land sale contract recorded or verified in writing by the record holder of legal title to the land.

PROPERTY BENEFITTED. All real property specially benefitted by the public improvement and assessable therefor.
(Prior Code, § 153.02) (Ord. 07-02, passed 8-2-2006)

§ 152.03 INITIATING IMPROVEMENTS.

(A) When the City Council considers it necessary to make a local improvement to be paid for, in whole or in part, by special assessment according to benefits conferred, the City Council shall direct the Director of Public Works to have a survey made of the improvement and file a written report with the City Recorder.

(B) When owners of two-thirds of the property that will benefit by improvements request, by written petition, that the City Council initiate an improvement and submit a $1,000 bond in favor of the city, the City Council shall direct the Director of Public Works to have a survey made of the improvement and file a written report with the City Recorder. The bond shall be forfeited to cover the costs of engineering in the event the improvement district is not formed.
(Prior Code, § 153.03) (Ord. 07-02, passed 8-2-2006)

§ 152.04 PUBLIC WORKS DIRECTOR'S REPORT.

(A) Unless the City Council directs otherwise, the Public Works Director's report shall contain the following:

(1) A plat or map showing the general nature, location, and extent of the proposed improvements and the lands to be assessed to pay all or any part of the cost thereof;

(2) Plans, specifications, and estimates of the work to be done;

(3) An estimate of the probable cost of the improvement including legal, administrative, and engineering costs attributable thereto;

(4) A recommendation as to 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 property specially benefitted;

(5) An estimate of unit cost of the improvement to the specially benefitted properties;

(6) A description of the location and assessed value of each parcel of land or portion thereof to be specially benefitted by the improvement with the names of the record owners thereof as herein defined;

(7) A recommendation of the payment schedule and interest to be charged on assessments paid in installments;

(8) A statement showing outstanding assessments against property to be assessed; and

(9) Any other information required by the City Council.
(Prior Code, § 153.04)

(B) After the Public Works Director's report is filed with the City Recorder, the City Council may approve the report, modify the report and approve it as modified, require Public Works to supply additional or different information for the improvement, or abandon the improvement.
(Prior Code, § 153.05)
(Ord. 07-02, passed 8-2-2006)

§ 152.05 RESOLUTION AND NOTICE OF HEARING.

(A) After the City Council has approved the report as submitted or as modified, the City Council shall declare, by resolution, that it intends to make the improvement and direct the City Recorder to give notice of the City Council's intent by publication, not less than ten days prior to the public hearing, in a newspaper of general circulation in the city and by mailing copies of the notice to the owner of any lots which would be property benefitted by the proposed improvement.

(B) The notice shall contain the following:

(1) Confirmation that the report of the Public Works Director is on file in the office of the City Recorder and is subject to public examination;

(2) A statement that the City Council will hold a public hearing on the proposed improvement on a specified date at which time objections and remonstrance to the improvement will be heard by the City Council and that the improvement will be abandoned or dropped if written remonstrances are filed before or during the hearing by owners of lots representing 67% of the estimated assessed cost of the improvement;

(3) A general description of the proposed improvement and description of the property sufficient for the average reader to determine the general location; and

(4) In the mailed notice, an estimate of the total cost of the improvement, the portion to be paid by special assessment, and the estimate of the unit cost of the improvement to the property benefitted.
(Prior Code, § 153.06) (Ord. 07-02, passed 8-2-2006)

§ 152.06 REMONSTRANCES.

(A) If written, signed objections to the establishment of a local improvement district are filed with the City Recorder by the end of the public hearing on the establishment of the district by the owners of lots which represent 67% of the estimated assessed cost of the proposed local improvement, the City Council shall not make the proposed improvement nor shall the City Council reinitiate formation of the district.

(B) If there is multiple ownership of a lot, each remonstrating multiple owner shall be counted as a fraction to the same extent as the owner's interest in the lot bears in relation to the other multiple owners, and the same fraction shall be applied to the lot's proposed assessment for purposes of computing the remonstrance.

(C) Any person acting as agent or attorney with power to act in signing a remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner of the property.
(Prior Code, § 153.07) (Ord. 07-02, passed 8-2-2006)

§ 152.07 PUBLIC HEARING.

(A) The City Council shall hear and consider testimony, both oral and written, on the proposed improvement and may continue the hearing as it deems necessary.
(Prior Code, § 153.08)

(B) If written remonstrances are less than the amount required to defeat the proposed improvement, the City Council may, by motion at the close of the hearing or within 60 days thereafter based on the public testimony, order the improvement district created in accordance with the engineer's report or abandon the improvement.
(Prior Code, § 153.09)
(Ord. 07-02, passed 8-2-2006)

§ 152.08 MODIFICATION.

After the public hearing, the City 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 such other modifications

in the proceedings as it finds reasonable. In such case, a revised report must be made, notices mailed and published, and a second hearing held as set forth in §§ 152.04 through 152.07.
(Prior Code, § 153.10) (Ord. 07-02, passed 8-2-2006)

§ 152.09 ALTERNATIVE PROCEDURE.

When all of the owners of property to be benefitted by a local improvement have signed a petition directed and presented to the City Council requesting the local improvement, the City Council may initiate and construct the local improvement without publishing or mailing notice to the owners of the affected property and without holding a public hearing regarding the proposed local improvement.
(Prior Code, § 153.11) (Ord. 07-02, passed 8-2-2006)

§ 152.10 CONSTRUCTION AND COSTS OF IMPROVEMENT.

(A) The City Council may direct the City Recorder to advertise for bids for such improvements or portions thereof as it has approved, or the city itself may proceed to make said improvement or any portion thereof. If the City Council finds, on opening bids, that the cost of the improvement would be substantially in excess of the estimate, it may provide for holding a special hearing to consider objections to proceeding with a higher project cost.
(Prior Code, § 153.12)

(B) The costs and expenses of local improvement that may be assessed against the property benefitted shall include, but not be limited to, costs of construction of the improvement, engineering and administrative costs of creating the district and letting the bids, inspection costs, financing costs including interest, costs of acquisition of any easement for other property, and attorney fees.
(Prior Code, § 153.13)
(Ord. 07-02, passed 8-2-2006)

§ 152.11 ASSESSMENT METHOD AND METHODS OF FINANCING.

(A) The City Council, in adopting a method of assessing the cost of the improvement, may:

(1) Use any just and reasonable method to determine the boundaries of an improvement district consistent with the benefits derived;

(2) Use any just and reasonable method to apportion the sum to be assessed among the benefitted properties; and

(3) Authorize payment by the city of all or part of the cost of an improvement, when in the opinion of the City Council, the topographical or physical conditions, unusual or excessive public travel, or other character of the work warrants only partial payment or no payment of the cost by owners of benefitted properties.

(B) Nothing contained herein shall preclude the City Council from using other means of financing improvements including federal and state grants-in-aid, sewer charges or fees, revenue bonds, general obligation bonds, or other legal means of finance. If other means of finance are used, the City Council may levy special assessments according to the benefits derived to cover any remaining cost.
(Prior Code, § 153.14) (Ord. 07-02, passed 8-2-2006)

§ 152.12 ASSESSMENT OF ORDINANCE.

(A) When the estimated cost is determined on the basis of contract award or city cost or after the work is done and the cost has been actually determined, the City Council shall decide whether the benefitted property shall bear all or a portion of the cost. The City Recorder shall prepare the proposed assessment for each lot within the local improvement district and file the assessments in the City Recorder's office.

(B) Notice of the proposed assessment shall be mailed to the owner of each lot proposed to be assessed at the address shown on the county's Tax Assessor's roll. The notice shall state the amount of assessment proposed on the property and fix a date by which time objections shall be filed with the City Recorder. An objection shall state the grounds for the objection. The notice shall also specify the state of the City Council meeting at which the City Council will sit as a board of equalization and will conduct a public hearing.

(C) At the hearing, the City Council shall:

(1) Consider objections and may adopt, correct, modify, or revise the assessment against each lot in the district according to special and peculiar benefits accruing to it from the improvement; and

(2) By ordinance, declare and levy the assessment and direct the City Recorder to enter a statement thereof in the docket of the city liens as provided for in § 152.14.
(Prior Code, § 153.15) (Ord. 07-02, passed 8-2-2006)

§ 152.13 NOTICE OF ASSESSMENT.

(A) Within ten days after the ordinance levying assessments has been passed, the City Recorder shall send a notice of assessment to each owner of assessed property by certified mail.

(B) The notice of assessment shall include the name of property owner, a description of the assessed property, the amount of the assessment, and the date of the assessment ordinance and shall state that interest will begin to run on the assessment, and the property will be subject to foreclosure unless the owner either makes application to pay the assessment in installments within ten days after the date of the publication of notice or pays the assessment in full within 60 days after the effective date of the assessment ordinance.
(Prior Code, § 153.16) (Ord. 07-02, passed 8-2-2006)

§ 152.14 LIEN RECORD AND FORECLOSURE PROCEEDINGS.

(A) After the assessment ordinance is adopted, the City Recorder shall enter into the docket of liens a statement of the amount assessed on each lot, a description of the improvement, names of property owners, and the date of the assessment ordinance. On entry into the lien docket, the amounts shall become liens and charges on the lots that have been assessed for improvement.

(B) Assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as state law permits.

(C) Thirty days after the effective date of the assessment ordinance, interest shall be charged at the rate set by the City Council, 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 on property being offered at a foreclosure sale. The city shall have priority over all bids except those made by person who would be entitled under state law to redeem the property.
(Prior Code, § 153.17) (Ord. 07-02, passed 8-2-2006)

§ 152.15 ERRORS AND SUPPLEMENTAL ASSESSMENTS.

(A) Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder who shall determine whether there has been an error. If there has been an error, the City Recorder shall recommend to the City Council an amendment to the assessment ordinance to correct the error. On enactment of the amendment, the City Recorder shall make the necessary correction in the docket of liens and send a corrected notice of assessment by certified mail.
(Prior Code, § 153.18)

(B) (1) If an assessment is made before the total cost of the improvement is determined and if the amount of the assessment is insufficient to defray expenses of the improvements, the City Council may declare the insufficiency by motion and prepare a proposed supplemental assessment.

(2) The City Council shall set a time for hearing objections to the supplemental assessment and direct the City Recorder to publish one notice of the hearing in a newspaper of general circulation in the city. After the hearing, the City Council shall make a just and equitable supplemental assessment by ordinance which shall be entered in the docket of liens as provided by § 152.14.

(3) Notice of the supplemental assessment shall be published and mailed and collection of the assessment shall be made in accordance with §§ 152.13 and 152.14.
(Prior Code, § 153.19)
(Ord. 07-02, passed 8-2-2006)

§ 152.16 REBATES.

On completion of the improvement project, if the assessment previously levied on any property is found to be more than sufficient to pay the cost of the improvement, the City Council shall determine the excess and declare it by ordinance. When declared, the excess amounts must be entered in the 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.
(Prior Code, § 153.20) (Ord. 07-02, passed 8-2-2006)

§ 152.17 ABANDONMENT OF PROCEEDINGS.

The City Council may abandon proceedings for improvements at any time before final completion of the improvements. If liens have placed on property under this procedure, they shall be canceled, and payments made on assessments shall be refunded to the person who paid them or to that person's legal representative.
(Prior Code, § 153.21) (Ord. 07-02, passed 8-2-2006)

§ 152.18 CURATIVE PROVISIONS AND REASSESSMENT.

(A) (1) An improvement assessment shall not be rendered invalid by reason of:

(a) Failure of the Public Works Director's report to contain all information required by § 152.04(A);

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

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

(d) 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.

(2) The City Council shall have the authority to remedy and correct all matters by suitable action and proceedings.
(Prior Code, § 153.22)

(B) When an assessment, supplemental assessment, or reassessment for an improvement made by the city has been set aside, annulled, or declared or rendered void or its enforcement restrained by a court of this state or by a federal court having jurisdiction or when the City Council doubts the validity

of the assessment, supplemental assessment, reassessment, or any part of it, the City Council may make a reassessment in the manner provide by state law.
(Prior Code, § 153.23)
(Ord. 07-02, passed 8-2-2006)

§ 152.19 WITHHOLDING BUILDING PERMIT.

If payments on assessments are delinquent, no building permit shall be issued for improvement of the benefitted real property.
(Prior Code, § 153.24) (Ord. 07-02, passed 8-2-2006)

§ 152.20 PARTITION.

When there has been an approved partition of a parcel and that parcel has outstanding a special assessment remaining wholly or partially unpaid and full payment or an installment payment is not due, then any owner, mortgagee, or lien holder of any property affected by this partition may apply for an apportionment of the special assessment. Apportionment of the special assessment shall be done by resolution of the City Council, and that resolution shall be filed with the lien docket. Where the special assessment is being paid in installments, the installments remaining unpaid shall be prorated among those smaller parcels so that each parcel shall be charged with the percentage of the remaining installment payments equal to the percentage of the unpaid assessment charged to the parcel upon apportionment. Apportionment shall be on the same basis as the original assessment.
(Prior Code, § 153.25) (Ord. 07-02, passed 8-2-2006)

REIMBURSEMENT DISTRICT

§ 152.35 DEFINITIONS.

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

APPLICANT. A person who is required to pay for or install or chooses to finance some or all of a public improvement which is available to serve real property, other than real property owned by the person, and who applies to the city for reimbursement for the expense of the improvement. An ***APPLICANT*** can be the city.

CITY. The City of Condon.

CITY ENGINEER. The person holding the designation as City Engineer or any officer, employee, or agent designated by the City Administrator to perform the duties of the City Engineer.

FRONT FOOTAGE. The linear footage of a lot or parcel owned by a property owner to be served by a public improvement. ***FRONT FOOTAGE*** excludes the ***FRONT FOOTAGE*** of property used as public right-of-way.

PERSON. A natural person, partnership, corporation, association, or any other legal entity capable of owning, holding, and/or disposing of real or personal property.

PUBLIC IMPROVEMENT. The construction, reconstruction, and/or upgrading of facilities covered by the terms of ***STREET IMPROVEMENT***, ***SEWER IMPROVEMENT***, and/or ***WATER IMPROVEMENT*** as defined herein.

REIMBURSEMENT AGREEMENT. The agreement between an applicant and the city providing for the construction, reconstruction, and upgrading of and payment for public improvements to be financed through a reimbursement district.

REIMBURSEMENT DISTRICT. The area determined by the City Council to derive benefits from the construction of street, water, and/or sewer improvements financed in whole or in part by an applicant including property having the potential to utilize the affected improvement(s).

REIMBURSEMENT FEE. That sum determined by a resolution of the City Council and the reimbursement agreement to be the amount of money proportionate to the benefit derived by the affected property from the public improvement.

SEWER IMPROVEMENT. A sewer or sewer line improvement conforming with the city's adopted standards and specifications and any applicable land use conditions of approval including, but not limited to, extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

STREET IMPROVEMENT. A street or street improvement conforming with the city's adopted standards and specifications and any applicable land use conditions of approval including, but not limited to, streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights, signs, and public rights-of-way.

UTILIZE. To receive the benefit of a public improvement, manifested by either the receipt of a permit which will allow the use of an affected public improvement or a requirement that the property ***UTILIZE*** the public improvement or increase in the use of the public improvement.

WATER IMPROVEMENT. A water or water line improvement conforming with the city's adopted standards and specifications and any applicable land use conditions of approval including, but not limited to, extending a water line to real property, other than property owned by the applicant, so that water service can be provided for such other property without extension of the line.
(Prior Code, § 153.40) (Ord. 07-01, passed 8-2-2006)

§ 152.36 APPLICATION.

(A) Any person who constructs public improvement(s) capable of providing service(s) to property may, by written application filed with the city, request that the city establish a reimbursement district. The application shall be accompanied by a fee sufficient to cover the cost of administrative review and the notice required herein.

(B) The application for creation of a reimbursement district shall include the following:

(1) A description of the location, type, size, and cost of the public improvement sought to be eligible;

(2) A map showing the properties to be included within the proposed reimbursement district which includes information on the ownership of each property, the zoning thereof, the front and/or square footage of the property, and any other data, such as traffic studies and water modeling and the like, necessary for or relevant to calculating the apportionment of the cost of the affected public improvement(s);

(3) Information on the cost of the public improvement(s). In the event the affected public improvement(s) have been built or installed, this information must reflect the actual cost of the improvements as evidenced by receipts, invoices, or other similar documents. In the event the public improvements have not been constructed or installed, the information must reflect the estimated cost of the improvements as evidenced by bids, projections as to the cost of labor and materials, and other similar information requested by the City Engineer; and

(4) The date the city either accepted the public improvements or an estimated date of completion. An application may be submitted to the city prior to the construction or installation of the attached public improvement but, in any event, must not be submitted later than 120 days after completion and acceptance by the city of the public improvements. However, the City Engineer may waive this time limitation upon a showing by the applicant of good cause for the delay.
(Prior Code, § 153.41) (Ord. 07-01, passed 8-2-2006)

§ 152.37 ENGINEER'S REPORT.

(A) The City Engineer shall review the application and evaluate whether a reimbursement district should be established. The City Engineer may require the submittal of other relevant information from the applicant in order to assist the City Engineer in the evaluation. The City Engineer shall, after evaluation, prepare a written report for the City Council considering and making a recommendation as to the efficacy of establishing a reimbursement district.

(B) The report shall include information on the following items:

(1) Whether the applicant will finance or has constructed some or all of the public improvement(s) and whether those improvements are available to serve property other than property owned by the applicant;

(2) The area to be included within the reimbursement district;

(3) The actual or estimated cost of the public improvement(s);

(4) A methodology for spreading the cost associated with the public improvement(s) between and among the affected parcels. The methodology should take into consideration the cost of the improvement(s), the value of the unused capacity, any agreements on cost spreading methodology reached by a majority of the property owners within the proposed district, and such other factors as may be deemed relevant by the City Engineer;

(5) The amount, if any, to be charged by the city for its administration of the agreement;

(6) The period of time that the right to reimbursement exists; and

(7) Whether the public improvement(s) will or have met city standards.
(Prior Code, § 153.42) (Ord. 07-01, passed 8-2-2006)

§ 152.38 AMOUNT TO BE REIMBURSED.

The cost to be reimbursed to the applicant is limited to the cost of construction including property acquisition costs, the cost of construction permits, and engineering and legal expenses related directly to the formation of the reimbursement district as determined by the City Council in its sole discretion.
(Prior Code, § 153.43) (Ord. 07-01, passed 8-2-2006)

§ 152.39 PUBLIC HEARING.

(A) (1) Within a reasonable time after the City Engineer has completed the report described in § 152.37, the City Council shall hold a public hearing at which any person who is or may be monetarily affected by the formation of the reimbursement district is given the opportunity to comment on the formation of the proposed reimbursement district. The formation of the reimbursement district is not subject to termination because of remonstrances, and the City Council has the sole authority and discretion to decide whether a reimbursement district shall be formed.

(2) If a reimbursement district is formed prior to the actual construction of and/or acceptance by the city of the improvement(s), the City Council may set a not-to-exceed reimbursable amount which may or may not reflect the applicant's actual costs. A second public hearing shall be held after the improvement(s) have been accepted by the city. At that time, the City Council may modify the resolution described in § 152.40(A) to reflect the actual cost of the improvement(s).
(Prior Code, § 153.44)

(B) (1) Not less than ten nor more than 30 days prior to any public hearing held pursuant to this subchapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service.

(2) If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing which notice is deemed effective on the date the notice is mailed.

(3) Failure of the applicant or any affected property owner to receive notice shall not invalidate or otherwise affect the authority of the City Council to act.
(Prior Code, § 153.45)
(Ord. 07-01, passed 8-2-2006)

§ 152.40 CITY COUNCIL ACTION AND NOTICE OF ADOPTION.

(A) (1) After the public hearing held pursuant to § 152.39(A), the City Council shall approve, reject, or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified and shall specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving city permits applicable to development of that parcel as provided for in § 152.43.

(2) When the applicant is other than the city, the resolution shall authorize the City Engineer to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement, at a minimum, shall contain the following provisions:

(a) A statement that the public improvement(s) shall meet all applicable city standards;

(b) The amount of potential reimbursement to the applicant;

(c) The total amount of potential reimbursement which shall not exceed the actual cost of the public improvement(s);

(d) A guarantee from the applicant of the public improvement(s) for a minimum period of 12 months after the date of written acceptance by the city;

(e) A promise that the city will make reasonable efforts to properly account for and collect the reimbursement fee from any affected property, including the city's costs or expenses related to collection of the reimbursement fee, but is not liable for any failure to collect such fee or costs; and

(f) If the agreement is entered into prior to construction, a note that the agreement shall be contingent upon the improvements being accepted by the city.

(3) If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.
(Prior Code, § 153.46)

(B) (1) The city shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution by notice mailed.

(2) The notice shall include a copy of the resolution, the date it was adopted, and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount thereof.
(Prior Code, § 153.47)
(Ord. 07-01, passed 8-2-2006)

§ 152.41 RECORDING THE RESOLUTION.

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Clerk so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such recording shall not affect either the lawfulness of the resolution nor the obligation to pay the reimbursement fee.
(Prior Code, § 153.48) (Ord. 07-01, passed 8-2-2006)

§ 152.42 CONTESTING THE REIMBURSEMENT DISTRICT.

Any legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed within 60 days following the adoption of a resolution establishing a reimbursement district and shall be by writ of review as provided in O.R.S. 34.010 through 34.100.
(Prior Code, § 153.49) (Ord. 07-01, passed 8-2-2006)
Statutory reference:
Related provisions, see O.R.S. 34.010 through 34.100

§ 152.43 OBLIGATION TO PAY REIMBURSEMENT FEE.

(A) The applicant for a permit related to property within any reimbursement district shall pay to the city, in addition to any other applicable fees and charges, the reimbursement fee established by the City Council if, within the time specified in the resolution, the person applies for and receives approval for any of the following activities:

(1) A building permit which will cause either the use of a public improvement or an increase in the use thereof;

(2) The connection to a public improvement which results in the use of a public improvement or an increase in the use thereof; and/or

(3) Any city approval or development activity which results in utilization of a public improvement as defined in § 152.35.

(B) The city determination of who shall pay the reimbursement fee is final. Neither the city nor any officer or employee shall incur liability of any nature whatsoever as a result of this determination.

(C) A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvement(s) regardless of whether access is taken or provided directly onto such street. Nothing herein is intended to modify or limit the authority of the city to provide or require access management.

(D) No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid unless such payment was for other improvement(s). No permit shall be issued for any of the activities listed in division (A) above unless the reimbursement fee, together with the annual fee adjustment, has been paid in full. In the case of multiple improvements, a reimbursement fee may be collected for selected improvements which the new development actually utilizes.

(E) The date when the right of reimbursement ends shall be as follows:

(1) For sewer and water improvements, ten years from the district formation date. Upon application for an extension, the City Council may, by resolution, authorize up to two consecutive five year extensions for a total reimbursement period not to exceed 20 years. A decision as to whether to grant any extension shall be the sole discretion of the City Council; and

(2) For street improvements, ten years from the district formation date. The reimbursement fee shall be calculated over the ten-year reimbursement period based on the City Engineer's determination of the useful life of the street improvement and shall decline 5% per year to a value not exceeding 50% of the original fee in the tenth and final year of the reimbursement agreement. The reimbursement fee shall be calculated to decline beginning at six months and 5% every year thereafter. No extensions may be applied for or authorized in the case of street improvements.

(F) Any property owner may prepay the established reimbursement fee prior to applying for a building permit or connecting to the affected public improvement.
(Prior Code, § 153.50) (Ord. 07-01, passed 8-2-2006)

§ 152.44 PUBLIC IMPROVEMENTS.

(A) Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the city or other appropriate public entity as directed by the city.
(Prior Code, § 153.51)

(B) During the initial formation of a reimbursement district, more than one public improvement may be considered for inclusion in the reimbursement district.
(Prior Code, § 153.52)
(Ord. 07-01, passed 8-2-2006)

§ 152.45 PAYMENTS AND OTHER FEES.

(A) Applicants shall receive all reimbursement collected by the city for their public improvements. Such reimbursement shall be delivered to the applicant for as long as the reimbursement district agreement is in effect. Such payments shall be made by the city within 90 days of receipt of the reimbursements.

(B) The reimbursement fee is not intended to replace or limit and is in addition to any other existing fees or charges collected by the city.
(Prior Code, § 153.53) (Ord. 07-01, passed 8-2-2006)

CHAPTER 153: SUBDIVISIONS

Section

Improvements

Variances

GENERAL PROVISIONS

§ 153.001 TITLE AND PURPOSE.

(A) This chapter shall be known as the "Subdivision Ordinance of the City of Condon, Oregon." (Prior Code, § 151.001)

(B) The purpose of this chapter is to enact subdivision regulations for the city which will provide for better living conditions within new subdivisions; assure necessary streets, utilities, and public areas and provide for their installation or improvement; enhance and secure property values in subdivisions and adjacent land; simplify and make land descriptions more certain; implement the Comprehensive Land Use Plan; and, in general, promote the health, safety, convenience, and general welfare of the people of the city.
(Prior Code, § 151.002)
(Ord. 2012-01, passed 12-7-2011)

§ 153.002 DEFINITIONS.

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

ACCESS or ***ACCESS WAY.*** The place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property.

ALLEY. A public way permanently dedicated or reserved as a secondary means of access to abutting property. Encroachment by a structure or other land use is prohibited.

BLOCK. A contiguous series of lots bounded on all sides by streets, railroad rights-of-way, or unsubdivided land.

BUILDING LINE. A dashed line on a plat restricting the location of buildings or structures or that distance as prescribed by the zoning ordinance when applicable.

CITY. The City of Condon, a municipal corporation of the State of Oregon, where the provisions involve a duty owed the city in either its governmental or its corporate capacity; otherwise, that officer, department, or agency of the city indicated by the context or, where the context does not clearly indicate a specific officer or department or agency, the City Administrator of said city.

CITY ADMINISTRATOR. The duly appointed administrative officer of the City of Condon or a person designated to fulfill the obligations as set forth in this chapter.

CITY ENGINEER. The duly appointed City Engineer of the City of Condon.

COMPREHENSIVE PLAN. A plan adopted by the Planning Commission providing the objectives and policy guidelines for the growth and development of the city including amendments thereto.

CONTIGUOUS LAND. Two or more parcels or units of land, including water, under a single ownership which are not separated by an intervening parcel of land under separate ownership, including limited access rights-of-way, which would deny access between the two parcels under single ownership.

CURB LINE. The line dividing the roadway from a planting strip or footway.

DESIGN. The design of any street or alley, alignments, grade or width, alignment of width of easements and rights-of-way for drainage or irrigation purposes, and sanitary facilities.

EASEMENT. A grant of the right to use a strip of land for specific purposes. Public ***EASEMENTS*** shall not be encroached upon by permanent structures.

LEGAL DESCRIPTION. The method by which the outer boundaries of a site or premises and all appurtenant easements and applicable restrictions or covenants are described or established by reference to established points, monuments, and the like.

LOT. A single parcel of land for which a legal description is filed on record or the boundaries of which are shown on the subdivision plat filed in the office of the County Clerk. The term ***LOT*** shall include a part of a single parcel of land when such part is used as a separate lot for all purposes and under all requirements of this chapter. Except for the parcel of land on which condominium structures are placed, the term ***LOT*** does not include condominium as used under O.R.S. Chapter 100.

LOT AREA. The total horizontal net area within the lot lines of a lot.

LOT, CORNER. A lot situated at the intersection of two or more streets.

LOT DEPTH. The horizontal length of a straight line connecting the bisecting points of the front and rear lot lines.

LOT, DOUBLE FRONTAGE. An interior lot having frontage on and with access on two parallel, or approximately parallel, streets.

LOT, INTERIOR. A lot other than a corner lot or reverse corner lot.

LOT, KEY. The first lot to the rear of a reversed corner whether or not separated by an alley.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street. In the case of a corner lot, the line separating the narrowest street frontage of the lot from the street.

LOT LINE, REAR. Lot line which is opposite and most distant from the front lot line.

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

LOT, REVERSE CORNER. A corner lot which rears upon the side yard of another lot.

LOT WIDTH. The average horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

MINIMUM ROAD STANDARD. That standard which must be met by a road before it may be used in a subdivision or partition or is accepted for dedication to the city.

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 now located.

OFFICIAL MAP. The Comprehensive Plan Map as adopted by the Planning Commission for the City of Condon.

OWNER. The individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest in the land sought to be subdivided or partitioned to commence and maintain proceedings to subdivide or partition the same under this chapter.

PARCEL. A tract of land as created by a partitioning of land.

PARKING SPACE. A rectangular area not less than 20 feet long and eight and one-half feet wide, together with maneuvering and access space required for a standard American automobile to park within the rectangle.

PARTITIONING LAND. Dividing land to create not more than three parcels of land within a calendar year but does not include:

(1) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property, or the creation of cemetery lots;

(2) Adjusting a property line, as property line adjustment is herein defined;

(3) Dividing land as a result of the recording of a subdivision or condominium plat;

(4) Selling or granting by a person to a public agency or public body of property for state highway, county road, city street, or other right-of-way purposes if the road or right-of-way complies with the applicable Comprehensive Plan and O.R.S. 215.213(2)(p) through (2)(r) and 215.283(2)(q) through (2)(s). However, any property sold or granted for state highway, county road, city street, or other right-of-way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or

(5) Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision, or special district for highways, county roads, city streets, or other right-of-way purposes when the sale or grant is part of a property line adjustment incorporating the excess right-of-way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the Deed Records of the county where the property is located.

PEDESTRIAN WAY. A right-of-way for pedestrian traffic.

PLAT. A map, diagram, drawing, or re-plat containing all descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition as specified by this chapter.

RIGHT-OF-WAY. The area between the boundary lines of an alley, easement, street, or highway.

ROADWAY. The portions of the right-of-way of a street or highway developed for vehicular traffic.

SIDEWALK. A pedestrian walkway with permanent surfacing.

STREET. A public way for sidewalk, roadway, and utility installations being the entire width from lot line to lot line and including the terms ***ROAD***, ***HIGHWAY***, ***LANE***, ***PLACE***, ***AVENUE***, ***ALLEY***, or other similar designations.

(1) ***ALLEY.*** A narrow street through a block which affords only secondary means of access to abutting property at the rear or sides thereof.

(2) ***CUL-DE-SAC (DEAD END STREET).*** A short street having one end open to traffic and being terminated by a vehicle turn-around.

(3) ***HALF-STREET.*** The dedication of a portion only half of the width of a street, usually along the edge of a subdivision, where the remaining portion of a street has been or could later be dedicated in another subdivision.

(4) ***LOCAL STREET.*** A street used primarily for access to abutting properties.

(5) ***MAJOR STREET.*** A street used primarily for through traffic.

(6) ***SECONDARY STREET.*** A street used to some extent for through traffic and to some extent for access to abutting properties.

STRUCTURE. A built or constructed edifice or building of any kind or any piece of work artificially built up or composed of parts wired together in some manner and which requires location on the ground or which is attached to something having a location on the ground.

SUBDIVIDE LAND. To divide an area or tract of land into four or more lots when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the time of adoption of this chapter.

SUBDIVIDER. Any person, firm, corporation, partnership, or association who causes the land to be divided into a subdivision as defined herein.

TENTATIVE PLAN. Initial diagram of a proposed subdivision or partition.
(Prior Code, § 151.004)
(Ord. 2012-01, passed 12-7-2011)
Statutory Reference:
Related provisions, see O.R.S. Chapter 100, 215.213(2)(p) through (2)(r), and 215.283(2)(q) through (2)(s)

§ 153.003 COMPLIANCE REQUIRED.

It shall be unlawful for any person to create any street or way for the purpose of partitioning land or to dispose of, transfer, sell, or agree to offer to sell any lot or parcel of land if the same constitutes or is part of a process of subdivision or minor land partition as defined in § 153.002 or if the sale, transfer, or offer is made by reference to or exhibition of a plat or plan of a subdivision unless all the requirements of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 with regard to such subdivision or minor land partition, or the creation of such street or way, have been complied with.
(Prior Code, § 151.003) (Ord. 2012-01, passed 12-7-2011) Penalty, see § 153.999

§ 153.004 POWERS OF CITY STAFF AND PLANNING COMMISSION.

(A) The city staff may administratively approve property line adjustments. The city staff may refer any property line adjustment to the Planning Commission as staff deems necessary. The Planning Commission's review of such referral may also require a quasi-judicial public hearing process.

(B) The Planning Commission is hereby designated as the approving agency with respect to subdivision and partition of land as provided in the state subdivision laws.

(C) The Planning Commission shall have all the powers and duties with respect to tentative and final subdivision maps and the procedure relating thereto which are specified by law and herein.

(D) A decision of the Planning Commission may be appealed to the City Council by an aggrieved party following the provisions of § 154.166.
(Prior Code, § 151.005) (Ord. 2012-01, passed 12-7-2011)

§ 153.005 ADMINISTRATION FEES.

(A) The city, like many cities in the state, is faced with a severely reduced budget for the administration of the city's ordinances.

(B) (1) The land use planning process in the state has become increasingly complex.

(2) To properly process a land use application, the city must rely upon professional consultants to assist in the legal notices, conducting on-site inspections, preparation of staff reports, and, in some cases, actual attendance at the Planning Commission and/or Planning Commission meetings.

(3) The city utilizes a consultant to ensure land use applications are processed fairly and promptly.

(C) Because of the reduced budgets, the city finds it necessary to transfer those administrative costs to the applicant as a part of the land use planning process.
(Prior Code, § 151.133) (Ord. 2012-01, passed 12-7-2011)

§ 153.006 SEVERABILITY.

Should any section, clause, or provision of this chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be invalid.
(Prior Code, § 151.132) (Ord. 2012-01, passed 12-7-2011)

TENTATIVE PARTITION MAP

§ 153.020 INITIAL SUBMISSION AND PRELIMINARY REVIEW.

(A) Ten copies of a tentative plan and a statement of any proposed subdivision or partition shall be submitted to the City Administrator at least 30 days prior to the meeting of the Planning Commission at which consideration is desired together with the prescribed filing fees.
(Prior Code, § 151.020)

(B) (1) The City Administrator shall transmit one copy of the tentative plan to the City Engineer and additional copies to the city departments and other public officials as necessary. Each city department, upon receipt of a copy of the tentative plan, shall examine the map for conformance with requirements coming within the authoritative scope of the department and, within six days after receipt thereof, shall make a written report to the City Administrator. The City Administrator shall prepare a report on the tentative plan for submission to the Planning Commission. The report shall include information on zoning in the area and on the location in the adjoining streets and property of existing sewers and water mains, culverts and drain pipes, electric conduits or lines proposed to be used on the property to be subdivided, and invert elevations of sewers at points of proposed connections together with any other data as appears pertinent to the Planning Commission's review of the tentative plan.

(2) Copies of the tentative plan may be submitted to the following additional officials, and they will be given at least seven days to review the plan and submit comments:

(a) The County Surveyor and the County Assessor;

(b) The county's Environmental Agency if the property is inside the city and the installation of sanitary sewer is not contemplated;

(c) The state's Highway Department if the property is adjacent to a state highway;

(d) The school district; and

(e) Other public agencies as deemed necessary.
(Prior Code, § 151.021)
(Ord. 2012-01, passed 12-7-2011)

§ 153.021 TENTATIVE PLAN SCALE, INFORMATION, AND STATEMENT.

(A) Tentative plans shall be to a scale of one inch equals 100 feet or better, except tracts over 100 acres which may be to a scale of one inch equals 200 feet, and shall be clearly and legibly reproduced.
(Prior Code, § 151.022)

(B) The tentative plan shall contain the following information:

(1) The proposed subdivision's name, date, north point, scale, and sufficient description to define the location and boundaries of the proposed subdivision;

(2) Name and address of record owner or owners of the proposed subdivision;

(3) Name and address of the subdivider;

(4) Name, business address, and number of the registered engineer or licensed surveyor who prepared the map of the proposed subdivision;

(5) The locations, names, widths, approximate radii of curves, and grades of all existing and proposed streets and easements in the proposed subdivision and along the boundaries thereof and the names of adjoining platted subdivisions and portions of the subdivisions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed subdivision;

(6) Names of the record owners of all contiguous land within 250 feet of exterior boundaries of the tentative plan;

(7) The approximate location and character of all existing and proposed easements and public utility facilities including water and sewer lines proposed in the subdivision and on adjacent lands thereto;

(8) Approximate lot layout and dimensions of each lot and each to be numbered;

(9) Setback lines, if any, proposed by the subdivider;

(10) The outline of any existing buildings and their use, showing those which will remain;

(11) Contour lines on lands with slopes greater than 5%;

(12) City boundary lines crossing or bounding the subdivision;

(13) Approximate location of all areas subject to inundation or storm water overflow and the location, width, high water elevation flood flow, and direction of flow of all watercourses;

(14) Any areas proposed to be cut or filled or otherwise graded or protected from flooding; and

(15) If impractical to show on the tentative map, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features, such as streets, railroads, watercourses, and cliffs.
(Prior Code, § 151.023)

(C) The statement to accompany the tentative plan shall contain the following information:

(1) A general explanation of the improvements and public utilities, including water supply and sewage disposal, proposed to be installed;

(2) Deviations from subdivision ordinance, if any;

(3) Public areas proposed, if any;

(4) Tree planting proposed, if any; and

(5) A preliminary draft if any restrictive covenants proposed.
(Prior Code, § 151.024)
(Ord. 2012-01, passed 12-7-2011)

§ 153.022 PLANNING COMMISSION REVIEW PROCEDURES.

(A) The Planning Commission shall conduct a quasi-judicial public hearing. In its review of the proposed subdivision tentative plan, the Planning Commission shall follow the notice procedure contained in the zoning ordinance requirements.

(1) Each notice of hearing authorized by this chapter shall be published in a newspaper of general circulation in the city at least ten days prior to the date of hearing.

(2) In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within 250 feet of the property for which the variance, conditional use, or zone boundary amendment has been requested. The notice of hearing shall be mailed at least ten days prior to the date of the hearing. Said notice shall:

(a) Explain the nature of the application and the proposed subdivision or partition which could be authorized, O.R.S. 197.797(3)(a);

(b) List the applicable criteria from the ordinance and the plan that apply to the application, O.R.S. 197.797(3)(b);

(c) Set forth the street address or other easily understood geographical reference to the subject property, O.R.S. 197.797(3)(c);

(d) State the date, time, and location of the hearing, O.R.S. 197.797(3)(d);

(e) State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue, O.R.S. 197.797(3)(e) and O.R.S. 197.797(1);

(f) State that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue, O.R.S. 197.797(3)(e);

(g) Include the name of a local government representative to contact and a telephone number where additional information may be obtained, O.R.S. 197.797(3)(g);

(h) 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, O.R.S. 197.797(3)(h);

(i) 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, O.R.S. 197.797(3)(i); and

(j) Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings, O.R.S. 197.797(3)(j).

(B) The Planning Commission shall determine whether the tentative plan is in conformity with the provisions of law and of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078. The public hearing conducted by the Planning Commission to approve, conditionally approve, or disapprove the proposed subdivision plan shall be held not later than 45 days from the first regular Planning Commission meeting following submission of the plat. Approval of the tentative plan shall indicate the Planning Commission's approval of the final plat provided that there is no change in the plan of subdivision or partition as shown on the tentative plan and that there is full compliance with all requirements of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078. The action of the Planning Commission shall be noted on three copies of the tentative plan. Of the three copies, one shall be returned to the subdivider, one shall be transmitted to the City Engineer, and one shall be retained by the City Administrator together with an order setting forth the action of the Planning Commission.

(C) The city will provide notice of decision to the applicant and any person who participates in the public hearing process. Notice of decision must include an explanation of appeal rights.
(Prior Code, § 151.025) (Ord. 2012-01, passed 12-7-2011)
Statutory reference:
Related provisions, see O.R.S. 197.797(1), (3)(a) through (3)(e), and (3)(g) through (3)(j).

FINAL SUBDIVISION MAP

§ 153.035 SUBMISSION OF FINAL MAP.

(A) The subdivider shall cause the proposed subdivision, or any part thereof, to be surveyed and a final map thereof prepared in conformance with the tentative map as approved or conditionally

approved. A tracing and five blue-line or black-line prints of the final map shall be submitted to the City Administrator together with the prescribed fee within one year after approval or conditional approval. The tracing and prints are in addition to those required by state statutes. An extension of time not to exceed one year for filing of the final map may be granted by the Planning Commission provided written application is made by the subdivider within one year after action on the tentative map.
(Prior Code, § 151.040)

(B) The final subdivision map shall be prepared in accordance with the provisions of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 and state laws. All tracings required shall be in accordance with state standards including, but not limited to, O.R.S. 92.120.
(Prior Code, § 151.042)
(Ord. 2012-01, passed 12-7-2011)
Statutory reference:
Related provisions, see O.R.S. 92.120

§ 153.036 INFORMATION ON FINAL MAP AND SUPPLEMENTAL DATA.

(A) The final map shall, in addition to other information required by law, show the following:

(1) The date, scale, north point (generally pointing up), legend, and controlling topography such as cracks, highways, railroads, cliffs, and the like;

(2) Reference points of existing surveys identified, related to the plat by distances and bearings, and referenced to a field book or map as follows:

(a) All stakes, monuments, or other evidence found on the ground and used to establish the initial point of the subdivision boundary and to otherwise determine the boundaries of the subdivision;

(b) Adjoining corners of all adjoining subdivisions;

(c) Whenever there has been established or adopted a system of coordinates, ties into this system; in the absence of such a system, township and section and donation land claim lines within or adjacent to the plat;

(d) Whenever the city has established the centerline of a street adjacent to or within the proposed subdivision, the location of this line and monuments found or reset; and

(e) All other monuments found or established in making the survey of the subdivision or required to be installed by the provisions of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078.

(3) Tract boundary lines, right-of-way lines, and center lines of streets and lot and block lines with dimensions, bearings, deflection angles and radii, arcs, points or curvature, and tangent bearings. Tract boundary and street bearings shall be shown to the nearest ten seconds with basis of bearings. All distances shall be shown to the nearest one-hundredth foot. Error of closure shall be within the limit of one foot in 10,000 feet;

(4) The location of additional monuments which are to be set upon completion of improvements;

(5) The center and side lines of all streets, the width of the portion being dedicated, the width of existing rights-of-way, and the widths of each side of the centerline. For streets on curvature, all curve radii shall be based on the street centerline indicating thereon the radius and central angle. Block corner curb data to be shown separately;

(6) All easements clearly labeled and identified and, if already of record, the recorded reference. If any easement is not definitely located of record, a statement of the easement. Easements shall be denoted by fine dotted lines. The widths of the easement and the lengths and bearings of the lines thereof, and sufficient ties thereto, to definitely locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication;

(7) Lot numbers beginning with the number one and numbered consecutively in a clockwise direction unless in conflict with adjoining subdivisions; and

(8) Appropriate words, symbols, or legends distinguishing lots intended for sale from land parcels to be dedicated for any purpose, public or private, with all dimensions, boundaries, and courses clearly shown and defined in every case.
(Prior Code, § 151.043)

(B) At the time of the submission of the final map, the subdivider shall also submit the following:

(1) A preliminary title report issued by a recognized title insurance company in the name of the owner of the land showing all parties whose consent is necessary and their interest in the premises;

(2) A copy of any deed restrictions applicable to the subdivision; and

(3) Sheets and drawings showing the following:

(a) Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, any donation land claim corners, or any triangulation systems and showing the error of closure;

(b) The computation of all distances, angles, and courses shown on the final map;

(c) Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing; and

(d) Coordinates of all block corners and all street center points.
(Prior Code, § 151.041)
(Ord. 2012-01, passed 12-7-2011)

§ 153.037 CERTIFICATIONS.

The following certificates shall appear on the final map as submitted and may be combined where appropriate:

(A) A certificate signed and acknowledged by all parties having any record title interest in the land subdivided consenting to the preparation and recording of the map; provided, however, the signatures of parties owning the following types of interests may be omitted if their names and the nature of their interests are set forth on the map:

(1) Rights-of-way, easements, or other interest, none of which can ripen into a fee; and/or

(2) Rights-of-way, easements, or reversions which, by reason of changed conditions, long disuse, or laches, appear to be no longer of practical use or value where release thereof is impossible or impractical to obtain. Any subdivision map, including land originally patented by the United States or the state under patent reserving interest to either or both of these entities, may be recorded under the provisions of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078. without the consent of the United States or the state or to dedication made if the interest reserved is not inconsistent with the use for which the land is being subdivided.

(B) A certificate signed and acknowledged as above offering for dedication all parcels of land shown on the final map and intended for any public use except those parcels, other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants, and servants;

(C) A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and final map which shall be accompanied by his or her seal; and

(D) Provisions for additional certificates and acknowledgments required by law.
(Prior Code, § 151.044) (Ord. 2012-01, passed 12-7-2011)

§ 153.038 APPROVAL BY CITY ENGINEER.

Upon receipt, the final map and other data submitted to the City Administrator shall be referred to the City Engineer who shall examine it to determine that the subdivision as shown is substantially the same as it appeared on the tentative map as approved, that all provisions of the law and §§ 153.001

through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 applicable at the time of approval of the tentative map have been complied with, and that the map is technically correct. The City Engineer may make checks in the field, as he or she may desire, to verify that the map is sufficiently correct on the ground, and he or she may enter the property for this purpose. If the City Engineer shall determine that full conformity has not been made, he or she shall advise the subdivider of the changes or additions that must be made for these purposes and shall afford the subdivider an opportunity to make the changes or additions. If the City Engineer determines that full conformity has been made, he or she shall so certify on the map and shall transmit the map to the Planning Commission. The city reserves the right to contract with an independent civil engineer at the applicant's expense in the event the designated City Engineer is precluded from acting on the city's behalf.
(Prior Code, § 151.045) (Ord. 2012-01, passed 12-7-2011)

§ 153.039 FINAL APPROVAL BY PLANNING COMMISSION.

(A) Upon return of the final map by the City Engineer, the Planning Commission shall examine the same to determine whether the map conforms with the tentative map and with all changes permitted and all requirements imposed as a condition of its acceptance.

(B) If the Planning Commission does not approve the map, it shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him or her an opportunity to make the same.

(C) If the Planning Commission determines that the map conforms to all requirements, it shall approve the same, but before certifying its approval thereon, it shall require the subdivider to file the agreement and bond or make the deposit, required in §§ 153.041 and 153.042(A). When the agreement and bond have been filed and approved as prescribed, the Planning Commission's approval shall be endorsed upon the map by execution of the appropriate certificate as prescribed by law.
(Prior Code, § 151.046) (Ord. 2012-01, passed 12-7-2011)

§ 153.040 CITY COUNCIL APPROVAL.

The City Council must also approve the final plat and accept the dedication of any public right-of-way.
(Prior Code, § 151.047) (Ord. 2012-01, passed 12-7-2011)

§ 153.041 AGREEMENT FOR IMPROVEMENTS.

(A) Before Planning Commission approval is certified on the final map, the subdivider shall either install required improvements or shall execute and file with the Recorder-Treasurer an agreement between himself or herself and the city specifying the period within which he or she or his or her agent or contractor shall complete all improvement work required by or pursuant to §§ 153.001 through

153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078, and if he or she shall fail to complete the work within the period, the city may complete the same and recover the full cost and expense thereof from the subdivider.

(B) The agreement shall also provide for reimbursement of the city by the subdivider for the cost of inspection by the City Engineer. The 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 and proceedings under an assessment district act for the construction of improvements specified in the agreement and required to be constructed by the subdivider.
(Prior Code, § 151.048) (Ord. 2012-01, passed 12-7-2011)

§ 153.042 WARRANTY AND BOND.

(A) The developer shall provide a one-year warranty on all public improvements constructed both off-site and within the development that were specifically constructed from the development. The one-year time period is from the date of final approval by the City Council and acceptance of said improvements.
(Prior Code, § 151.049)

(B) (1) The subdivider shall file with the agreement, to assure his or her full and faithful performance thereof, one of the following:

(a) A surety bond executed by a surety company authorized to transact business in the state; or

(b) Cash.

(2) The assurance of full and faithful performance shall be for a sum approved by the City Administrator/Recorder sufficient to cover the cost of the improvements, engineering, inspection, and incidental expenses and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the City Attorney as to form.

(3) In the event the subdivider fails to complete all improvement work in accordance with the provisions of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 and the city has to complete same or if the subdivider fails to reimburse the city for the cost of inspection, engineering, and incidental expenses, and to cover cost of replacement and repair of existing streets or other improvement damages in the development of the subdivision, the city shall call on the surety for reimbursement or shall appropriate from any cash deposits funds for reimbursements. In any such case, if the amount of surety bond or cash deposit is less than the cost and expense incurred by the city, the subdivider shall be liable to the city for the difference.
(Prior Code, § 151.050)
(Ord. 2012-01, passed 12-7-2011)

§ 153.043 FILING OF FINAL PLAT.

Approval of the final plat by the city, as provided in §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final 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.
(Prior Code, § 151.051) (Ord. 2012-01, passed 12-7-2011)

GENERAL REGULATIONS AND DESIGN

§ 153.055 STREETS AND WAYS.

(A) *Creation of streets.*

(1) The creation of all streets shall be in conformance with requirements for subdivisions.

(2) The city may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions with any conditions as are necessary to preserve the standards established by §§ 153.055 through 153.058 and § 153.059(A) and (B) provided either of the following conditions exist:

(a) The establishment of the street is initiated by the Planning Commission and is declared essential for the purpose of general traffic circulation, and the dividing of land is an incidental effect rather than the primary objective of the street; and/or

(b) The tract in which the street is to be dedicated is an isolated ownership of one acre or less.
(Prior Code, § 151.070)

(B) *Creation of ways.*

(1) Any easement-of-way providing access to property which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street approved in accordance with division (A) above except that the creation of a private easement-of-way to be established by deed without full compliance with these regulations shall be approved by the Planning Commission provided the easement is the only reasonable method by which the rear portion of an unusually deep lot large enough to warrant partitioning into two parcels may be provided with more access. If the existing lot is large enough so that three or more parcels meeting the lot size minimums of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 may be created and two or more of the parcels

would not have frontage on an existing street, an easement-of-way will not be acceptable and a street must be dedicated.

(2) The procedure for approval of allowed private easements-of-way shall be as provided in division (A)(2)(b) above for streets except the easement-of-way need only comply with the standards set forth in division (A)(2)(b) above and assure utility access to the resultant lot.
(Prior Code, § 151.071)

(C) (1) *Streets and highways conform with plans and standards.* In addition to conformance with state laws and the standards provided by §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078, the subdivision shall conform as to design and improvements to any master plan approved by the Planning Commission and to any proceedings affecting the subdivision which may have been initiated by the Planning Commission or approved by the City Council upon initiation by other legally constituted bodies of the city, county, or state. In addition, consideration shall be given to preliminary plans developed by the city. Off-site improvements to existing streets may be required to serve the proposed development.

(2) *Street design standards.*

(a) *Roadway design and modifications.* Unless otherwise indicated on any master plan or by proceedings initiated by the Planning Commission or approved by the Planning Commission upon initiation by other legally constituted governmental bodies, roadway design shall conform with city standards shown below except where it can be shown by the subdivider to the satisfaction of the Planning Commission that the topography or the small number of lots served and the probable future traffic development are such as to unquestionably justify a modified feature. Any modification must be approved by the City Engineer and adequately justified, prepared, and sealed by a licensed professional engineer. Increased widths may be required where streets are to serve commercial property or where probable traffic conditions warrant. Approval or determination of street and area classification shall be made by the Planning Commission taking into consideration the zoning designations imposed by the zoning ordinance, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety and welfare.

(b) *Minimum right-of-way and roadway width.* Unless otherwise approved in the tentative development plan approval, the street right-of-way and roadway surfacing widths shall not be less than the minimum widths shown in the city's adopted *Public Works Standards and Technical Specifications and Drawings of 2007.* That document contains the discussion of street construction standards and design drawings that are applicable to any new development in the city. Where conditions, particularly topography, or the size and shape of land parcels make it impractical to provide buildable lots, narrower right-of-way may be accepted, ordinarily not less than 40 feet. If necessary, slope easements may be required.

(c) *Roadway alignment and grades designed in accordance with good engineering practice.* Grades shall not exceed 10% on collector streets and 12% on local streets with a minimum grade of 0.5% on all streets. The centerline radius of curves shall be not less than 300 feet on collector streets

and 75 feet on local streets. Streets shall be designed to intersect at right angles wherever possible and shall comply with the following divisions and table.

1. Substantial grade changes shall be avoided at intersections.

2. The intersection between two collector streets shall have a minimum of 100 feet of straight, or tangent, alignment perpendicular to the intersection. Maximum design grade is 2% in this area.

3. The intersection of the local street with any other street shall have a minimum of 50 feet of straight, or tangent, alignment perpendicular to the intersection. Maximum design grade is 3% percent in this area.

4. Where right angle intersections are not possible, exceptions can be granted by the City Engineer provided the intersections have a minimum interior angle of 60 degrees and a corner radius of 20 feet along the right-of-way lines of the acute angle.

5. Intersections of established truck routes shall have a minimum corner radius of 35 feet.

6. All other intersections shall have a minimum corner radius of 15 feet.

Item	*Arterial Street*	*Local Street*	*Minor Collector Street*
Design speed (mph)	35 - 45	15 - 25	25 - 35
Maximum grade (%)	8	12	10
Minimum centerline curve radius (feet)	500	75	300
Minimum curb/corner radius (feet)	30	15	20
Minimum sight distance (feet)	360	150	250
Right-of-way width (feet)	64 - 80	60	80
Pavement width (feet)	64	40	36
Sidewalks (feet)	5 (both sides)	Optional	5 (one side)
Shoulder width (feet)	N/A	5	N/A

(3) *Future streets*. Whenever the Planning Commission shall have determined that, in conformity with the master plan, a street is necessary for the future subdivision of the property, as shown on the subdivision map, but that the present dedication and construction of such street is not warranted, the Planning Commission may require that the location, width, and extent of such street shall be shown on the final map or on an approved map of record as a future street. Improvement of such future street may not be required of the subdivider by the Planning Commission.

(4) *Future street extension.* Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the subdivision, and the resulting dead-end streets may be approved without a turnaround. Reserve strips, including street plugs, may be required to preserve the objectives of street extensions.

(5) *Service roads.* When any lot fronts on a major street, the Planning Commission may require the subdivider to dedicate a service road at the front of the lot.

(6) *Reserved strips.* No reserved strips controlling the access to public ways will be approved unless the strips are necessary for the protection of the public welfare, and in these cases, they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.

(7) *Half-streets.* Half-streets shall be prohibited except they 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. Whenever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract. Reserve strips may be required to preserve the objectives of half-streets.

(8) *Non-access and planting strips.* When the rear or side of any lots border any major street, the Planning Commission may require the subdivider to execute and deliver to the city an instrument deemed sufficient by the City Attorney prohibiting the right of ingress and egress to the lots across the side lines of the street. When the street is a freeway, state highway, or parkway, the subdivider may be required to dedicate and improve a planting strip adjacent to the street.

(9) *Alleys.* When any lots are proposed for commercial or industrial usage, alleys at least 20 feet in width may be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved. Intersecting alleys shall not be permitted.

(10) *Private streets.* The design and improvement of any private street shall be subject to all the requirements prescribed by this subchapter for public streets. The subdivider shall provide for the permanent maintenance of any street required for access to property in a private street subdivision.

(11) *Street names.* All street names shall be approved by the Planning Commission and County Roadmaster for conformance with the established pattern and to avoid duplication and confusion.

(12) *Street signs.* It shall be the responsibility of the developer to furnish and place all street signs required by the development.
(Prior Code, § 151.090)
(Ord. 2012-01, passed 12-7-2011)

§ 153.056 LOTS.

(A) (1) The size and shape of lots shall conform to zoning regulations.

(2) Where there are unusual topographic conditions, curved or cul-de-sac streets, or other special conditions, modifications which meet the intent of the width and depth requirements may be granted by the Planning Commission.

(B) (1) In areas that cannot be connected to community sewage disposal facilities, minimum lot sizes shall be greater than the minimum herein specified.

(2) The lots shall conform to the requirements of the county's Health Department for sanitary waste disposal.

(C) The side lines of all lots, so far as possible, shall be at right angles to the street which the lots face or radial, or approximately radial, if the street is curved; provided, however, where topographic or other natural features warrant variation from this provision, the Planning Commission may approve such variations.

(D) Lots without frontage on a street will not be permitted.

(E) Through lots will be permitted only where necessitated by topographic or other unusual physical conditions.
(Prior Code, § 151.092) (Ord. 2012-01, passed 12-7-2011)

§ 153.057 BLOCKS.

(A) Blocks shall not exceed 1,320 feet in length unless such blocks are adjacent to major streets.

(B) The subdivider may be required to dedicate and improve ten-foot walkways across blocks over 600 feet in length or to provide access to schools, parks, or other public areas.
(Prior Code, § 151.093) (Ord. 2012-01, passed 12-7-2011)

§ 153.058 LAND FOR PUBLIC PURPOSES.

The Planning Commission may require the reservation for public acquisition, at a cost not to exceed acreage values in the area prior to subdivision, of appropriate areas within the subdivision for a period not to exceed one year; provided, that the city has an interest or has been advised of interest on the part of the state's Highway Commission, school district, or other public agency to acquire a portion of the area within the proposed subdivision for a public purpose including substantial assurance that positive steps will be taken in the reasonable future for the acquisition.
(Prior Code, § 151.095) (Ord. 2012-01, passed 12-7-2011)

§ 153.059 UTILITY EASEMENTS, WATERCOURSES, AND LANDS SUBJECT TO INUNDATION.

(A) *Utility easements*. Easements for sewers, drainage, water mains, public utility installations including overhead or underground systems, and other like public purposes shall be dedicated, reserved, or granted by the subdivider in widths not less than five feet on each side of rear lot lines, alongside lot lines, and in planting strips wherever necessary provided that easements of lesser width, such as for anchorage, may be allowed when the purpose of easements may be accomplished by easements of lesser width as approved by the city.
(Prior Code, § 151.091)

(B) *Watercourses*. The subdivider shall, subject to riparian rights, dedicate a right-of-way for storm drainage purposes conforming substantially with the lines of any natural watercourse or channel, stream, or creek that traverses the subdivision or, at the option of the subdivider, provide by dedication further and sufficient easements or construction or both to dispose of the surface and storm waters.
(Prior Code, § 151.094)

(C) *Lands subject to inundation*. If any portion of any land proposed for development is subject to overflow, inundation, or flood hazard by storm waters, an adequate system of storm drains, levees, dikes, and pumping systems shall be provided.
(Prior Code, § 151.097)
(Ord. 2012-01, passed 12-7-2011)

§ 153.060 UNSUITABLE LAND.

The Planning Commission may refuse to approve a subdivision when the only practical use which can be made of the property proposed to be subdivided is a use prohibited by this chapter or law or if the property is deemed unhealthful or unfit for human habitation or occupancy by the county or state health authorities.
(Prior Code, § 151.096) (Ord. 2012-01, passed 12-7-2011)

IMPROVEMENTS

§ 153.075 STANDARDS AND APPROVAL.

In addition to other requirements, all improvements shall conform to the requirements of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 and any other improvement standards or specifications adopted by the city and shall be installed in accordance with the following procedure.

(A) Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the subdivision proposal, the plans may be required before approval of the final map. All plans shall be prepared in accordance with requirements of the city.

(B) Improvement work shall not be commenced until the city has been notified in advance, and if work has been discontinued for any reason, it shall not be resumed until the city has been notified.

(C) All required improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arise during construction to warrant such change in the interests of the city.

(D) All underground utilities, sanitary sewers, and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.

(E) A map showing all public improvements as built shall be filed with the City Administrator upon completion of the improvements.
(Prior Code, § 151.110) (Ord. 2012-01, passed 12-7-2011)

§ 153.076 REQUIREMENTS.

Improvements to be installed by the subdivider must meet or exceed, as determined by the City Engineer, the construction standards contained in the city's Book of Standards.

(A) *Streets*. All streets shall be improved to city standards. The subdivider shall improve the extension of all subdivision streets to the centerline of existing streets with which subdivision streets intersect.

(B) *Structures*. Structures specified as necessary by the city for drainage, access, and public safety shall be installed.

(C) *Sidewalks*. Sidewalks shall be installed on collector streets only.

(D) *Storm water*. Storm water drainage shall be provided to all developed land. The city will require the subdivider to detain all storm water generated by their project on-site with off-site flow being less than or equal to pre-development conditions. The storm water facility should be designed for a 25-year/15-minute storm event per the state's Department of Transportation standards. This form of detention must be installed prior to discharge to the existing city ditch system.

(1) In addition, all developed parking lots with more than 25 spaces must have a City Engineer approved oil/water separator installed on the outlet line with all catch basins having a pollution control elbow.

(2) Finally, the developer will be required to sign a non-remonstrance agreement with the city for the installation of a centralized storm collection and treatment facility.

(E) *Sewers*. Sanitary sewer facilities connecting with the existing city sewer system shall be installed to serve each lot. Storm water sewers shall be installed as required by the city.

(F) *Water*. Water mains and fire hydrants of design, layout, and locations approved by the city shall be installed.

(G) *Abutting streets*. If any part of the property within the proposed subdivision abuts an existing dedicated street not improved to the ultimate width and other standards required for streets within subdivisions, the abutting portions of said street shall be improved to such standards by the construction of a sidewalk, curb, and gutter along the side adjacent to the subdivision and also by paving the roadway from said curb to 12 feet beyond centerline or to such lesser distance beyond centerline as the Planning Commission may deem necessary to provide a safe and adequate paved road way for two-way vehicular traffic. If said street is an arterial street or is otherwise so classified that the established policy of the city is to specially assess less than the entire cost of an improvement thereof, the Planning Commission may reduce the paving required hereunder to such extent as appears fair and equitable.

(H) *Underground utilities*. This provision shall apply only to utility lines to be installed to provide service within the area to be subdivided. Utility lines including, but not limited to, electricity, communications, street lighting, and cable television shall be required to be placed under ground. Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, and meter cabinets may be placed above ground. The Planning Commission may waive the requirements of this section if topographic, soil, or other conditions make such underground installations unreasonable or impractical. The subdivider shall make all necessary arrangements with the serving utility or agency for underground installations provided hereunder; all such installations shall be made in accordance with the tariff provisions of the utility as prescribed by the state's Public Utilities Commissioner.

(I) *Street lighting*. Street lighting of an approved type shall be installed on all streets at locations approved by the city. Generally, each and every intersection shall be provided with a street light.

(J) *Street name signs*. All streets shall be legibly marked with street name signs, not less than two in number, at each intersection according to specifications furnished by the city.

(K) *Improvement of easements*. Whenever the safety of adjoining property may demand, any easement for drainage or flood control purposes shall be improved in a manner approved by the city.

(L) *Off-site street improvements*. All off-site street and utility improvements, where required, shall conform to the standards of the city.
(Prior Code, § 151.111) (Ord. 2012-01, passed 12-7-2011)

§ 153.077 MONUMENTS.

(A) In addition to requirements of state law and other provisions of this chapter, permanent monuments of a type approved by the city shall be set in the following locations:

(1) At each boundary corner of the subdivision, at the beginning and end of the property line curves, and at any other points as may be required by the city; and/or

(2) At intersections of street centerline tangents or offsets therefrom and where such intersect on private property at the beginning and end of the centerline curve or offsets therefrom.

(B) Any required monument that is disturbed or destroyed before acceptance of all improvements shall be replaced by the subdivider.

(C) Complete field notes in a form satisfactory to the city showing references, ties, locations, elevations, and other necessary data relating to monuments and bench marks set in accordance with the requirements of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078 shall be submitted to the city to be retained by the city as a permanent record. (Prior Code, § 151.112) (Ord. 2012-01, passed 12-7-2011)

§ 153.078 PROPERTY LINE ADJUSTMENTS.

(A) *Purpose and scope*. The purpose of a property line adjustment is to allow the relocation of a known common boundary line between two abutting properties where no additional lots or parcels are created. Property line adjustments may be permitted in any zone or across zones or between lots or parcels in a recorded subdivision or partition plat. A property line adjustment is not required for a boundary line agreement to establish the physical location of an existing property boundary but is required to relocate that boundary.

(B) *Procedure*.

(1) Applications for property line adjustments may be processed by administrative review or may be forwarded to the Planning Commission for review and approval.

(2) A scaled plot plan shall be submitted with an application for a property line adjustment showing:

(a) All existing property lines;

(b) The proposed location of the adjusted property line;

(c) The location of existing buildings with distances to the existing and the proposed property line;

(d) The location of septic systems, wells, and easements, and their distances from the existing and the proposed property line; and

(e) The existing size and the proposed size of each lot or parcel in square feet or acres.

(3) All owners of the properties that will be modified by the property line adjustment must sign the application form or a letter of authorization.

(4) If the application is approved, the adjusted property line must be surveyed and documented by a state licensed surveyor in accordance with the procedures of O.R.S. Chapter 92, and a survey complying with O.R.S. 209.250 must be filed with the County Surveyor. However, a survey and documentation are not required when all parcels will be greater than ten acres or when the property line adjustment involves the sale or grant by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision, or special district for highways, county roads, city streets, or other right-of-way purposes property.

(5) A survey, if required, must be filed with the County Surveyor within one year of the date of final approval of an application for a property line adjustment. If a survey is not required, a final map shall be submitted within one year of the date of final approval. The survey or map shall be signed by the County Surveyor, Planning Director, and County Assessor.

(6) Within one year of the date of final approval of an application for a property line adjustment, a deed or other instrument of conveyance must be recorded with the County Clerk. The deed or instrument shall contain the names of the parties, the description of the adjusted property line, references to original recorded documents, signatures of all parties with proper acknowledgment, and a reference to the planning application case file number. If the deed or instrument describes only the area being conveyed from one parcel to the other, a statement shall be included that the conveyance is part of a property line adjustment and the described property is not a separate parcel.

(7) If the property line adjustment will result in any portion of a septic system, driveway, utility, or other improvement being located on a different parcel than the structure the improvement serves, an easement granting continued use of the improvement shall be recorded with the County Clerk at the time the deed or other instrument conveying the property is recorded.

(8) Prior to filing the final survey or map and recording the instruments of conveyance and any required easements, copies of these documents shall be submitted to the City Administrator for review to determine whether all conditions of approval have been met.

(C) *Approval criteria.* A property line adjustment may be approved if it complies with all of the following.

(1) The existing lots or parcels were lawfully created.

(2) No new parcels will result from the adjustment.

(3) All buildings and improvements like septic systems, wells, and the like will comply with the minimum setback requirements from the adjusted property line unless the building or improvement does not currently comply; in such case, the building or improvement shall not be rendered more nonconforming by the adjustment.

(4) All adjusted parcel sizes shall meet the minimum lot size of the zone where the property is located.

(5) The adjustment shall not result in parcel(s) that overlap a city limit or county line.

(6) The adjustment shall not result in the loss of public access to any parcel.
(Prior Code, § 151.113) (Ord. 2012-01, passed 12-7-2011)
Statutory reference:
Related provisions, see O.R.S. Chapter 92 and 209.250

VARIANCES

§ 153.090 VARIANCE APPLICATION.

(A) When necessary, the Planning Commission may authorize conditional variances to requirements and regulations of §§ 153.001 through 153.004, 153.020 through 153.022, 153.035 through 153.043, and 153.075 through 153.078.

(B) Application for a variance shall be made by a petition of the subdivider, stating fully the grounds of the application and the facts relied upon by the petitioner. The petition shall be filed with the tentative map of the subdivision or partition.

(C) In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary that the Planning Commission shall find the following facts with respect thereto:

(1) That there are special circumstances or conditions affecting the property;

(2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and that extraordinary hardship would result from strict compliance with these regulations; and

(3) That the granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the vicinity in which the property is situated.
(Prior Code, § 151.130) (Ord. 2012-01, passed 12-7-2011)

§ 153.091 PLANNING COMMISSION ACTION.

(A) The Planning Commission shall follow the rules and procedures established for variances, § 154.128.

(B) In granting variances, the Planning Commission shall secure substantially the objectives of the regulations to which variances are granted in order to preserve the public health, safety, convenience, and general welfare. The conditions that are necessary for this purpose shall be specified in granting the variance.

(C) In granting any variance under the provisions of this section, the Planning Commission shall make a written record of its findings and the facts in connection therewith and shall specifically and fully set forth the variance granted and the conditions designated. The Planning Commission shall keep such findings on file as a matter of public record.
(Prior Code, § 151.131) (Ord. 2012-01, passed 12-7-2011)

§ 153.999 PENALTY.

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

(B) In the event of an unlawful subdivision or partitioning contrary to this section, each day during which the subdivider thereafter fails to bring the subdivision into total compliance with this chapter shall be deemed a separate offense punishable by fine not exceeding $500 for each offense.
(Prior Code, § 151.003) (Ord. 2012-01, passed 12-7-2011)

CHAPTER 154: ZONING

Section

Signs

Off-Street Parking and Loading

Planned Unit Development

Exceptions and Variances

Amendments

Administrative Provisions

GENERAL PROVISIONS

§ 154.001 TITLE AND PURPOSE.

(A) *Title*. This chapter shall be known as the "City of Condon Zoning Ordinance."
(Prior Code, § 152.101)

(B) *Purpose*. The purpose of this chapter is:

(1) To implement the city's Comprehensive Plan as adopted by the Condon City Council;

(2) To comply with O.R.S. Chapters 195, 197, and 227;

(3) To promote the public health, safety, and welfare of the citizens of the city; and

(4) To repeal and replace Chapter 152 of Title XV of the prior code and Ordinance 01-01 and all amendments thereto with this chapter.
(Prior Code, § 152.102)
(Ord. 01-05, passed 6-6-2001)
Statutory reference:
Related provisions, see O.R.S. Chapters 195, 197, and 227

§ 154.002 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. As used in this chapter, the singular includes the plural, and the masculine includes the feminine and neuter.

ACCESS. The way or means by which pedestrians and vehicles enter and leave property which is commonly open to use by the public.

ACCESSORY DWELLING. An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a primary residential use.

ACCESSORY USE or ***ACCESSORY STRUCTURE.*** Any subordinate use or structure, such as storage units and containers, or portion of a main building, the use of which is incidental, appropriate, and subordinate to that of the main building.

ALLEY. A street which affords only a secondary means of access to the property.

ALTERATION. To remove, add to, or otherwise change the physical appearance of any part or portion of the exterior of a historic landmark or historic district but shall not include paint color.

APARTMENT. A building containing five or more dwelling units.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) where the base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. ***AO*** is characterized as sheet flow and ***AH*** indicates ponding.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

AUTOMOBILE WRECKING YARD. Premises used for the commercial storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery, or parts thereof unless said activity takes place solely within an enclosed structure.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Also referred to as the ***100-YEAR FLOOD***. Designation on maps always includes the letters A or V.

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

BED AND BREAKFAST. An establishment in a residential district that contains up to five guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to 15 days.

BOARDING HOUSE, LODGING, OR ROOMING HOUSE. A building where lodging with or without meals is provided for compensation for over five guests to a maximum of 12 guests.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

BUILDING. A structure or mobile home unit built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

CARPORT. A stationary, roofed structure or a portion of a building open on two or more sides primarily used for the parking of motor vehicles.

CHILD CARE CENTER. An institution, establishment, or place that commonly receives at one time more than 12 children not of common parentage for a period not to exceed 12 hours per given day for the purposes of board, care, or training period apart from their parents or guardians for compensation or reward in accordance with O.R.S. Chapter 329A. For in-home family day care see ***FAMILY DAY CARE***.

CHURCH. A building or edifice used primarily for religious worship.

CITY. City of Condon.

CITY COUNCIL. Condon City Council

CONTIGUOUS LAND. Two or more parcels or units of land, including water, under a single ownership which are not separated by an intervening parcel of land under a separate ownership, including limited access rights-of-way, which would deny access between the two parcels under single ownership.

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

DEMOLISH. To raze, destroy, dismantle, deface, or in any other manner cause partial or total ruin of a designated historic landmark or district.

DESIGNATED HISTORIC LANDMARK. A district, geographic area, corridor, ensemble, building, portions of building, site, landscape feature, cemetery, bridge, sign, plaque, archaeological site or artifact, or other objects of historical and/or architectural significance locally, regionally, or nationally designated by the Planning Commission.

DEVELOPMENT. Any human-made 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 located within the area of special flood hazard.

DISTRICT. A geographic area possessing a significant concentration, linkage, continuity, or design relationship of historically significant sites, structures, landscape features, or objects unified by past events or physical development.

DRIVEWAY APRON. A paved or concrete connection from the public street to the property line and/or driveway of a dwelling unit. Minimum width is 12 feet and the maximum is 20 feet. A ***DRIVEWAY APRON*** shall be constructed of either two and one-half inches of asphaltic concrete or four inches of concrete over six inches of one and one-half inches minus aggregate base and two inches of three-fourth inch minus aggregate leveling course.

DUPLEX. Two dwelling units on a lot or parcel in any configuration, detached or attached. In instances where a development can meet the definition of a ***DUPLEX*** and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a ***DUPLEX*** or a primary dwelling unit with an ADU.

DWELLING, SINGLE-FAMILY. Any building designed or used exclusively for occupancy by one family and containing one dwelling unit, including manufactured homes meeting the requirements of § 154.043.

DWELLING UNIT. A single independent unit providing complete living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation. For the purposes of this definition, independent means the ***DWELLING UNIT***:

(1) Is detached from any other ***DWELLING UNIT*** or is separated from any other ***DWELLING UNIT*** by an approved fire separation as required under the Building Code;

(2) Includes a kitchen area with a sink and an approved electrical service connection for a stove or range; and

(3) Does not have a direct interior connection to any other ***DWELLING UNIT*** but may have fire separated access to a common facility shared with another ***DWELLING UNIT***.

ELEVATED BUILDING. For insurance purposes, a non-basement 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 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 the adopted flood plain management regulations.

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 or marriage or a group of not more than five persons, excluding servants, who need not be related by blood or marriage living together in a dwelling unit. ***FAMILY*** shall include two or more persons with a handicap as defined in the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 et seq., living as a single housekeeping unit.

FAMILY DAY CARE. Also termed ***BABYSITTING***; the care of 12 or fewer children, either full or part-time, including resident family members as accessory to any residential use. ***FAMILY DAY CARE*** is subject to the normal requirements of the residential zone. ***FAMILY DAY CARE*** is not subject to the definition of home business.

FLOOD or ***FLOODING.*** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

FLOODWAY. The channel of a 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 one foot.

FOURPLEX. Four dwelling units on a lot or parcel in any configuration.

HOME OCCUPATION - TYPE I. The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling or lawful accessory building provided:

(1) There is no more than one additional person employed other than the resident of the dwelling;

(2) The use, ***HOME OCCUPATION - TYPE I***, does not change the character of the dwelling;

(3) The occupation is carried on in such a manner as not to impart the outward appearance of a business in an ordinary meaning of the term or cause or lead to unreasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution; and

(4) There is no commercial delivery or pickup of products at the dwelling.

HOME OCCUPATION - TYPE II. The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling or lawful accessory building; provided:

(1) There is more than one other additional person than the residents of the dwelling employed;

(2) The use, ***HOME OCCUPATION - TYPE II***, does change the character of the dwelling;

(3) The occupation is carried on in such a manner as to impart the outward appearance of a business in an ordinary meaning of the term or causes or leads to reasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution; and

(4) There is commercial delivery or pickup of products at the dwelling.

INDUSTRIAL. The making of commodities by manufacturing, assembling, fabrication, or compounding by manual labor or machinery. The term includes physical or chemical processes or combinations thereof.

(1) ***HEAVY INDUSTRIAL.*** Those activities listed above which can occur outside an enclosed structure. The uses include outside storage, loading and unloading, stockpiling, and the like for which there is no odor, vibration, dust, or noise discernable to the human sensory perception beyond the property line of the site.

(2) ***LIGHT INDUSTRIAL***. Those activities listed above which occur totally within an enclosed structure. There is no odor, vibration, dust, or noise discernable to the human sensory perception beyond the exterior walls of the structure.

LOT. A parcel or tract of land.

LOT AREA. The total area of the lot measured in the horizontal plane within the lot boundary lines.

LOT DEPTH. The average horizontal distance between the front lot line and the rear lot line.

LOT LINE, FRONT. The line on the lot facing the street from which the access to the lot is commonly made.

LOT LINE, REAR. A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot or parcel, a line ten feet in length within the lot or parcel parallel to and at a maximum distance from the front lot line. In the aforementioned instance, if the front line is curved and a determination of the parallel relationship to the front lot line is being made, a straight line connecting the two end points of the front lot line shall be used. In the case of a corner lot or parcel, either interior lot line may be the ***REAR LOT LINE*** regardless of the placement of the front door.

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

LOWEST FLOOR. The lowest floor of the lowest enclosed area including basements. An unfinished or flood-resistant enclosure used solely for the parking of vehicles, building access, or storage in an area other than a basement area 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 DWELLING. Does not include any building or structure subject to the structural specialty code adopted pursuant to O.R.S. 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer but does include the following.

(1) ***MANUFACTURED HOME.*** A dwelling constructed to U.S. Department of Housing and Urban Development (HUD) standards since June 15, 1976 but not to the state's Building Code standards.

(2) ***MOBILE HOME.*** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962 and June 15, 1976 and met the construction requirements of state's Mobile Home Law in effect at the time of construction.

(3) ***RESIDENTIAL TRAILER.*** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.

(a) For any purpose other than that set forth in division (3)(b) below, ***MANUFACTURED HOME*** means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, ***MANUFACTURED HOME*** has the meaning given the term in the contract.

MATCHING OR LIKE MATERIALS. Materials that duplicate the original material in size, shape, composition, and texture as closely as possible.

MAY. The act referred to is discretionary.

MOBILE HOME PARK. Any privately owned place where two or more mobile homes used for human occupancy are parked within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is the rental of spaces.

MULTIPLE-FAMILY DWELLING. Dwelling designed or intended for the residence of three or more families.

NATIONAL REGISTER OF HISTORIC PLACES. An official listing maintained by the National Park Service of the nation's most significant buildings, sites, objects, structures, or districts significant in American history, architecture, archeology, and culture. The state recognizes these as "historical resources of statewide significance" according to O.A.R. § 660-23-200.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of this chapter.

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 adopted flood plain management regulations.

NON-CONFORMING STRUCTURE OR USE. A lawfully 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.

OWNER. A person or his or her authorized agent or representative having legal authority to use, transfer, or lease land.

PARKING PLACE. A rectangular area approximately 20 feet long and ten feet wide together with maneuvering and access space for an automobile, equipment, or other vehicle to park within the rectangle without the necessity of maneuvering other parked vehicles. See §§ 154.090 through 154.092 for specific requirements.

PERSON. A natural person, firm, partnership, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

PLANNING COMMISSION. City of Condon Planning Commission.

PLOT PLAN. A drawing indicating the location of existing and proposed structures on a lot or parcel together with other site information as required.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis, with or without motive power;

(2) Containing 400 square feet or less when measured at the largest horizontal projection of the unit;

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

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use; and

(5) So called ***PARK MODEL*** recreational units are not, by this definition, considered as ***RECREATIONAL VEHICLES***; these are considered manufactured homes and may be placed in recognized manufactured home parks, not recreational vehicle parks.

RECREATIONAL VEHICLE PARK. Any area designed to establish, operate, manage, or maintain the same for picnicking or overnight recreational vehicle or tent camping. This includes areas open to use free of charge or through a payment of a tax or fee or by virtue of rental, lease, license, membership, association, or common ownership. This further includes, but is not limited to, those areas divided into two or more lots, parcels, units, or other interests for the purposes of such use. Such ***RECREATIONAL VEHICLE PARKS*** as defined are not intended for residential occupancy. The maximum stay shall be limited to 180 consecutive days. The facility shall be licensed by the state.

REHABILITATION. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

RESIDENTIAL FACILITY. A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department, as defined in and under O.R.S. 443.400 through 443.460, or licensed by the state Division, under O.R.S. 418.205 through 418.327, which provides residential care alone or in conjunction with treatment or training or the combination thereof for six to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the ***RESIDENTIAL FACILITY***.

RESIDENTIAL HOME. A residential treatment or training or adult foster home licensed by or under the authority of the Department, as defined in and under O.R.S. 443.400 through 443.825, a residential facility registered under O.R.S. 443.480 through 443.500, or an adult foster home licensed under O.R.S. 443.705 through 443.825; which provides residential care alone or in conjunction with treatment or training or a combination thereof of five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any residents of the ***RESIDENTIAL HOME***.

RESIDENTIAL USE. A structure or use designed or used for occupancy as a human dwelling or lodging place such as single-family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.

RESTORATION. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive

upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a ***RESTORATION*** project.

SETBACK. An area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

SHALL. The act referred to is mandatory.

SHORT-TERM RENTAL. Dwelling units rented for a period of less than 30 days and are subject to the city Transient Lodging Tax.

SIGN. An outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is used, designed, or intended for advertising purposes or to inform or attract the attention of the public. The term includes the sign supporting structure, display surface, and all other component parts of the sign. When dimensions are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but ***SIGN*** shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.

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 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 erection of temporary forms nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

STREET. The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic and includes the terms road, highway, lane, place, avenue, alley, or other similar designation which is commonly open to use by the public.

STRUCTURE. A walled and roofed building including a gas or liquid storage tank that is principally above ground. Something which is constructed or built having a fixed base on or fixed connection to the ground or other structure.

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. Occurs 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.

(1) Includes any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure 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.

(2) ***SUBSTANTIAL IMPROVEMENT*** does not, however, include either:

(a) 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

(b) Any alteration of a structure listed on the National Register of Historic Places or an Inventory of Historic Places of the state.

TOWNHOME. A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).

TRACT or ***AREA.*** The area within a measurable boundary of land or contiguous parcels of land.

TRIPLEX. Three dwelling units on a lot or parcel in any configuration.

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

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

WATER-DEPENDENT. A structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

YARD. An open space on a lot which is unobstructed, except as otherwise provided in this chapter, and includes driveways.

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

YARD, REAR. Yard between the side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.

YARD, SIDE. The yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.
(Prior Code, § 152.103) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011; Ord. 2022-02, passed 6-1-2022)
Statutory reference:
Related provisions, see O.R.S. 418.205 through 418.327; 443.400 through 443.825; and 455.100 through 455.450

§ 154.003 COMPLIANCE.

(A) The land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this chapter shall permit.

(B) A development permit, issued by the city, is required for all structures being constructed on property within the city. This includes accessory buildings of less than 120 square feet. A building permit is also required for all structures containing more than 120 square feet.

(C) In order to obtain the city approval of a building permit for a single-family or duplex dwelling unit and/or accessory structures, a plot plan shall be prepared and presented along with the building permit application to the City Administrator.

(D) (1) The plot plan shall include the lot dimensions; proposed and existing structures, including dimensions and height of building; proposed and existing setbacks from all property lines; driveway locations, driveway aprons, and off-street parking areas; water and sewer locations; and sidewalk locations.

(2) All other proposed uses are required to prepare and submit a site plan. Sample plot plans/site plans are available at City Hall.
(Prior Code, § 152.201) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.004 LAND USE ZONES, ZONING MAP, AND BOUNDARIES.

(A) This chapter hereby establishes the following land use zones for the city.

Zone	*Abbreviated Designations*
Airport Development Overlay	AD
Commercial	C-1
Flood Plain Overlay	FP

Zone	*Abbreviated Designations*
Historic Resource Combining	HR
Industrial	M-1
Open Space/Public Facilities	OS
Residential (5,000 square feet minimum lot area)	R-1

(Prior Code, § 152.202)

(B) The boundaries of the zones listed in this chapter are indicated on the city's Zoning Map.
(Prior Code, § 152.203)

(C) The city's Comprehensive Plan, dated June 2011, along with a Comprehensive Plan/Zoning Map, attached to Ordinance No. 2012-01 as Item A, is hereby adopted by reference.
(Prior Code, § 152.204)

(D) (1) Unless otherwise specified, zone boundaries are center lines of streets, lot lines, or city limits lines.

(2) The public streets are not zoned. Public streets are dedicated public rights-of-way used by vehicles and pedestrians to move about the city. There is no zoning designation that applies to them.
(Prior Code, § 152.205)
(Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.005 INTERPRETATION, SEVERABILITY, AND REPEALER.

(A) Where a provision of this chapter is less restrictive than another ordinance or requirement of the city, the provision or requirement which is more restrictive shall govern.
(Prior Code, § 152.901)

(B) The provisions of this chapter are severable. If a 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.
(Prior Code, § 152.902)

(C) This chapter is intended to repeal and replace Chapter 152 of Title XV of the prior code and Ordinance 01-01 and all amendments thereto.
(Prior Code, § 152.903)
(Ord. 01-05, passed 6-6-2001)

LAND USE ZONES

§ 154.020 R-1, RESIDENTIAL ZONE.

(A) *Uses*. Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the R-1, Residential Zone shall comply with the following regulations. One single-family dwelling per lot or parcel is the maximum allowed density unless otherwise specified herein.

(B) *Permitted uses*. Permitted uses include:

(1) Single-family dwellings including manufactured homes meeting the requirements of § 154.044;

(2) Duplexes, triplexes, and fourplexes meeting the requirement of § 154.047;

(3) Accessory dwelling units meeting the requirements of § 154.041(B);

(4) Townhomes meeting the requirements of § 154.048;

(5) Short-term rentals as defined;

(6) Public parks, public recreation areas, and publicly owned community or neighborhood centers;

(7) Accessory uses or structures conforming with the requirements of division (I) below customarily incidental to the above uses. Detached accessory buildings shall not be located within the required setback areas or less than five feet from the main building. Accessory uses are those which are clearly incidental and subordinate to the primary use of the main building;

(8) Name plates and signs; one non-illuminated name plate, not to exceed four square feet in area, placed flat against the building, for each dwelling containing a home occupation; one temporary non-illuminated sign not to exceed eight square feet in area appertaining to the lease, rental, or sale of a building or premises upon which it is located; and one bulletin board not to exceed 24 square feet in area for each church, public library, neighborhood, or community center; (See §§ 154.075 through 154.078.)

(9) Residential homes; and

(10) Home occupation-type I.

(C) *Conditional uses*. The following are permitted with approval of the Planning Commission in accordance with § 154.061:

(1) Churches;

(2) Public buildings, schools, and libraries;

(3) Lodge for civic or fraternal organization carrying on no commercial activity;

(4) Home occupation-type II;

(5) Duplexes, two unit dwellings, triplexes, and fourplexes;

(6) Necessary public utilities and public services with safeguards against non-compatibility to adjacent or abutting residential property as required by the Planning Commission;

(7) Mobile home parks;

(8) Bed and breakfast facilities meeting the provisions of § 154.062;

(9) Boarding house;

(10) Residential facilities;

(11) Child care centers; and

(12) Temporary use for construction with a one-year time limit or once an occupancy permit is granted for the constructed structure.

(D) *Height*. Buildings, structures, or portions thereof shall not be erected to exceed a height of two and one-half stories or 35 feet. Accessory buildings shall not exceed 16 feet in height.

(E) *Setback and area requirements*.

(1) *Setbacks*. The following setbacks apply to both primary and accessory structures.

(a) *Front yard, setback*. There shall be a front yard of not less than 15 feet in depth. Unenclosed structures such as stairs, decks, or porches may encroach up to five feet into the required setback.

(b) *Side yard, setback*. There shall be a side yard on each side of the main building, and each side yard shall have a width of not less than five feet. A corner lot shall have ten feet of side yard setback.

(c) *Rear yard, setback*. There shall be a rear yard of not less than five feet in depth.

(2) *Area requirements*. Every lot shall have a minimum average width of not less than 50 feet and an area of not less than 5,000 square feet.

(F) *Parking regulations*. One parking space shall be provided for each dwelling unit. If provided off-street, a driveway apron, as defined, shall be provided.

(1) *On-street credit*. On-street parking spaces meeting the following criteria shall be counted toward the minimum parking requirement above:

(a) The space must be a minimum of 22 feet long;

(b) The space must be abutting the subject site; and

(c) The space must not obstruct a required sight distance area.

(2) *Garage door orientation*. All garage doors must be subordinate to the primary dwelling's street facing facade. Select at least one of the following options:

(a) Front-facing garage door with limited width. Front-facing garage door(s) extending a maximum of 50% of the street facing facade width or 12 feet, whichever is greater;

(b) Front-facing garage door beneath a second story. Front-facing garage door(s) may extend beyond 50% of the street facing facade if beneath a full second story;

(c) Garage door set back from primary facade. Front-facing garage door(s) set back at least four feet from the street facing facade; or

(d) Side or rear facing garage door. Garage door(s) oriented to a side street or alley.

(3) *Uses other than dwellings*. (See §§ 154.090 through 154.092.)

(G) *Sanitation regulations*. Before any dwelling is occupied, it must be connected to the city sewer system.

(H) *Design*.

(1) *Entry orientation*. The main entrance for each dwelling unit must:

(a) Be within eight feet of the street-facing facade; and

(b) Either:

1. Face the street; or

2. Open onto a porch with at least one entrance facing the street.

(2) A minimum of 15%of the area of each street-facing facade must be windows or a main entrance door. Windows in garage doors do not count toward meeting this standard.

(I) *Accessory structures or uses*. Accessory uses or structures larger than 200 square feet must meet all of the following requirements:

(1) *Setbacks*.

(a) Accessory structures shall not be located within the required setbacks; and

(b) Must be located a minimum of five feet behind the street-facing facade of the primary dwelling.

(2) *Size and design*.

(a) Accessory structures or uses must have a maximum height of 16 feet.

(b) Accessory dwelling units meeting the design standards of division (H) above may be constructed to a maximum height of two and one-half stories or 35 feet.

(c) Shipping containers are prohibited as accessory structures in the R-1 Zone.

(d) Accessory dwelling units shall adhere to § 154.041(B).

(e) If manufactured off site:

1. The manufacture date shall not be more than three years prior to date of placement; and

2. If purchased used, the seller must certify the unit has not been previously used for the manufacture, storage, or transportation of hazardous wastes.

(Prior Code, § 152.301) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011; Ord. 2022-02, passed 6-1-2022)

§ 154.021 OS, OPEN SPACE/PUBLIC FACILITIES.

Uses. Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the OS, Open Space Zone shall comply with the following regulations.

(A) *Permitted uses*. Permitted uses are subject to site plan review, see § 154.046, and include:

(1) Parks;

(2) Recreation areas;

(3) Community centers including facilities for senior citizens;

(4) Public schools and school facilities;

(5) Museums; and

(6) Minor improvements to public buildings.

(B) *Conditional uses*. Uses approved upon condition include:

(1) Public utilities;

(2) Public services; and

(3) City, county, and state facilities.

(Prior Code, § 152.302) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.022 C-1, COMMERCIAL ZONE.

(A) *Uses*. Buildings and structures hereafter erected, structurally altered, enlarged, or moved or land hereafter used in the C-1, Commercial Zone shall comply with the following regulations.

(B) *Permitted uses*. Permitted uses are subject to site plan review, see § 154.046, and include:

(1) Retail trade establishments in which the operation takes place solely within an enclosed building;

(2) Business, governmental, or professional offices;

(3) Financial institution;

(4) Personal and business service such as barber shop, tailoring shop, printing shop, laundry or dry cleaning establishment, and electrical repair shops;

(5) Public park, public recreation areas, and community centers; and

(6) All uses permitted in the R-2, Residential Zone provided that dwellings and mobile homes observe the side area and yard requirements of the R-2 Residential Zone.

(C) *Conditional uses*. The following are permitted with approval of the Planning Commission in accordance with § 154.061:

(1) Churches;

(2) Retail trade establishments at which some business activities take place outside an enclosed structure such as a gasoline service station or drive-in restaurant or automobile sales lot;

(3) Commercial amusement;

(4) Single-family dwelling unit or duplexes or apartments on the second floor of structures above existing commercial uses on ground floor;

(5) Recreational vehicle park; and

(6) Lodges for civic or fraternal organizations.

(D) *Height*. Buildings, structures, or portions thereto shall not be erected to exceed a height of three stories or 35 feet, whichever is less.

(E) *Setback requirements*. In the Commercial Zone, setbacks shall be as follows.

(1) No front or side yard setback is required.

(2) No buildings shall be constructed or located closer than five feet from the rear lot line.

(F) *Parking regulations*.

(1) *Residential off-street parking*. For residential uses, one parking space for each dwelling unit.

(2) *Off-street parking*. (See §§ 154.090 and 154.091.)

(3) *Parking area approval*. Land used for commercial parking areas in this zone shall be developed in accordance with a plan approved in writing by the Planning Commission. The area must be surfaced with asphaltic concrete or other type of surfacing approved by the Planning Commission, and all parking spaces shall be individually marked.
(Prior Code, § 152.303) (Ord. 01-05, passed 6-6-2001; Ord. 06-03, passed 3-1-2006; Ord. 2012-01, passed 12-7-2011)

§ 154.023 M-1, INDUSTRIAL ZONE.

(A) *Permitted uses*. Subject to site plan review, see § 154.046, and include:

(1) Light industrial uses, as defined, which take place wholly within an enclosed building; and

(2) Mini-storage facilities including on-site caretaker quarters.

(B) *Conditional uses*. Conditional uses include:

(1) Heavy industrial uses, as defined, which take place outside an enclosed building; and

(2) Agricultural support services such as produce storage facilities, including those in excess of 35 feet in height, subject to Fire Department approval.

(C) *Prohibited uses*. Aggregate resource extraction and processing sites are prohibited.

(D) *Height*. Buildings, structures, or portions thereto shall not be erected to exceed a height of three stories or 35 feet, whichever is less.

(E) *Setback requirements*. In the Industrial Zone, building setbacks are not required provided fire codes are met.

(F) *Parking regulations*. For off-street parking regulations, see §§ 154.090 and 154.091. (Prior Code, § 152.304) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.024 HR, HISTORIC RESOURCE COMBINING ZONE.

(A) *Scope*. The HR, Historic Resource Combining Zone provides a means to recognize and protect properties listed as historic landmarks or districts. Properties listed in the National Register of Historic Places are subject to the review process in all sections of this subchapter even if not listed as a designated historic landmark or district pursuant to O.A.R. § 600-023-200.

(B) *Applicability*. The HR, Historic Resource Combining Zone shall be applied to those resources designated as historic landmarks or districts according to the provisions found at division (F) below and/or listed in the National Register of Historic Places.

(C) *Purpose*. The city recognizes that certain significant historic resources located within its boundaries contribute to the unique character of the community. This section establishes a process for designating significant resources as historic landmarks or districts, reviewing major alterations including additions and new construction to historic landmarks or districts, removal of historic designation, and relocation or demolition of designated historic landmarks or districts.

(D) *Powers and duties of the Planning Commission*. The Planning Commission shall be the final review body under these provisions with the ability to approve, approve with conditions, or deny an application reviewed hereunder unless an appeal is filed with the City Council. The Planning Commission may:

(1) Employ the procedures and review criteria in divisions (F) through (I) below; the Planning Commission shall review and act upon applications for designation of historic landmarks or districts, major alterations including additions and new construction, removal of a landmark designation, and relocation or demolition of historic landmarks or districts;

(2) Develop and publish and/or adopt written and graphic design guidelines and example materials to clarify the review criteria in this section and to assist applicants in developing complete and viable applications;

(3) Adopt rules and procedures for the internal functioning of the Planning Commission in matters pertaining to this section;

(4) Advise and make policy recommendations to the City Council in matters relating to historic preservation; and

(5) Organize a Historic Technical Advisory Committee (HTAC) that may advise the Planning Commission on matters concerning historic landmarks or districts. The HTAC may:

(a) Inform the citizens of, and visitors to, the city regarding the community's history, architecture, and prehistory;

(b) Promote research into the local and regional history and prehistory;

(c) Collect and make available materials on the preservation of historic resources and historic landmarks and districts;

(d) Document historic resources and historic landmarks or districts prior to major alterations, additions, new construction, and/or demolition or relocation;

(e) Advise the Planning Commission about public incentives and code amendments concerning historic resources;

(f) Make recommendations to the Planning Commission on deleting or adding to the list of designated historic landmarks and districts; and

(g) Advise and make recommendations to the Planning Commission on applications for landmark designation and alterations, new construction, additions, and demolition or relocation of a historic landmark or district.

(E) *Review procedure.*

(1) *Application.* The Planning Commission, the City Council, recognized neighborhood groups, interested persons, and/or property owners or their authorized agents may initiate a request for historic landmark or district designation, and a property owner or their authorized agent may initiate a request for a permit for alteration, including additions or new construction or relocation or demolition of a historic landmark, by filing an application with the City Zoning Officer using forms prescribed for the purpose by the city.

(2) *Public review procedure.* The City Zoning Officer shall refer applications for designation, alterations such as additions and new construction, relocation or demolition, or removal of a landmark designation of a historic landmark or district to the Planning Commission for a public hearing with the exception of alterations classified as minor alterations under division (G)(1)(a) below.

(a) The City Zoning Officer shall initiate a public hearing within 21 days of receipt of the application.

(b) A public notice of the hearing, authorized or required by this section, shall be published in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.

(c) A notice of hearing on such applications shall be mailed to the owners of properties within 250 feet of the property lines of subject property and other identifiable potentially affected persons or parties. The notice shall be mailed at least ten days prior to the date of hearing.

(d) In addition to other notice requirements, the Zoning Officer shall send notice to the county's Historical Society, the state's Historic Preservation Office, and other interested parties.

(e) The notice provisions of this section shall not restrict the giving of notice by other means including mail, posting of property, or use of radio and television.

(f) The Planning Commission shall hold a public hearing and render a decision on the application based on the review criteria established in this section.

(g) Within five days after the Planning Commission's decision with reference to the application, the city shall provide the applicant with written notice of the decision.

(F) *Historic landmark designation.* The Planning Commission shall review all applications for historic landmark or district designations and hold a public hearing for a final determination. No property shall be designated as a historic landmark without the consent of the owner or, in the case of multiple ownership, a majority of the owners.

(1) *Review criteria.* The historic landmark shall be at least 50 years old unless of exemplary architectural or historical significance, contribute to the continuity or historic character of the community, possess sufficient historic integrity, and meet at least one of the following criteria:

(a) Be associated with past trends, events, or values that have made a significant contribution to the economic, cultural, social, and/or political history of city, county, region, state, or nation;

(b) Be associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, region, state, or nation;

(c) Embodies distinguishing architectural characteristics of a period, style, method of construction, craftsmanship, or in use of materials; is the only remaining, or one of few remaining, resources of a particular style, building type, design, material, or method of construction; or is a prominent visual landmark with strong associations to the community;

(d) Is representative of the work of a designer, architect, or master builder who influenced the development and appearance of the city, county, region, state, or nation;

(e) Contains archaeological artifacts that have yielded or are likely to yield information related to prehistory or to the early history of the local, county, state, or nation; or

(f) Is currently listed on the National Register of Historic Places.

(2) If the Planning Commission acts to approve the proposed landmark or district designation, or to approve with conditions, the subject property or properties shall be subject to the provisions of divisions (G) through (I) below.

(G) *Exterior alterations, additions, and new construction.*

(1) *Review criteria.* Review by the Planning Commission is required for all major exterior alterations or additions to designated historic landmarks or districts and for new construction within a historic district or on the same parcel as a designated historic landmark with the exception of alterations classified as minor alterations.

(a) *Review criteria for minor alterations.* Minor alterations may be approved by the Zoning Officer at his or her discretion without public notice or may be elevated to the Planning Commission. The Zoning Officer may consult with the Planning Commission and the state's Historic Preservation Office. Any administrative decision shall be made in writing, and the decision shall be copied to the Planning Commission. In granting an administrative approval, the director may attach such conditions as he or she deems necessary to protect the resource. The following are considered minor alterations:

1. Replacement or addition of gutters and down-spouts using like materials or materials that match those that were typically used on similar style buildings;

2. Repairing or providing a new foundation that does not result in raising or lowering the building elevation. The repair or new foundation shall not affect the appearance of the building;

3. Replacement of wood siding, when required due to deterioration of like material, with wood material that matches the original siding in materials, dimensions, and textural qualities;

4. Replacement of existing window sashes with new sashes when using material which matches the original historic material and appearance. Severe deterioration of the original window sashes has to be evident;

5. Repair and/or replacement of roof material with the same kind of roof material existing or with materials which are in character with those of the original roof; and

6. Other minor alterations specified by the Planning Commission, such as awnings and sign installations, established as written policies or outlined in design guidelines.

(b) *Review criteria for major alterations*. The Planning Commission shall approve an application for major alterations if the proposed alteration is determined to be harmonious and compatible with the appearance and character of the historic landmark or district and shall disapprove any application if found detrimental or unsightly, grotesque, or adversely affecting the architectural significance, the integrity or historical appearance, or the educational or historical value of the resource. The following guidelines are based on the Secretary of Interior Standards for Rehabilitation and apply to exterior alterations to historic landmarks or districts.

1. Every reasonable effort shall be made in the proposal to provide a compatible use for the property which requires a minimal alteration of the resource or to use the property for its original intended purpose.

2. Retention of original construction features shall be preserved so far as practicable. The removal of distinctive materials, features, finishes, and construction techniques or alterations of features, spaces, and spatial relationships that characterize the historic landmark or district shall be avoided.

3. Each historic landmark or district shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall be avoided.

4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, material. Replacement of missing features shall be substantiated by documentary and physical evidence.

7. Chemical and physical treatment, if appropriate, shall be undertaken using the most gentle means possible. Treatment such as sandblasting or harsh chemical cleaning that cause damage to the historic material shall not be used.

8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

9. Whenever possible, new additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the historic landmark and district. The new addition shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale, and proportion and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction, within a district or on the same parcel as a designated historic landmark shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark or district and its environment would be unimpaired.

11. The design of new construction shall be compatible with the design of the historic landmark or district considering scale, style, height, setbacks, architectural detail, and materials. The location and orientation of the new construction shall be consistent with the typical location and orientation of similar buildings in the area considering setbacks, distances between buildings, location of entrances, and similar citing considerations.

12. Murals shall be subject to the review criteria set forth in this division (G)(1)(b) and subject to the size requirements established in § 154.077.

(2) *Exemptions from review*. Nothing herein shall be construed to prevent the normal maintenance or repair of any exterior architectural feature on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Normal maintenance may include, but not be limited to, painting and related preparation, ground care and maintenance required for the permitted use of the property, and existing materials replaced in-kind because of damage or decay of materials nor does this section prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such features when the Building Official or city determines that such emergency action is required for the public safety due to an unsafe or dangerous condition.

(H) *Relocation or demolition of a historic landmark.*

(1) *Review criteria.* In order to approve an application for the relocation or demolition of a historic landmark or district, the Planning Commission must find all of the following.

(a) The historic landmark or district cannot be economically rehabilitated.

(b) A program or project does not exist which may reasonably result in preservation of the historic landmark or district.

(c) Delay of the permit would result in unnecessary and substantial hardship to the applicant.

(d) Issuance of the permit will not act to the substantial detriment of the public welfare considering the significance of the historic landmark or district.

(2) *Action of Planning Commission.* At the hearing of an application to relocate or demolish a historic landmark or district, the Planning Commission may delay issuance of a permit for up to 120 days from the date of the hearing. During this period, the city shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried

out to prevent relocation or demolition of the historic landmark or district. The city may request advice from the county's Historical Society and the state's Historical Preservation Office.

(3) *Conditions*. In approving an application for removal or demolition of a historic landmark or district, the Planning Commission may impose the following conditions:

(a) Photograph, video, or drawn recordation of the property;

(b) Salvage and curation of significant elements; and/or

(c) Other reasonable mitigation measures.

(I) *Removal of historic landmark designation*.

(1) The Planning Commission shall review all applications for removal of a historic landmark or district designation based upon findings that removal of the historic designation will not adversely impact properties in the surrounding area or integrity of the historic district or of another historic landmark on the same parcel.

(2) In order to approve an application for removal of a historic landmark or district designation, it must be found that at least one of the following has occurred since the property was listed as a historic landmark or district:

(a) The significance of the historic landmark or district has been substantially reduced or diminished according to the review criteria established in division (F) above;

(b) The integrity of the historic landmark or district has been substantially reduced or diminished by inappropriate alterations, additions, or new construction according to the review criteria established in division (G)(1) above; or

(c) In case of a state or nationally designated resource, concurrence from the state's Historic Preservation Office has been sought and the comments considered in the decision to remove the historic designation.

(3) Once a National Register boundary has been set, it can only be changed by action by the keeper of the National Register on the recommendation of the state's Advisory Committee on Historic Preservation. Such recommendation would come after a public hearing process at state level, at which formal justification for such a boundary change would have been presented.

(J) *Appeals*. A person may appeal to the City Council from a decision or requirement made by the Planning Commission or for a decision or requirement made pursuant to this section if the person proceeds under the procedure established under § 154.165.
(Prior Code, § 152.305) (Ord. 01-05, passed 6-6-2001; Ord. 02-01, passed 1-2-2002; Ord. 2012-01, passed 12-7-2011)

§ 154.025 FP, FLOOD PLAIN OVERLAY ZONE.

(A) *Purpose*. It is the purpose of this section to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

(1) To protect human life and health;

(2) To minimize expenditure of public money and costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

(6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard; and

(7) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(B) *Methods of reducing flood losses*. In order to accomplish its purposes, this section includes methods and provisions for:

(1) 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;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alternation of natural flood plains, stream channels, and natural protective barriers which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

(C) *General provisions.*

(1) *Lands to which this section applies.* This section shall apply to all areas of special flood hazards within the jurisdiction of the city.

(2) *Basis for establishing the areas of special flood hazard.* The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Condon," dated September 24, 1984 and as amended, with accompanying Flood Insurance Maps, as amended, are hereby adopted by reference and declared to be a part of this section. The Flood Insurance Study is on file at City Hall.

(3) *Penalties for noncompliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violations of the provisions of this section by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor.

(4) *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another section, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(5) *Interpretation.* In the interpretation and application of this section, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit or repeal any other powers granted under state statutes.

(6) *Warning and disclaimer of liability.* The degree of flood protection required by this section 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 human-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be safe from flooding or flood damages. This section shall not create liability on the part of the city, officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(D) *Administration.*

(1) *Establishment of development permit.*

(a) *Development permit required.* A development permit shall be obtained before construction or development begins within any area of special flood hazard established in division (C)(2)

above. The permit shall be for all structures including manufactured homes, as set forth in § 154.002, and for all development, also as set forth in § 154.002, including fill and other activities.

(b) *Application for development permit.* Application for a development permit shall be made on forms furnished by the city 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 and existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Elevation, in relation to mean sea level, of the lowest floor, including basements, of all structures. The elevation must be certified on Form 81-31 of the Federal Emergency Management Agency (FEMA) dated July, 2000 or on the subsequent elevation certificate form approved by FEMA;

2. Elevation in relation to mean sea level to which any structure has been flood-proofed. The elevation must be certified on Form 81-65 of the Federal Emergency Management Agency (FEMA) dated August, 1999 or on the subsequent flood-proofing certificate form approved by FEMA;

3. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in division (E)(2)(b) below. Certification must be provided on Form 81-65 of the Federal Emergency Management Agency (FEMA) dated August, 1999 or on the subsequent flood-proofing certificate form approved by FEMA; and

4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(2) *Designation of the City Administrator.* The City Administrator is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

(3) *Duties and responsibilities of the City Administrator.*

(a) *Duties.* The duties of the City Administrator shall include, but not be limited to, permit review which shall include:

1. Review of all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review of all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and

3. Review of all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of division (E)(5)(b) below are met.

(b) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with division (C)(2) above, the City Administrator 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 divisions (E)(2) and (E)(3) below.

(c) *Information to be obtained and maintained.* Where base flood elevation data is provided through the Flood Insurance Study, or required herein, the City Administrator shall obtain and record the actual elevation in relation to mean sea level of the lowest floor, including basements, of all new or substantially improved structures, whether or not the structure contains a basement.

1. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation in relation to mean sea level; and

b. Maintain the flood-proofing certifications required herein.

2. Maintain, for public inspection, all records pertaining to the provisions of this section.

(d) *Alteration of watercourses.* The City Administrator shall:

1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration; and

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(e) *Interpretation of FIRM boundaries.* The City Administrator shall make interpretations where needed as to exact location of the boundaries of the areas of special flood hazards such as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeal shall be granted consistent with the standards of the rules and regulations of the National Flood Insurance Program, 44 C.F.R. part 60, § 60.6.

(E) *Provisions for flood hazard reduction.*

(1) *General standards.* In all areas of special flood hazards, the following standards are required:

(a) *Anchoring*.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes must likewise be anchored to prevent flotation, 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 frame ties to ground anchors. (See FEMA's *Manufactured Home Installation in Flood Hazard Areas* guidebook for additional techniques.)

(b) *Construction materials and methods*.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) *Utilities*.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. 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.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) *Subdivision proposals*.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. 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.

(e) *Review of building permits.* Where elevation data is not available through the Flood Insurance Study or from another authoritative source, division (D)(3)(b) above, 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, and the like where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(2) *Specific standards.* In all areas of special flood hazards where base flood elevation data has been provided as set forth in division (C)(2) or (D)(3)(b) above, the following provisions are required:

(a) *Residential construction.*

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation. The elevation must be certified on Form 81-31 of the Federal Emergency Management Agency (FEMA) dated July, 2000 or on the subsequent elevation certificate form approved by FEMA.

2. 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 flood waters. 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: and

c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(b) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated at or above the base flood elevation. The elevation must be certified on Form 81-31 of the Federal Emergency Management Agency (FEMA) dated July, 2000 or on the subsequent elevation certificate form approved by FEMA, or together with attendant utility and sanitary facilities, shall:

1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. 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 division (E) 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 division (D)(3)(c)2.b. above.

4. Meet the same standards for space below the lowest floor as described in division (E)(2)(a)2. above for nonresidential structures that are elevated, not flood-proofed; and

5. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level; for example, a building flood-proofed to the base flood level will be rated as one foot below.

(c) *Manufactured homes*.

1. All manufactured homes to be placed or substantially improved within zones A1-A30, AH, and AE on the community's FIRM on sites:

a. Outside of a manufactured home park or subdivision;

b. In a manufactured home or park or subdivision;

c In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood; such shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement. The elevation must be certified on Form 81-31 of the Federal Emergency Management Agency (FEMA) dated July, 2000 or on the subsequent elevation certificate form approved by FEMA.

2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

a. The lowest floor of the manufactured home is elevated one foot above the base flood elevation; or

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(d) *Recreational vehicles*. Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM must either:

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 requirements of division (E)(2)(c) above and the elevation and anchoring requirements for manufactured homes.

(3) *Floodways*. Located within areas of special flood hazard established in division (C)(2) above 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.

(a) Encroachments are prohibited including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If division (E)(3)(a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of division (E).

(4) *Encroachments*. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(5) *Standards for shallow flooding areas (AO Zones)*. Shallow flooding areas appear on FIRMs as AO Zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply.

(a) New construction and substantial improvements of residential structures and manufactured homes within AO Zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building one foot or more above the depth number specified on the FIRM but at least two feet if no depth number is specified.

(b) New construction and substantial improvements of nonresidential structures within AO Zones shall either:

1. Have the lowest floor, including basement, elevated above the highest adjacent grade of the building site one foot or more above the depth number specified on the FIRM but at least two feet if no depth number is specified; or

2. Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in division (E)(2)(b) above.

(c) Require adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(d) Recreational vehicles placed on sites within AO Zones on the community's FIRM either:

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 division (E)(5) above, and the elevation and anchoring requirements for manufactured homes.

(Prior Code, § 152.306) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011) Penalty, see § 154.999

§ 154.026 AO, AIRPORT OVERLAY ZONE.

(A) *Creation of Overlay Zone*. In order to carry out the provisions of this Overlay Zone, there are hereby created and established certain zones which include all of the land lying beneath the Airport Imaginary Surfaces as they apply to the Condon State Municipal Airport and the city. This Overlay Zone is intended to prevent the establishment of air space obstructions in airport air space through height restrictions and other land use controls as deemed essential to protect health, safety, and welfare of the people of the city.

(B) *Compliance*. In addition to complying with the provisions of the primary zoning district, uses and activities shall comply with the provisions of this Overlay Zone. In the event of any conflict between any provisions of this Overlay Zone and the primary zoning district, the more restrictive provisions shall apply.

(C) *Special definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRPORT APPROACH SAFETY ZONE.

(a) A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to the following widths:

1. For a utility runway having only visual approaches: 1,250 feet;

2. For a runway, other than a utility runway, having only visual approaches: 1,500 feet;

3. For a utility runway having a non-precision instrument approach: 2,000 feet; and

4. For a non-precision instrument runway other than utility having visibility minimums greater than three fourths of a statute mile: 3,500 feet.

(b) The ***AIRPORT APPROACH SAFETY ZONE*** extends for a horizontal distance of 5,000 feet at a slope of 20 feet for each foot upward for all utility and visual runways and 10,000 feet at a slope of 34 feet for each one foot upward for all non-precision instrument runways other than utility.

AIRPORT HAZARD. Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.

AIRPORT IMAGINARY SURFACES. Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Transitional Zones, Horizontal Zone, Clear Zone, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and extends to a width of 1,250 feet for utility runway having only visual approaches; 1,500 for a runway, other than a utility runway, having only visual approaches; 2,000 feet for a utility runway having a non-precision instrument approach; 3,500 feet for a non-precision instrument runway, other than utility, having visibility minimums greater than three fourths of a statute mile; 4,000 feet for a non-precision instrument runway having visibility minimums as low as three-fourths statute mile; and 16,000 feet for precision instrument runways. The ***APPROACH SURFACE*** extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward to each foot upward for all utility and visual runways; 10,000 feet at a slope of 34 feet outward for each foot upward for all non-precision instrument runways, other than utility; and a horizontal distance of 10,000 feet at a slope of 50 feet outward for each foot upward thence slopes upward 40 feet outward for each foot upward an additional distance of 40,000 feet for all precision instrument runways extends.

CONICAL SURFACE. Extends one foot upward for each 20 feet outward for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet) from the center of each end of the primary surface of each visual and utility runway or 10,000 feet from all non-precision instrument runways other

than utility at 150 feet above the airport elevation and upward extending to a height of 350 feet above the airport elevation.

HORIZONTAL SURFACE. A horizontal plan 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway and 10,000 feet from the center of each end of the primary surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.

NOISE SENSITIVE AREA. Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 Ldn.

PLACE OF PUBLIC ASSEMBLY. A structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the ***PRIMARY SURFACE*** extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the ***PRIMARY SURFACE*** ends at each end of that runway. The width of the ***PRIMARY SURFACE*** is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having non-precision instrument approaches, 500 feet for other than utility runways having only visual approaches or non-precision instrument approaches with visibility minimums greater than three-fourths of a mile, and 1,000 feet for non-precision instrument runways with visibility minimums of three-fourths of a mile or less and for precision instrument runways.

RUNWAY PROTECTION ZONE (RPZ). An area off the runway end, formerly the Clear Zone, used to enhance the protection of people and property on the ground. The ***RPZ*** is trapezoidal in shape and centered about the extended runway centerline. It begins at the end of the turf and/or loose gravel runway. The ***RPZ*** dimensions are functions of the type of aircraft and operations to be conducted on the runway.

STRUCTURE. Any human-made object, either permanent or temporary, including mobile objects.

TRANSITIONAL ZONES. Extended one foot upward for each seven feet outward beginning on each side of the primary surface which point is the same elevation as the runway surface and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation. (See ***HORIZONTAL SURFACE***.)

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VISUAL RUNWAY. A runway that is intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedures has been approved or planned or indicated on an FAA or state planning document or military service airport planning document.

(D) *Permitted commercial and recreational airport uses at non-towered airports*. Within airport boundaries established pursuant to Land Conservation and Development Commission rules, the city's land use regulations must authorize the following uses and activities:

(1) Customary and usual aviation-related activities including, but not limited to, takeoffs, landings, aircraft hangars, tie-downs, construction and maintenance of airport facilities, fixed-base operator facilities and other activities incidental to the normal operation of an airport;

(2) Emergency medical flight services:

(3) Law enforcement and firefighting activities;

(4) Flight instruction;

(5) Aircraft service, maintenance, and training;

(6) Crop dusting and other agricultural activities;

(7) Air passenger and air freight services at levels consistent with the classification and needs identified in the state's Aviation System Plan;

(8) Aircraft rental;

(9) Aircraft sales and sale of aeronautic equipment and supplies; and

(10) Aeronautic recreational and sporting activities.

(E) *Permitted uses within the Airport Overlay Zone*. Any uses which are permitted outright in the underlying zone are allowed except as provided in division (F) below.

(F) *Conditional uses within the Airport Overlay Zone*. Any conditional uses listed in the underlying zone which are allowed except at provided in division (G) below.

(G) *Prohibited uses*. Prohibited uses in the AO Zone include:

(1) New structures or buildings are not allowed within the Runway Protection Zone; and

(2) The siting of new industrial uses and the expansion of existing industrial uses where either, as a part of regular operations, would cause emissions of smoke, dust, or steam that would obscure visibility within airport approach corridors.

(H) *Use and development limitations.*

(1) No new structure, except one customarily used for aeronautical purposes, shall penetrate into the Airport Imaginary Surfaces as defined in division (B) above.

(2) No glare producing material such as unpainted metal, reflective glass, and similar materials shall be used on the exterior of structures within the Airport Approach Safety Zone.

(3) Any proposed water impoundments within the city shall meet the requirements of O.R.S. 836.623(2) through (6).

(4) In noise sensitive areas, the 55 Ldn noise contour, a declaration of anticipated noise from the aircraft shall be recorded against the property in the county's Deed Records. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of final plat approval for land divisions.

(5) Within the Airport Overlay Zone, a hold harmless agreement and aviation and hazard easement shall be attached to any new partition or subdivision plat and shall be recorded against the property in the Deed Records of the county at the time the plat is recorded. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

(I) *Permitted uses within the runway approach zone (RPZ).* While it is desirable to clear all objects from the RPZ, some uses are permitted provided they do not attract wildlife, are below the approach surface, and do not interfere with navigational aids. These uses include:

(1) Agricultural operations other than forestry or livestock farms;

(2) Golf courses but not club houses; and

(3) Automobile parking facilities.

(J) *Use limitations.*

(1) In noise sensitive areas, within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports, where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed, and mortgage records. In areas where the noise level is anticipated to be 55 Ldn and above, prior to issuance of a building permit for construction of noise sensitive land use, such as real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries, the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 Ldn. The planning and building department will review building permits or noise sensitive developments.

(2) No development that attracts or sustains hazardous bird movements from feeding, watering, or roosting across the runways and/or approach and departure patterns of aircraft are permitted. Planning authority shall notify state Aeronautics of such development like, for example, waste disposal sites, open water impoundments, and wetland enhancements within the Airport Overlay Zone so as to provide the state Aeronautics Section an opportunity to review and comment on the site in accordance with FAA AC 150/5200-33.

(3) Siting of new industrial uses and the expansion of existing industrial uses is prohibited where either, as part of regular operations, would cause emissions of smoke, dust, or steam that would obscure visibility within airport approach corridors.

(4) Outdoor lighting for new industrial, commercial, or recreational uses or the expansion of such uses is limited to prevent light from projecting directly onto an existing runway or taxiway or into existing airport approach corridors except where necessary for safe and convenient air travel.

(5) The establishment of new water impoundments larger than one-quarter acre in size within the airport boundary and RPZ is prohibited. Wetland mitigation required for projects located within the airport boundary or RPZ may be authorized within the airport boundary where it is impractical to provide mitigation off-site. Seaplane landing areas are exempt from this prohibition.

(6) The establishment of new landfills near airports, consistent with Department of Environmental Quality (DEQ) rules, is prohibited.

(K) *Nonconforming uses.*

(1) The regulations for this overlay district shall not be construed to require the removal, lowering, or alteration of any structure not conforming to such regulations. The regulations shall not require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Airport Overlay Zone.

(2) Notwithstanding division (K)(1) above, the owner of any existing structure that has an adverse effect on air navigation as determined by the state Aeronautics is hereby required to permit the installation, operation, and maintenance of obstruction markers as deemed necessary by the state Aeronautics. Certain objects and structures must be marked to make them more visible to pilots. The installation of any such markers will be based on the characteristics of the structure including location, size or height, shape, function, and permanence in addition to effects on air navigation.

(L) *Requirement for mitigation.* Land use regulations and standards for land use decisions regarding land use compatibility and other requirements of this code shall consider the effects of mitigation measures or conditions which could reduce the potential for safety risk or incompatibility.

(M) *Variances.*

(1) Any person desiring to erect or increase the height of any structure or use not in accordance with provisions prescribed in this section may apply for a variance.

(2) Application for variance must be accompanied by a determination from the state Aeronautics and the Federal Aviation Administration as to the effect of the proposal on the safe and efficient use of navigable airspace.

(3) Any variance granted may be conditioned as to require the owner of the structure to install, operate, and maintain, at the owner's expense, obstruction markers.

(N) *Notice to aeronautics required.*

(1) Any proposed quasi-judicial Comprehensive Plan Map or Zoning Map amendment involving property within 5,000 feet of the end of the runway shall require notice to the state's Aeronautics Division in accordance with O.R.S. 227.175.

(2) The notice shall be provided by mail within 20 days of the public hearing before the City Council.
(Prior Code, § 152.307) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)
Statutory reference:
Related provisions, see O.R.S. 227.175 and 836.623(2) through (6)

SUPPLEMENTARY PROVISIONS

§ 154.040 LOT MINIMUM REQUIREMENTS AND ACCESS.

(A) No lot area, yard, or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter, and no lot area, yard, or other open space which is required by this chapter for one use shall be used as the required lot area, yard, or other open space for another use.
(Prior Code, § 152.401)

(B) Every lot shall abut a street, other than an alley, for at least 50 feet.
(Prior Code, § 152.402)
(Ord. 01-05, passed 6-6-2001)

§ 154.041 ACCESSORY USES AND ACCESSORY DWELLING UNITS.

(A) An accessory use shall comply with the requirements for a principal use except as this chapter specifically allows to the contrary.

(B) Accessory dwellings, where allowed, are subject to review and approval through an administrative review and shall conform to all of the following standards.

(1) *Density*.

(a) The unit may be a detached building or in a portion of a detached accessory building, like above a garage or shop, or a unit attached or interior to the primary dwelling like an addition or conversion of an existing floor.

(b) A maximum of one detached accessory dwelling is allowed on an individual lot per primary residential use (single-family dwelling, duplex, or triplex).

(c) Configurations exceeding four units per lot requires a conditional use permit.

(2) *Floor area*.

(a) A detached accessory dwelling shall not exceed 900 square feet of floor area or 75% of the primary dwelling's total floor area, whichever is larger. When the accessory structure has another use, such as a garage, this criterion only applies the floor area of the structure used as a dwelling.

(b) An attached accessory dwelling shall not exceed 900 square feet of floor area, or 75% of the primary dwelling's floor area, whichever is greater. However, accessory dwellings that result from the conversion of a level or floor, such as a basement or attic or second story, of the primary dwelling may occupy the entire level or floor even if the floor area of the accessory dwelling would be more than 900 square feet.

(3) *Other development standards*. Accessory dwellings shall meet all other development standards such as height, setbacks, lot coverage, and the like for buildings in the zoning district, except that:

(a) Conversion of an existing conforming or legal nonconforming structure to an accessory dwelling is allowed provided that the conversion does not increase the nonconformity; and

(b) Accessory dwellings are exempt from the parking standards of § 154.020(F).
(Prior Code, § 152.403) (Ord. 01-05, passed 6-6-2001; Ord. 2022-02, passed 6-1-2022)

§ 154.042 FENCES AND VISION CLEARANCE.

(A) A fence or hedge within a front yard or a street side yard shall not exceed an elevation six feet above the base or ground elevation. Vision clearance areas shall be maintained. Fences in excess of six feet are considered structures and require issuance of a building permit. The issuance of a building permit requires the zoning ordinance standards for setbacks be met.
(Prior Code, § 152.404)

(B) A vision clearance area shall be maintained at the corners of all property at the intersections of two streets or a street and a railroad. Such corner lots of parcels shall be provided with and maintain a vision clearance area. A ***VISION CLEARANCE AREA*** is defined as a triangular area formed at a corner

lot or parcel by the intersection of dedicated public rights-of-way lines and a straight line joining said lines through points 12 feet back from their intersection. The ***VISION CLEARANCE AREA*** shall provide an area of unobstructed vision from three and one-half feet to nine feet above the top of the curb. Cyclone fences, which can be demonstrated to meet the requirements of this section, are allowed. Natural topographic features, utility poles, and tree trunks are excluded from this requirement.
(Prior Code, § 152.409)
(Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.043 MOBILE HOMES AND RESIDENTIAL TRAILERS.

(A) When a mobile home or residential trailer is installed in a mobile home park, it shall comply with the state installation standards.

(B) The mobile home or residential trailer shall comply with the following additional provisions.

(1) All pre-owned and pre-occupied units, used, that have been modified or altered from their original, as-constructed condition shall be inspected by a registered professional engineer licensed with the state prior to installation and occupancy to ensure compliance with applicable standards required for the insignia of compliance and to ensure that such units are in such a condition as to not be detrimental to the public health, safety, and general welfare or to adjoining properties. The applicant shall provide such certification, at the applicant's expense, to the city prior to receiving the city's approval of a mobile home movement permit or a mobile home placement permit.

(2) The mobile home or residential trailer shall be tied down with devices to meet state standards.

(3) The mobile home or residential trailer shall have a water closet, lavatory, and bathtub or shower.

(4) The mobile home or residential trailer shall have a kitchen area or room containing a sink.

(5) The mobile home or residential trailer plumbing shall be connected to a potable water supply and approved sewage disposal system.

(6) The mobile home or residential trailer shall have continuous fireproof skirting.

(7) Wheels of the mobile home or residential trailer shall be removed when the unit is installed.

(8) Except for a structure which conforms to the state definition of a mobile home accessory structure, no extension shall be attached to the mobile home or residential trailer. Accessory buildings shall be separated from the mobile home by not less than five feet.

(9) The mobile home or residential trailer shall contain at least 500 square feet of space as determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device. The area of a mobile home accessory structure shall not be included.
(Prior Code, § 152.405) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.044 MANUFACTURED HOME SITING STANDARDS.

Manufactured homes meeting the following criteria are allowed on individual lots in specified residential zones.

(A) Only those manufactured homes used as permanent residences are permitted.

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

(C) The manufactured home shall have a foundation of sufficient strength to support the loads imposed by the manufactured home as specified by the manufacturer's installation instructions. Manufactured home placements shall be reviewed and approved by the city's designated Building Official. In the absence of the specific manufactured home installation instructions, installation of the manufactured home shall follow the installation requirements outlined in O.A.R. Chapter 918. Skirting shall be composed of concrete or pumice blocks and shall be recessed and attached to a permanent continuous footing which maintains the bottom of the floor joists at no more than 12 inches above the finish grade.

(D) The manufactured home shall have a pitched roof except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.

(E) The manufactured home and accessory structures 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 the local permit approval authority.

(F) The manufactured home shall not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts.
(Prior Code, § 152.406) (Ord. 01-05, passed 6-6-2001)

§ 154.045 LANDSCAPING AND DEVELOPMENT STANDARDS.

(A) *Landscaping*. A written permit approved by the Planning Commission shall be required to remove 50 cubic yards or more of earth material from any individual property within a calendar year.
(Prior Code, § 152.408)

(B) *Development standards.*

(1) *Purpose.*

(a) Landscaping standards apply to all new multi-family, commercial, and industrial uses, including change of use, and parking lots of four spaces or more. The Downtown Master Plan shall govern the landscaping requirements in the downtown core area.

(b) For sites which do not conform to these requirements, an equal percentage of the site must be made to comply with these standards as the percentage of building or parking lot expands. For example, if the building or parking lot area is to expand by 25%, then 25% of the site must be brought up to the standards required by this chapter.

(2) *Procedure.* A landscaping plan shall be submitted to the city at the time of application for a building permit, conditional use permit, or site plan review for all new multi-family, commercial, industrial uses including change of use, and parking lots of four spaces or more.

(a) The design must conform to the Downtown Master Plan.

(b) The city staff shall review all landscaping plans for compliance with the provisions of this chapter and notify the property owner of deficiencies in a submitted plan.

(c) A building permit, conditional use permit, or site plan review shall not be issued until a landscaping plan has been approved.

(d) The required landscaping shall be in place prior to issuance of a certificate of occupancy or a schedule for its completion prepared and approved.

(3) *Contents of landscaping plan.* A landscaping plan submitted to the city, as required by this subchapter, shall identify the placement and type of plant materials to provide an effective means for evaluating whether the chosen plant materials will:

(a) Survive in the climate and soils of the proposed site; and

(b) Satisfy the functional objectives of landscaping as detailed herein including erosion control, screening, and shade within a reasonable time.

(4) *General landscaping standards.* The following landscaping standards apply to all new multi-family, commercial, and industrial uses, including change of use, and parking lots of four or more spaces.

(a) The property owner shall be responsible for any future damage to a street, curb, or sidewalk caused by landscaping.

(b) Landscaping shall be selected and located to deter sound, filter air contaminants, curtail erosion, contribute to living privacy, reduce the visual impacts of large buildings and paved areas, screen, and emphasize or separate outdoor spaces of different uses or character.

(c) Landscaping in parking areas shall be planted in combination along the perimeter and in the interior of the lot and shall be designed to guide traffic movement and lessen the visual dominance of the lot.

(d) Plants that minimize upkeep and maintenance shall be selected.

(e) Plants shall complement or supplement surrounding natural vegetation.

(f) Plants chosen shall be in scale with building development.

(g) Minimum landscaping as a percent of gross site area shall be as shown in the table below.

Zone	***Percent***
Commercial	15%
Industrial	15%
Multi-Family	20%
Parking Lots	10%

(h) Deciduous trees shall have straight trunks, be fully branched, have a minimum caliper of one and one-half inches and be adequately staked for planting.

(i) Evergreen trees shall be a minimum of three feet in height, fully branched, and adequately staked for planting.

(j) Shrubs shall be a minimum 18 inches in height and spaced not more than four feet apart for planting.

(k) ***GROUND COVER***, defined as living material and not including bark chips or other mulch, shall be planted on a maximum 18 inches on center between plants and rows.

(l) Watering systems shall be installed to assure landscaping success. If plants fail to survive, it is the responsibility of the property owner to replace them.

(m) Trees shall not be planted closer than 25 feet from the curb line of intersections of streets or alleys and not closer than ten feet from private driveways, measured at the back edge of the sidewalk, or fire hydrants or utility poles.

(n) Street trees shall not be planted closer than 20 feet to light standards. Except for public safety, no new light standard location should be positioned closer than ten feet to any existing street tree, and preferably, such locations will be at least 20 feet distant.

(o) Trees shall not be planted closer than two and one-half feet from the face of the curb except at intersections where it should be five feet from the curb in a curb return area.

(p) Where there are overhead power lines, tree species that will not interfere with those lines shall be chosen.

(q) Trees shall not be planted within two feet of any permanent hard surface paving or walkway. Sidewalk cuts in concrete for trees shall be at least four feet by four feet; however, larger cuts are encouraged because they allow additional air and water into the root system and add to the health of the tree. Space between the tree and such hard surface may be covered by permeable, non-permanent hard surfaces such as grates, bricks on sand, paver blocks, cobblestones, or ground cover.

(r) Trees, as they grow, shall be pruned to their natural form to provide at least eight feet of clearance above sidewalks and 12 feet above street roadway surfaces.

(s) Existing trees may be used as street trees if there will be no damage from the development which will kill or weaken the tree. Sidewalks of variable width and elevation may be utilized to save existing street trees, subject to approval by the City Engineer.

(t) Vision clearance hazards shall be avoided.

(Prior Code, § 152.413)
(Ord. 01-05, passed 6-6-2001)

§ 154.046 SITE PLAN APPROVAL.

(A) *Purpose*. The purpose of the site plan approval process is to provide the city with a detailed drawing or drawings of a proposed land use. A site plan shall be provided for all proposed uses other than single-family or duplex residential uses and/or accessory structures. Where the proposed use is an outright permitted use within the zone in which the proposal is located, a site plan may be approved by the city staff; provided, a proposal with a significant change in trip generation has been reviewed by ODOT, and it is determined that the proposed use will not impose an undue burden on the transportation system. However, at the discretion of the city staff such site plans may be referred to the Planning Commission in either an administrative or quasi-judicial process such as a conditional use proceeding. Site plans for proposed conditional uses will become an integral part of the record and provide the basis for city staff reports, and the basis of final review and approval by the Planning Commission or governing body. If an administrative review is undertaken, the process outlined in § 154.162 shall be followed.

(B) *Site plan indicates*. A site plan shall be drawn to scale and indicate the following:

(1) Dimensions and orientation of the parcel;

(2) Locations and heights of buildings and structures, both existing and proposed; scaled elevation drawings or photographs may be required;

(3) Location and layout of vehicle and bicycle parking and loading facilities;

(4) Location of points of entry and exit for pedestrians, motor vehicles, and internal circulation patterns including bikeways and walkways;

(5) Location of existing and proposed walls and fences and indication of their height and materials;

(6) Proposed location and size of exterior lighting;

(7) Proposed location and size of exterior signs;

(8) Site specific landscape plan including percentage of total net area;

(9) Location and species of trees greater than six inches in diameter when measured four feet above the ground and an indication of which trees to be removed;

(10) Contours mapped at two-foot intervals; five-foot contours may be allowed on steep slopes;

(11) Natural drainage;

(12) Other significant natural features;

(13) Legal description of the lot;

(14) Percentage of the lot covered by any and all proposed and remaining structures to include asphalt concrete and Portland cement concrete;

(15) Locations and dimensions of all easements and nature of the easements;

(16) Service areas for uses such as loading and delivery;

(17) Grading and drainage plan;

(18) Other site elements which will assist in the evaluation of site development;

(19) Statement of operations shall accompany the site plan. A brief narrative on the nature of the activity, including:

(a) Number of employees;

(b) Method of import and export;

(c) Hours of operation including peak times; and

(d) Plans for future expansion.

(20) Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;

(21) Number and direction of lanes to be constructed on the driveway, plus striping plans;

(22) All planned transportation features such as lanes, signals, bikeways, sidewalks, crosswalks, and the like;

(23) Internal pedestrian and bicycle facilities connect with external or planned facilities or system;

(24) Trip generation data or appropriate traffic studies;

(25) Plat map showing property lines, rights-of-way, and ownership of abutting properties; and

(26) A detailed description of any requested variance.

(C) *Site plan review criteria.* The following criteria shall be used in evaluation proposals.

(1) *Natural features*. Where existing natural or topographic features are present, they shall be used to enhance the development such as the use of small streams in the landscaping design rather than culvert and fill.

(2) *Trees*. Existing trees shall be left standing except where necessary for building placement, sun exposure safety, or other valid purpose. Vegetative buffers should be left along major streets or highways or to separate adjacent uses.

(3) *Grading*. The grading and contouring of the site shall take place and on-site surface drainage and on-site storage of surface water facilities are constructed when necessary, so there is no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system. Graded areas shall be replanted as soon as possible after construction to prevent erosion. A construction erosion control plan may be required.

(4) *Public facilities*.

(a) Adequate capacity of public facilities for water, sanitary sewers, storm drainage, fire protection, streets, and sidewalks shall be provided to the subject parcel.

(b) Development of on-site and off-site public facilities necessary to serve the proposed use shall be consistent with the Comprehensive Plan and any adopted public facilities plan(s).

(c) Underground utilities may be required.

(d) On-site detention or treatment of storm water may be required.

(5) *Traffic*. The following traffic standards shall be applicable to all proposals. When evaluating traffic issues, consideration shall be given to the proposed usage such as employees, customers, freight, and service and to the potential types of traffic such as vehicles, pedestrians, and bicycles.

(a) On-site traffic circulation shall be designed according to accepted engineering guidelines to be safe and efficient.

(b) The access point(s) between the subject property and the public street shall be reasonably safe. Minimal factors to be considered in evaluating the proposed access points include the average speed of the traffic on the public street(s), the proposed usage of the access points, the distance between the existing and proposed access points, vision clearance, and the pre-existing location of the access point(s) on the subject property.

(c) Access to all state highways will require a permit from ODOT. Access spacing and location shall address the access management policies and standards of the 1999 state Highway Plan. Frontage improvements, such as curb and sidewalk to ADA standards, may be required by ODOT as a condition to access.

(d) The applicant may be required to provide a traffic impact report prepared by a state licensed traffic engineer.

(e) The proposed use shall not impose an undue burden on the public transportation system. For developments that are likely to generate more than 400 average daily motor vehicle trips (ADTs), the applicant shall provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate impacts attributable to the project.

(f) The determination of impact or effect and the scope of the impact study should be coordinated with the provider of the affected transportation facility.

(g) Dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways shall be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use.

(h) Improvements such as paving, curbing, installing, or contributing to traffic signals or construction of sidewalks, bikeways, accessways, paths, or streets that serve the proposed use shall be required where the existing transportation system may be burdened by the proposed use.

(i) Every effort will be made to inform the applicant within 20 days of receiving a completed application whether a traffic impact report and/or a determination of the level of service will be required. Unforeseen circumstances could result in a delayed request for this information.

(j) All proposed roads shall follow the natural topography and preserve natural features of the site as much as possible. Alignments shall be planned to minimize grading.

(k) Access shall be properly placed in relation to sight distance, driveway spacing, and other related considerations including opportunities for joint and cross access.

(l) The road system shall provide adequate access to buildings for residents, visitors, deliveries, emergency vehicles, and garbage collection.

(m) An internal pedestrian system of sidewalks or paths shall provide connections to parking areas, entrances to the development, and open space, recreational, and other community facilities associated with the development. Streets shall have sidewalks on both sides. Pedestrian linkages shall also be provided to the peripheral street system.

(n) Access shall be consistent with typical access management standards.

(6) *Storage*. All outdoor storage areas and garbage collection areas shall be screened through the use of vegetative materials or appropriate fencing.

(7) *Equipment storage*. Design attention shall be given to the placement or storage of mechanical equipment so as to be screened from view and that an adequate sound buffer will be provided to meet, at a minimum, the requirements of this code relative to noise, if any.

(8) *Criteria*. The following criteria shall be applied to the maximum extent possible without causing significant adverse impacts on the operating efficiency of the proposed use.

(a) *Compatibility*. The height, bulk, and scale of buildings shall be compatible with the site and the buildings in the vicinity. Use of materials shall promote harmony with surrounding structures and sites.

(b) *Design*. Monotony design in single or multiple projects shall be avoided. Variety of detail, form, and siting shall be used to provide visual interest.

(c) *Orientation*. Buildings shall have their orientation toward the street rather than the parking area. A main entrance shall be oriented to the street. For lots with more than two front yards, the buildings shall be oriented to the two busiest streets.

(d) *Parking*. Parking areas shall be located behind the buildings or on one or both sides.

(D) *Compliance.* After site plan approval or approval of a change to a site plan, as provided herein, it shall be unlawful for any person to cause or permit the proposed use in any manner except in complete and strict compliance with the approved site plan.
(Prior Code, § 152.412) (Ord. 01-05, passed 6-6-2001) Penalty, see § 154.999

§ 154.047 DUPLEXES, TRIPLEXES, AND FOURPLEXES.

(A) Duplexes, triplexes, and fourplexes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings. Duplexes are subject to the same approval process as those for detached single-family dwellings in the same zone and are subject to the standards in division (B) below.

(B) Design standards for duplexes, triplexes, and fourplexes shall be as follows.

(1) New duplexes, triplexes, and fourplexes shall meet all required design standard, such as window coverage and the like, that apply to detached single-family dwellings in the same zone unless those standards conflict with this code.

(2) The main entrance for each dwelling unit must:

(a) Face the street;

(b) Open onto a porch with at least one entrance facing the street; or

(c) For detached units separated from the street by another dwelling, the main entrance may face a common space adjacent to the street.

(3) Duplexes shall meet all other development standards such as height, setbacks, parking, and the like for single-family dwellings in the R-1 Zone; additionally, conversion of an existing, conforming, or legal non-conforming single-family dwelling to a duplex is allowed provided that the conversion does not increase non-conformity.
(Ord. 2022-02, passed 6-1-2022)

§ 154.048 TOWNHOMES.

Townhomes are permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings and are subject to the same approval process as those for detached single-family dwellings in the same zone and are subject to the following standards.

(A) *Design standards.* New townhomes shall meet all required design standards, such as window coverage and the like, that apply to detached single-family dwellings in the same zone unless those standards conflict with this code.

(B) *Development standards*.

(1) Townhomes shall meet all other development standards such as height, setbacks, parking, and the like for single-family dwellings in the zone in which it is placed.

(2) Conversion of an existing, conforming, or legal non-conforming single-family dwelling to a townhome is allowed provided that the conversion does not increase the nonconformity.

(3) Side yard setback requirements are not required where the development abuts an adjacent townhome unit.
(Ord. 2022-02, passed 6-1-2022)

§ 154.049 MEASURING BUILDING HEIGHT.

(A) ***BUILDING HEIGHT*** means the vertical distance between the building's highest roof point, not including chimneys or mechanical equipment, and the average finish grade adjacent to the building's foundation.

(B) Unless a planned addition or new building is to meet the maximum height allowed, simple calculations for building height are illustrated herein that will not require ladder work or climbing around on rooftops. For precise calculations, it is recommended that professional assistance be obtained. There are four simple steps: establish an exterior horizontal line of reference; discover roof pitch (slope) in order to calculate the height of roof; measure grade changes at building corners; and add the measurements together.

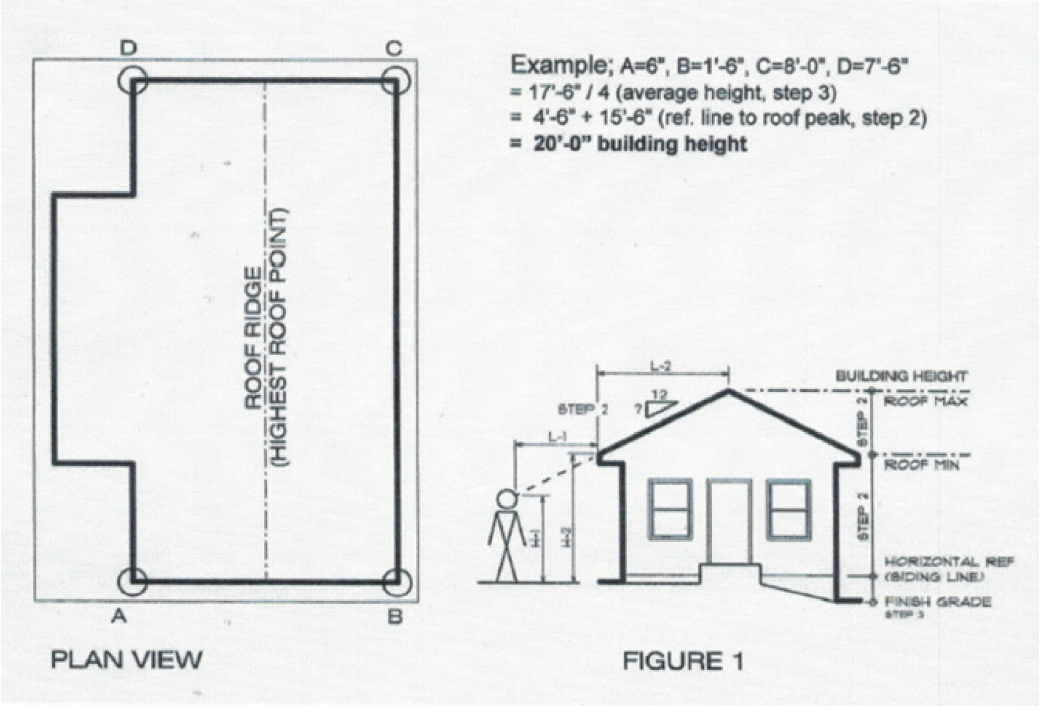
(1) Find or create an exterior horizontal exterior line of reference, such as the siding to foundation, that continues around the building. (See figure 1 below.)

(2) An easy way to learn roof height is to first calculate the slope (rise-to-run) by standing beside the building and walking back until the slope of the roof aligns with eyesight (see figure 1). If "H1" = 5'-6" minus "H2" = 9'-6" equals 4'-0" over "Ll" = 8'-0" means 4/8 = 6/12, thus the slope is a 6/12 pitch. Now measure the distance horizontally, at ground level, from the edge of the roof to the ridge (roof max, see figure 1). Once you have the slope rise, six inches for every 12 inches, multiply that by the measurement taken at ground level to discover the roof height. Add this height measurement with the distance from the roof edge (roof min., see figure 1) to the line of reference established in division (B)(1) above.

(3) Envelop the shape of the building's footprint to corners as shown on the plan below. Label each corner as shown. Measure the height between the exterior horizontal line to the ground near the foundation at each corner. Add the four measurements together, then divide that sum by four to arrive at the average measurement. (See example below.)

(4) Finally, add the average measurement from division (B)(3) above to height from reference line to roof max in division (B)(2) above. This is the building height.

(C) If you have scaled architectural drawings of your building, the measurements found on the exterior elevations may be added to the site measurements found in division (B)(3) once the main floor elevation is established in relationship to the building site.



(Ord. 2022-22, passed 6-1-2022)

TEMPORARY AND CONDITIONAL USES

§ 154.060 TEMPORARY USES.

(A) The City Planning Commission may, upon such petition, notice and hold a hearing to use certain specified property for a purpose not authorized in the district in which such property is located. Such temporary permit may be granted by motion or resolution for a period of not to exceed one year or 365 days, and the permit shall not be extended nor be revocable at the will of the City Council prior to the expiration of one year or 365 days, and the temporary use permit may be granted subject to such other limitations and conditions as the City Council shall impose.

(B) In reviewing a temporary use permit, the Planning Commission shall recommend, and City Council shall consider and make findings regarding, the following criteria. A temporary use permit which is not found to satisfy these criteria shall be denied unless clear and objective conditions of approval can mitigate potential impacts.

(1) *Traffic*. The proposed use shall not generate substantially more trips or types of trips than would a use permitted in the district.

(2) *Impact on neighboring uses*. The proposed use shall be similar in character and effect to uses permitted in the district with respect to impact including, but not limited to, noise generation, trip generation, and the type and nature of activities as means of evaluating the potential impact on neighboring uses. The Planning Commission and City Council shall review concerns of adjacent property owners as indicated on a list provided by the applicant. Such expressions of concern shall not be the sole basis for approving or disapproving of a proposed use. The applicant shall provide a list of owners of property within 250 feet of the site of the proposed use; street widths shall not be included in the distance measurement. All property owners shall be asked to sign the list indicating their approval or disapproval of the proposed use. Property owners are not obligated to sign the list, and omission of signatures shall not, of itself, be considered an expression of opposition to an application.

(3) *Site development*. In general, changes to the site or structure for the proposed use that support the temporary use, such as exterior changes to a building or provision of parking area, shall be minimized and shall not exceed in scale or scope the improvements commonly required for a permitted use.

(4) *Temporary uses in residential districts*. A temporary use authorized in a residential district shall occur entirely within a structure.

(C) In approving a temporary use permit, the Planning Commission and City Council may require that special conditions be met in order to satisfy the intent of this subchapter. Conditions may include requirements for:

(1) Limitation on hours of use;

(2) Limitation on development including amount and location of parking, changes proposed to a structure, extent of the area utilized, and the like; and

(3) Restricting the proposed use to the interior of a building or a specific outdoor location.

(D) An application for temporary use permit shall include the following:

(1) A narrative explaining the nature of the use, potential impacts, and possible mitigating measures;

(2) A vicinity map showing the location of the site;

(3) A site plan or narrative description of any proposed alterations to the site; and

(4) A list of owners of property within 250 feet of the site, excluding widths of streets, as required in division (B)(2) above.
(Prior Code, § 152.414) (Ord. 01-05, passed 6-6-2001)

§ 154.061 CONDITIONAL USES.

(A) *Authorization of conditional uses*. Conditional uses listed in this chapter may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and conditions herein. The site plan review requirements and procedure are incorporated into the conditional use requirements. A site plan showing the proposed conditional use will become a permanent part of the record. Applicants are encouraged to examine the site plan review procedure and requirements in preparing a conditional use application. In permitting a conditional use or the modification of a conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by the subchapter, any additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding property or the city as a whole.

(B) *Standards for granting conditional uses*.

(1) The proposal will be consistent with the Comprehensive Plan and the objectives of the Zoning Code and other applicable policies of the city.

(2) Taking into account location, size, design, and operation characteristics, the proposal will have minimal adverse impact on the livability, value, and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

(3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.

(4) The proposal will preserve assets of particular interest to the community.

(5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal and is not motivated solely by such purposes as the alteration of property values for speculative purposes.

(C) *Placing conditions on a permit*. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose conditions which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:

(1) Increasing the required lot size or yard dimension;

(2) Limiting the height, size, or location 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 diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property;

(8) Designating sites for open space;

(9) Requiring proper drainage and pest control; and

(10) Placing time limits on the use and requiring periodic reviews.

(D) *Procedure for taking action on a conditional use application.*

(1) *Application for a conditional use.* A property owner shall initiate a request for a conditional use or the modification of a conditional use by filing an application along with drawings or information necessary to an understanding of the proposed uses and its relationship to surrounding properties.

(2) *Public hearings on conditional use.* Before the Planning Commission can act on a conditional use request, a public hearing must be held.

(3) *Notification of decision.* Five days following the Planning Commission decision, the City Recorder shall provide the applicant and the parties of record, including the City Council, with written notice of the Planning Commission's action on the application.

(4) *Time limit on a permit for conditional use.* Authorization of a conditional use shall be void after six months unless substantial construction pursuant thereto has taken place.

(5) *Time extension.* Planning Commission may, at its discretion, extend authorization for an additional six months on request.

(E) *Resubmittal.* If a request is denied by the city staff or hearing body and no appeal is filed or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six-month restriction.

(F) *Final action.* Except as provided for under O.R.S. 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under O.R.S. 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is deemed complete.

(G) *Existing land uses.*

(1) Land uses which lawfully existed at the time of the adoption of this subchapter and which would be considered as conditional uses herein shall be considered as existing conditional uses.

(2) An expansion, enlargement, or change of use to another listed conditional use shall be required to be approved by the Planning Commission in accordance with this section.

(H) *Revocation of conditional use permit.*

(1) Any conditional use permit shall be subject to denial or revocation by the Planning Commission if the application includes or included any false information or if the conditions of approval have not been complied with or are not being maintained.

(2) In order to consider revocation of a conditional use permit, the Planning Commission shall hold a public hearing as prescribed under this section in order for the holder of a conditional use permit to show cause why the permit should not be revoked.

(3) If the Planning Commission finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making corrections. If corrections are not made, revocation of the conditional use permit shall become effective ten days after the time specified.

(4) Reapplication for a conditional use which has been revoked cannot be made within one year after the date of the Planning Commission's action, except that the Planning Commission may allow a new application to be considered if new evidence or a change in circumstances warrant it.
(Prior Code, § 152.501) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)
Statutory references:
Related provisions, see O.R.S. 227.178 and 227.180

§ 154.062 BED AND BREAKFAST FACILITIES.

A bed and breakfast facility approved as a conditional use in a Residential Zone of the city shall have the following approval standards.

(A) The structure shall retain the characteristics of a single-family dwelling.

(B) The number of guest rooms shall be limited to five and the number of guests shall be limited to ten.

(C) In addition to the required off-street parking for each residential use, one off-street parking space for each guest room shall be provided.

(D) Signs shall be limited to one non-illuminated sign not exceeding four square feet. No off-premises signs are permitted.

(E) There shall be a submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.

(F) The facility shall be licensed by the state.
(Prior Code, § 152.407) (Ord. 01-05, passed 6-6-2001)

SIGNS

§ 154.075 PURPOSE.

The purpose of this subchapter is to provide standards and procedures for constructing or erecting signs in specific city zones. A ***SIGN*** is an outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard or other thing that is used, designed, or intended for advertising purposes or to inform or attract the attention of the public. The term includes the sign supporting structure, display surface, and all other component parts of the sign. When dimensions of the sign are specified, the term includes the panels and frames, and the term includes both sides of the sign of specified dimension or area, but the term shall not include a sign as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.
(Prior Code, § 152.410)

§ 154.076 PROCEDURES.

(A) Signs meeting the required standards in the Residential and Open Space Zones may be erected or placed on the property without a specific permit except as noted herein.

(B) Signs meeting the required standards in the Commercial and Industrial Zones must have a sign permit. Sign permits may be issued administratively by the city staff if the staff finds the sign being requested meets the standards described in this section and, further, that addition of the sign to a specific property will still be in compliance with these provisions.
(Prior Code, § 152.410) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.077 STANDARDS AND SIZE REQUIREMENTS.

(A) *Residential Zones*.

(1) *Single-family dwelling*. A single sign not exceeding four square feet. This includes approved and permitted bed and breakfast facilities or home occupations.

(2) *Subdivisions*.

(a) Permanent signs are limited to a maximum of 16 square feet.

(b) Maximum height of permanent signs shall be six feet.

(c) Permanent signs shall be limited to one at each entrance to the subdivision.

(3) *Multi-family dwellings*. A permanent sign for multi-family dwelling units may have a maximum area of 16 square feet.

(4) *Non-residential uses*. Hospitals, schools, churches, and other institutional uses shall adhere to the following:

(a) Maximum 24 square feet in size; and

(b) One per parcel unless on a corner lot which allows a maximum of two signs totaling 24 square feet in size.

(5) *Temporary signs*.

(a) Temporary signs shall be limited to one per parcel for up to 90 days.

(b) Temporary signs shall not exceed 12 square feet in size.

(6) *Standards for signs in Residential Zones*. Signs shall adhere to the following:

(a) Six feet maximum in height; and

(b) Signs may have external illumination. Reflective type bulbs shall be used for indirect illumination of the display surface and properly shielded to prevent direct glare onto streets and adjacent properties. Internally illuminated or neon signs are prohibited.

(B) *Open Space Zone*.

(1) *General guidelines*.

(a) Two signs for each site or facility shall be allowed.

(b) Each sign shall not exceed 24 square feet in size.

(c) Signs for public buildings, such as schools or government offices, may not exceed 48 square feet; however, they may be lit with direct lighting. No blinking signs shall be allowed.

(2) *Standards for signs in Open Space Zone.*

(a) Six feet maximum in height; and

(b) Signs may have external illumination. Reflective type bulbs shall be used for indirect illumination of the display surface and properly shielded to prevent direct glare onto streets and adjacent properties. Internally illuminated or neon signs are prohibited.

(C) *Commercial and Industrial Zones.* Any signs erected or to be erected in commercial or industrial zones shall be reviewed and approved by the city and shall meet the standards outlined below. A sign application may be picked up at City Hall.

(1) *Principal signs.* A principal sign advertising the business may be a combination of free-standing, flush-mounted, or projecting signs. Free-standing and projecting sign areas are computed by totaling both sides of the signs.

(2) *Sign area.* The amount of area allowed for the sign is computed on a basis of one square foot of sign area for each lineal foot of frontage the property or business on the public right-of-way in the city up to a maximum of 200 square feet of sign area. In the case of multiple businesses within the same building, the amount of street frontage of the business within the building will be the determining factor. In the case of a corner lot, the sign size facing each street shall be limited to the amount of lineal frontage on each street. In no case shall the total signage area for each property exceed 200 square feet. (Prior Code, § 152.410) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

§ 154.078 PROHIBITED SIGNS.

(A) The following signs are prohibited in the city:

(1) Any flashing, moving, animated, blinking, or rotating signs where illumination changes with time or which is designed in a manner to simulate motion. Time and temperature reader boards are excluded;

(2) Signs that extend, such as a roof sign, above the roof line of the building to which it is to be attached;

(3) The Building or Zoning Official determines a sign to be creating confusion with or interfering with the effectiveness of traffic or signals;

(4) Signs placed on, affixed to, or painted on a motor vehicle, vehicle, or trailer and placed on public or private property for the primary purpose of providing a sign not otherwise permitted by this subchapter;

(5) A private sign placed on, painted on, or affixed to a utility pole, tree, or rock;

(6) Signs bearing or containing statements, words, or pictures of an obscene, indecent, or immoral character that will offend the public morals or decency;

(7) Projecting or free-standing signs which would project into the public right-of-way; and

(8) Signs that advertise goods or services not available on the premises.

(B) Special events and holiday decorations are exempt from these provisions.
(Prior Code, § 152.410) (Ord. 01-05, passed 6-6-2001; Ord. 2012-01, passed 12-7-2011)

OFF-STREET PARKING AND LOADING

§ 154.090 OFF-STREET PARKING REQUIREMENTS.

(A) At the time of construction, reconstruction, or enlargement of a structure or at the time a use is changed in any zone, off-street parking spaces shall be provided as follows unless greater requirements are otherwise established.

(B) Where square feet of the structure or use are specified as the basis for the requirements, the area measured shall be the gross floor area primary to the functioning of the particular use of the property. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

Use	*Minimum Requirements*
Commercial	
Bank or office (except medical and dental)	One space per 600 square feet of floor area plus one space per two employees
Eating or drinking establishment	One space per 250 square feet of floor area
Medical and dental clinic	One space per 300 square feet of floor area plus one space per two employees
Mortuaries	One space per six seats or eight feet of bench lengths in chapels
Service or repair shop, retail store handling exclusively bulk merchandise such as automobiles and furniture	One space per 600 square feet of floor area
Other retail stores not listed above	One space per 300 square feet of floor area designated for retail sales

Use	*Minimum Requirements*
Commercial Amusement	
Bowling alley	Five spaces per alley plus one space for two employees
Dance hall or skating rink	One space per 100 square feet of floor area plus one space per two employees
Stadium, arena, or theater	One space per four seats or eight feet of bench length
Commercial Residential	
Hotel	One space per two guest rooms plus one space per two employees
Motel	One additional space for the owner or manager
Industrial	
Storage warehouse, manufacturing establishment, and rail or trucking freight terminal	One space per employee
Wholesale establishment	One space per employee plus one space per 700 square feet of parking serving area
Institutional	
Convalescent hospital, nursing home, sanitarium, rest home, and/or home for the aged	One space per four beds for patients or residents
Hospital	One and one-half spaces per bed
Welfare or correctional institution	One space per six beds for patients or inmates
Places of Public Assembly	
Church	One space per six seats or feet of bench length in the main auditorium or one space for each 75 feet of floor area of main auditorium not containing fixed seats
Elementary or junior high school	One space per classroom plus one space per administrative employee, or one space per four seats, or eight feet of bench length in the auditorium or assembly room; whichever is greater
High school, college, and/or commercial school for adults	One space per classroom plus one space per administrative employee plus one space for each six students, or one space for four seats or eight feet of bench length in the main auditorium or assembly room; whichever is greater
Library or reading room	One space per 400 square feet of floor area plus one space per two employees

Use	*Minimum Requirements*
Other auditorium meeting room	One space per six seats or eight feet of bench length, or one space for each 175 square feet of floor area for assembly room not containing fixed seats
Preschool, nursery, and/or kindergarten	Two spaces per teacher
Residential	
One-, two-, and three-family dwelling	Two spaces per dwelling unit
Residential use containing four or more dwelling units	Two spaces per dwelling unit
Rooming or boarding house	Spaces equal to 100% of the number of dwelling units plus one additional space for the owner or manager

(Prior Code, § 152.411) (Ord. 01-05, passed 6-6-2001)

§ 154.091 OFF-STREET PARKING AND LOADING

(A) Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to handle adequately the needs of the particular use.

(B) Off-street parking areas used to fulfill the requirements of this section shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs. General provisions are as follows.

(1) The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, it shall be a violation of this chapter to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.

(2) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(3) Owners of two or more uses or parcels of land may agree to jointly utilize the same parking and loading spaces when the hours of operation do not overlap provided that satisfactory legal evidence is presented to the city in the form of deeds, leases, or contracts to establish the joint use.

(4) Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces for commercial uses shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.
(Prior Code, § 152.411) (Ord. 01-05, passed 6-6-2001) Penalty, see § 154.999

§ 154.092 DESIGN AND IMPROVEMENT STANDARDS FOR PARKING LOTS.

(A) Areas used for parking for more than two vehicles shall have durable and dustless surfaces adequately maintained.

(B) Except for parking in connection with a single-family residential dwelling, parking and loading areas adjacent to or within residential zones or adjacent to a dwelling shall be designed to minimize disturbances to residents by the erection between the uses of a sight-obscuring fence or planted screen of not less than six feet in height except where vision clearance is required.

(C) Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb which is at least four inches high and which is set back a minimum of one and one-half feet from the property line.

(D) Artificial lighting, which may be provided, shall not shine or create glare in any residential zone or any adjacent dwelling.

(E) Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their uses will require no backing movements or other maneuvering with a street right-of-way other than an alley.

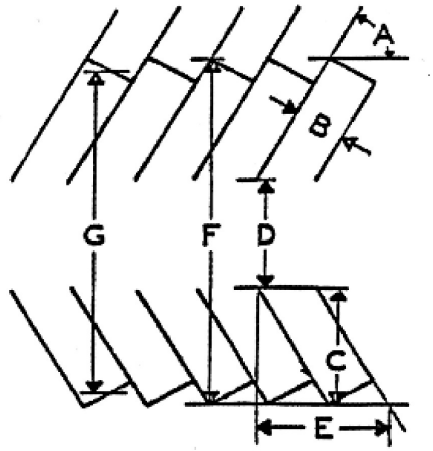
(F) The standards set forth in the table shown below shall be the minimum for parking lots approved under this subchapter. All figures are in feet except as noted. The recommended measurements for a standard American automobile parking space shall be ten feet wide by 20 feet long. Proposals using less than that for parking spaces must be supported by data justifying the reduced spatial area.

Parking Table

A	*B*	*C*	*D*	*E*	*F*	*G*
0°	8’	8.0	12.0	23.0	28.0	--
	8’6”	8.5	12.0	23.0	29.0	--
	9’	9.0	12.0	23.0	30.0	--
	9’6”	9.5	12.0	23.0	31.0	--
	10”	10.0	12.0	23.0	32.0	--
20°	8’0”	14.0	11.0	23.4	39.0	31.5
	8’6”	14.5	11.0	24.9	40.0	32.0
	9’0”	15.0	11.0	26.3	41.0	32.5
	9’6”	15.5	11.0	27.8	42.0	33.1
	10’0”	15.9	11.0	29.2	42.8	33.4

Parking Table						
A	***B***	***C***	***D***	***E***	***F***	***G***
30°	8’0”	16.5	11.0	16.0	44.0	37.1
	8’6”	16.9	11.0	17.0	44.8	37.4
	9’0”	17.3	11.0	18.0	45.6	37.8
	9’6”	17.8	11.0	19.0	46.6	38.4
	10’0”	18.2	11.0	20.0	47.4	38.7
45°	8’0”	19.1	14.0	11.3	52.2	46.5
	8’6”	19.4	13.5	12.0	52.3	46.5
	9’0”	19.8	13.0	12.7	52.5	46.5
	9’6”	20.1	13.0	13.4	53.3	46.5
	10’0”	20.5	13.0	14.1	54.0	46.9
60°	8’0”	20.4	19.0	9.2	59.8	55.8
	8’6”	20.7	18.5	9.8	59.9	55.6
	9’0”	21.0	18.0	10.4	60.0	55.5
	9’6”	21.2	18.0	11.0	60.4	55.6
	10’0”	21.5	18.0	11.5	61.0	56.0
70°	8’0”	20.6	20.0	8.5	61.2	58.5
	8’6”	20.8	19.5	9.0	61.1	58.2
	9’0”	21.0	19.0	9.6	61.0	57.9
	9’6”	21.2	18.5	10.1	60.9	57.7
	10’0”	21.2	18.0	10.6	60.4	57.0
80°	8’0”	20.1	25.0	8.1	65.2	63.8
	8’6”	20.2	24.0	8.6	64.4	62.9
	9’0”	20.3	24.0	9.1	64.3	62.7
	9’6”	20.4	24.0	9.6	64.4	62.7
	10’0”	20.5	24.0	10.2	65.0	63.3

Parking Table						
A	***B***	***C***	***D***	***E***	***F***	***G***
90°	8’0”	19.0	26.0	8.0	64.0	--
	8’6”	19.0	25.0	8.5	63.0	--
	9’0”	19.0	24.0	9.0	62.0	--
	9’6”	19.0	24.0	9.5	62.0	--
	10’0”	19.0	24.0	10.0	62.0	--



Key

A: Parking angle

B: Stall width

C: 19 feet stall to curb

D: Aisle width

E: Curb length per car

F: Curb to curb

G: Stall center

(Prior Code, § 152.411) (Ord. 01-05, passed 6-6-2001)

PLANNED UNIT DEVELOPMENT

§ 154.105 APPLICABILITY AND PURPOSE.

(A) *Applicability*. The requirements for a planned unit development (PUD) set forth in this subchapter are in addition to the conditional use procedures and standards of § 154.061.
(Prior Code, § 152.502)

(B) *Purpose*. The planned unit development authorization serves to encourage developing, as one project, tracts of land that are sufficiently large to allow a site design for a group of structures. Deviation from specific site development standards is allowable as long as the general purposes for the standards are achieved and the general provisions of the zoning regulations are observed. The planned approach is appropriate if it maintains compatibility with the surrounding area and creates an attractive, healthful,

efficient, and stable environment. It should either promote a harmonious variety or grouping of uses or utilize the economy of shared services and facilities. It is further the purpose of authorizing planned unit developments to take into account the following:

(1) Advances in technology and design;

(2) Recognition and resolution of problems created by increasing population density;

(3) A comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development in which the design of the overall unit permits increased freedom in the placement and uses of buildings and the location of open spaces, circulation facilities, off-street parking areas, and other facilities; and

(4) The potential of sites characterized by special features of geography, topography, size, or shape.
(Prior Code, § 152.503)
(Ord. 01-05, passed 6-6-2001)

§ 154.106 FINDINGS FOR PROJECT APPROVAL.

The Planning Commission may approve a planned unit development if it finds that the planned unit development will satisfy standards of §§ 154.061 and 154.105 through 154.113 and including the following.

(A) The proposed planned unit development is an effective design consistent with the Comprehensive Plan.

(B) The applicant has sufficient financial capability to assure completion of the planned unit development.
(Prior Code, § 152.504) (Ord. 01-05, passed 6-6-2001)

§ 154.107 DIMENSIONAL AND BULK STANDARDS.

A tract of land to be developed as a planned unit development shall be of a configuration that is conducive to a planned unit development.

(A) The minimum lot area, width, and frontage requirements otherwise applying to individual building sites in the zone in which a planned unit development is proposed do not apply within a planned unit development. Minimum setbacks from the planned unit development exterior property lines, as required by the zone, will be maintained. The density standards, as allowed by the applicable zone, shall be maximum density allowed in the PUD except as noted.

(B) Buildings, off-street parking and loading facilities, open space, landscaping, and screening shall provide protection to properties outside the boundary lines of the development comparable to that otherwise required of development in the zone.

(C) The maximum building height shall, in no event, exceed those building heights prescribed in the zone in which the planned unit development is proposed.
(Prior Code, § 152.505) (Ord. 01-05, passed 6-6-2001)

§ 154.108 COMMON OPEN SPACES.

Common open space is land that is left open without structures for use by all owners or tenants of the planned unit development. Streets, public or private, are not to be considered as common open space. At least 50% of the gross land area contained in the planned unit development shall be designated as common open space. Land shown on the final development plan as common open space shall be conveyed to an association of owners or tenants created as a nonprofit corporation under the laws of the state which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the Planning Commission as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space.
(Prior Code, § 152.506) (Ord. 01-05, passed 6-6-2001)

§ 154.109 DESIGN STANDARDS.

Although the planned unit development concept is intended to provide flexibility of design, the following are the minimum design standards which will be allowed.

(A) Private streets shall have a minimum improved width of 12 feet for each lane of traffic. If on-street parking spaces are provided, they shall be improved to provide an additional eight feet of street width for each side of the street that the parking is provided. Rolled curbs and gutters may be allowed.

(B) Utilities shall be underground where practicable.

(C) The overall density of the proposed planned unit development may be increased by a factor of 33%, upon approval by the Planning Commission after evaluation of the proposed improvements, if the development includes some of the following improvements:

(1) Approved walkways or bike paths;

(2) Play areas and defined recreational activities; and

(3) Spaces or other amenities.
(Prior Code, § 152.507) (Ord. 01-05, passed 6-6-2001)

§ 154.110 ACCESSORY USES IN PLANNED UNIT DEVELOPMENT.

In addition to the accessory uses typical of the primary uses authorized, accessory uses approved as a part of a planned unit development may include the following uses:

(A) Golf course;

(B) Private park, lake, or waterway;

(C) Recreation area;

(D) Recreation building, clubhouse, or social hall; and

(E) Other accessory structures which are designed to serve primarily the residents of the planned unit development and are compatible to the design of the planned unit development.
(Prior Code, § 152.508) (Ord. 01-05, passed 6-6-2001)

§ 154.111 APPLICATION AND PRELIMINARY DEVELOPMENT PLAN.

(A) An applicant shall include with the application for approval of a planned unit development a preliminary development plan as described in division (B) below. The procedure for review and approval of a planned unit development is the same as contained in § 154.061.
(Prior Code, § 152.509)

(B) A preliminary development plan shall be prepared and shall include the following information:

(1) A map showing street systems, lot or partition lines, and other divisions of land for management, use, or allocation purposes;

(2) Areas proposed to be conveyed, dedicated, or reserved for public streets, parks, parkways, playgrounds, school sites, public buildings, and similar public and semi-public uses;

(3) A plot plan for each building site and common open space area showing the approximate location of buildings, structures, and other improvements and indicating the open space around buildings and structures;

(4) Elevation and perspective drawings of proposed structures;

(5) A development schedule indicating:

(a) The approximate date when construction of the project can be expected to begin;

(b) The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin. Buildings shall conform to the current Uniform Building Code (UBC) as of date of issue of the building permit;

(c) The anticipated rate of development;

(d) The approximate dates when each stage in the development will be completed; and

(e) The area, location, and degree of development of common open space that will be provided at each stage.

(6) Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned unit development and any of its common open space areas;

(7) The following plans and diagrams:

(a) An off-street parking and loading plan;

(b) A circulation diagram indicating proposed movement of vehicles, goods, and pedestrians within the planned unit development and to and from thoroughfares. Any special engineering features and traffic regulation devices shall be shown; and

(c) A landscaping and tree plan.

(8) A written statement which is part of the preliminary development plan shall contain the following information:

(a) A statement of the proposed financing;

(b) A statement of the present ownership of all the land included within the planned unit development; and

(c) A general indication of the expected schedule of development.

(Prior Code, § 152.510)
(Ord. 01-05, passed 6-6-2001)

§ 154.112 APPROVAL OF PRELIMINARY AND FINAL PLANS.

(A) *Approval of the preliminary plans*. The approval of the preliminary development plan by the Planning Commission shall be binding on both the Planning Commission and the applicant. However, no construction shall commence on the property until approval of the final development plan is granted.
(Prior Code, § 152.511)

(B) *Approval of final plans.*

(1) The final development plan shall be submitted to the Planning Commission within six months of the date of approval of the preliminary development plan.

(2) The Planning Commission may extend, for up to six months, the period for filing of the final development plan.

(3) After review, the Planning Commission shall approve the final development plan if it finds the plan is in accord with the approved preliminary development plan.

(4) A material deviation from the approved preliminary development plan shall require the preliminary development plan to be re-examined by the Planning Commission.

(5) Within 30 days after approval of the final development plan, the applicant shall file and record the approved final development plan with the County Clerk.
(Prior Code, § 154.512)
(Ord. 01-05, passed 6-6-2001)

§ 154.113 CONTROL OF DEVELOPMENT AFTER COMPLETION.

The final development plan shall continue to control the planned unit development after the project is completed and the following shall apply.

(A) The Building Official shall issue a certificate of completion of the planned unit development and shall note the issuance on the Planning Commission copy of the recorded final development plan.

(B) After the certificate of completion has been issued, no change shall be made in development contrary to the approved final development plan without approval of an amendment to the plan except as follows:

(1) Minor modifications of existing buildings or structures;

(2) A building or structure that is totally or substantially destroyed may be reconstructed; and

(3) An amendment to a completed planned unit development may be approved if it is appropriate because of changes in conditions that have occurred since the final development plan was approved or because there have been changes in the development policy of the community as reflected by the Comprehensive Plan or related use regulations. The procedure shall be as outlined in § 154.111(A).
(Prior Code, § 152.513)

EXCEPTIONS AND VARIANCES

§ 154.125 NONCONFORMING USES.

(A) (1) A nonconforming use or structure may be continued but may not be altered or expanded.

(2) The expansion of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this subchapter is not an enlargement or expansion of a nonconforming use.

(3) A nonconforming structure which conforms with respect to use may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this subchapter.

(B) If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this chapter.

(C) If a nonconforming use is replaced by another use, the new use shall conform to this chapter.

(D) If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an 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.

(E) Nothing contained in this subchapter shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this chapter provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.
(Prior Code, § 152.601) (Ord. 01-05, passed 6-6-2001)

§ 154.126 EXCEPTIONS TO BUILDING HEIGHT AND YARD REQUIREMENTS.

(A) Vertical projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this chapter.
(Prior Code, § 152.603)

(B) The following exceptions to yard requirements are authorized for a lot in any zone except a corner lot. Any front yard need not exceed:

(1) The average of the front yards on abutting lots which have buildings within 100 feet of the lot; or

(2) The average of the front yard of a single abutting lot, which has a building within 100 feet, and the required depth for that zone.
(Prior Code, § 152.602)
(Ord. 01-05, passed 6-6-2001)

§ 154.127 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 setback area.
(Prior Code, § 152.604) (Ord. 01-05, passed 6-6-01)

§ 154.128 GRANTING OR DENYING VARIANCES.

(A) *Authorization.*

(1) The Planning Commission may authorize a variance from the requirements of this chapter where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of these regulations would cause an undue or unnecessary hardship.

(2) In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter.
(Prior Code, § 152.605)

(B) *Circumstances for granting variances.* A variance may be granted only in the event that all of the following circumstances 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 size or shape, topography, or other circumstances over which the owners of property since enactment of this subchapter 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 subchapter or to property in the same 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.
(Prior Code, § 152.606)

(C) *Procedure for granting variances.*

(1) *Application for a variance.* A property owner shall initiate a request for a variance by filing an application with the City Administrator.

(2) *Public hearing on a variance.* Before the Planning Commission may act on a request for a variance, it shall hold a public hearing.

(3) *Notification of decision.* Within ten days after a decision has been rendered by the Planning Commission with reference to a request for a variance, the City Administrator shall provide the applicant with the notice of the decision of the Planning Commission.

(4) *Time limit for a permit for a variance.* Authorization for a variance shall be void after six months, unless substantial construction pursuant thereto has taken place. However, the Planning Commission may, at its discretion, extend the authorization for an additional six months on request.

(5) *Resubmittal.* If a request is denied by the city staff or hearing body and no appeal is filed or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six-month restriction.

(6) *Final action.* Except as provided for under O.R.S. 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under O.R.S. 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is deemed complete.

(7) *Notification of decision.* Five days following the Planning Commission decision, the City Recorder shall provide the applicant and the parties of record, including the City Council, with written notice of the Planning Commission's action on the application.
(Prior Code, § 152.607)
(Ord. 01-05, passed 6-6-2001)
Statutory reference:
Related provisions, see O.R.S. 227.178 and 227.180

§ 154.129 ADMINISTRATIVE VARIANCES.

(A) An administrative variance may be granted by staff without the normal public hearing before the Planning Commission provided the variance requested is for relief of a physical or spatial requirement of this chapter and the variance is 10% or less of the specified requirement.

(B) Notice to affected property owners shall be required as specified in § 154.163.

(1) At the end of the ten-day period provided for review, the city shall render a decision based upon the appropriate approval criteria for variances or conditional uses and prepare a written decision together with the findings of fact on which the decision is based.

(2) Anyone filing a written objection may appeal the staff decision to the Planning Commission. (Prior Code, § 152.608) (Ord. 01-05, passed 6-6-2001)

AMENDMENTS

§ 154.140 FORMS OF AMENDMENTS.

There are two types of amendments to this chapter:

(A) Amendment to the text or legislative revision; and

(B) Amendment to the map or legislative revision or quasi-judicial change.
(Prior Code, § 152.701) (Ord. 01-05, passed 6-6-2001)

§ 154.141 LEGISLATIVE AND QUASI-JUDICIAL REVISIONS.

(A) *Legislative revisions.*

(1) Proposed amendments to this chapter shall be deemed legislative revisions if:

(a) The proposed amendment involves the text of this chapter; and/or

(b) The proposed amendment involves the map when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.

(2) Legislative revisions shall be initiated by:

(a) A majority vote of the City Council;

(b) A majority vote of the Planning Commission; or

(c) A request by the City Attorney, City Administrator, or City Planner.
(Prior Code, § 152.702)

(B) *Quasi-judicial revisions.*

(1) A proposed amendment to this chapter shall be deemed a quasi-judicial change if the proposed amendment involves the Zoning Map and does not have widespread and significant impact beyond the immediate area of the proposed amendment.

(2) Quasi-judicial changes may be initiated by:

(a) Property owners or contract purchaser or an authorized agent;

(b) A majority vote of the City Council;

(c) A majority vote of the Planning Commission; or

(d) A request by the City Attorney, City Administrator, or City Planner.

(3) In case of a controversy as to whether an amendment be deemed a legislative or quasi-judicial matter, city staff shall make the initial determination. The staff decision may be appealed to the Planning Commission.
(Prior Code, § 152.703)
(Ord. 01-05, passed 6-6-2001)

§ 154.142 PROCEDURES FOR LEGISLATIVE AND QUASI-JUDICIAL REVISIONS.

(A) Public hearings, under the provisions of § 154.163, shall be required for both legislative and quasi-judicial amendments to this chapter. A public hearing before the Planning Commission is mandatory. A public hearing before the City Council is optional. (See procedures in division (C) below.)
(Prior Code, § 152.704)

(B) For both legislative and quasi-judicial revisions to this chapter, a series of public notices are required. These notices are as follows.

(1) *Post-acknowledgment plan amendment notice to DLCD.* The Department of Land Conservation and Development requires notice of the first evidentiary hearing on a proposed amendment to a jurisdiction's zoning ordinance to be submitted to the Department on their forms at least 45 days in advance of the first hearing. Notice must be in the Salem office 45 days or earlier than the date of the proposed hearing before the Planning Commission.

(2) *Notices of both legislative and quasi-judicial hearings.* Notices of both legislative and quasi-judicial hearings must be published in the local newspaper following the requirements of § 154.163.

(3) *Legislative revisions; Ballot Measure 56.* Ballot Measure 56, passed by general vote in the 1998 election, requires specific notices be mailed to all affected landowners in the instance of a

legislative revision in which a re-zoning will occur. These must be mailed not more than 40 nor less than 20 days from the date of the first hearing.

(4) *Quasi-judicial hearings*. Quasi-judicial hearings require notices to all affected property owners within 250 feet of the subject property be mailed at least ten days before each hearing on the proposed amendment.
(Prior Code, § 152.705)

(C) The Planning Commission shall conduct a public hearing on the proposed amendment. Within 45 days after the hearing, the Planning Commission shall render a decision.

(D) The decision of the Planning Commission shall then be brought before the City Council along with a summary of the Planning Commission's proceedings and findings of fact, at the second regular City Council meeting following said Planning Commission decision except that in no event shall the decision be brought to the City Council until after the time for appeal has elapsed.

(E) The City Council shall then review the decision of the Planning Commission on the record without hearing further evidence. It shall either affirm the decision of the Planning Commission or set the matter for hearing "de novo" before the City Council. The City Council must take final action on an amendment request.

(F) Amendments shall be made by ordinance.
(Prior Code, § 152.706)
(Ord. 01-05, passed 6-6-2001)

§ 154.143 LEGISLATIVE AMENDMENTS.

Legislative amendments are broad-based amendments which impact the whole city not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The Planning Commission and/or City Council are acting as legislators, making new law for the city. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.
(Prior Code, § 152.707) (Ord. 01-05, passed 6-6-2001)

§ 154.144 QUASI-JUDICIAL HEARING REQUIREMENTS.

(A) The following criteria must be followed in deciding upon a quasi-judicial proceeding.

(1) The burden in all land use proceedings is upon the applicant whether a zone change, conditional use, or variance is the subject of the hearing.

(2) The requested zone change or conditional use must be justified by proof that:

(a) The change is in conformance with the Comprehensive Plan and also the goals and policies of the Plan;

(b) The showing of public need for the re-zoning and whether that public need is best served by changing the zoning classification on that property under consideration. The public need is best served by changing the classification of the subject site in question as compared with other available property;

(c) The public need is best served by changing the classification of the subject site in question as compared with other available property; and

(d) The potential impact upon the area resulting from the change has been considered.

(3) Approval criteria for amendments shall be as follows.

(a) The applicant must show that the proposed change conforms with the Comprehensive Plan.

(b) A plan or land use regulation amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;

2. Changes standards implementing a functional classification system;

3. Allows types or levels of land use that would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

(c) Amendments to the Comprehensive Plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;

2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or

3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(B) The courts will require a graduated burden of proof depending upon the drastic nature of the proposed re-zoning.

(C) The procedural process of a quasi-judicial hearing is described in the following.

(1) Parties at a re-zoning hearing must have an opportunity to be heard, to present, and rebut evidence.

(2) There must be a record which will support the findings made by the decision makers.

(3) Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing.
(Prior Code, § 152.708) (Ord. 01-05, passed 6-6-2001; Ord. 2016-01, passed 10-7-2015; Ord. 2016-02, passed 10-7-2015)

§ 154.145 NOTIFICATION OF DECISION AND RECORD OF AMENDMENTS.

(A) Within five working days after a final decision on an amendment to the Comprehensive Plan, zoning ordinance text, or Plan/Zone Map, the City Administrator shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision.

(B) Within five working days after a final decision, the city shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of O.R.S. 197.615.
(Prior Code, § 152.709)

(C) The City Administrator shall maintain records of amendments to this chapter.
(Prior Code, § 152.711)
(Ord. 01-05, passed 6-6-2001)
Statutory reference:
Related provisions, see O.R.S. 197.615

§ 154.146 LIMITATION OF REAPPLICATION.

(A) No application of a property owner for an amendment to a zone boundary shall be considered by the Planning Commission within the one-year period immediately following a previous denial of such request.

(B) However, 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.
(Prior Code, § 152.710) (Ord. 01-05, passed 6-6-2001)

ADMINISTRATIVE PROVISIONS

§ 154.160 ADMINISTRATION.

The City Administrator is appointed by the City Council and shall have the power and duty to enforce the provisions of this chapter. An appeal from a ruling by the City Administrator regarding a requirement of the chapter may be made only to the Planning Commission as outlined in § 154.165.
(Prior Code, § 152.801) (Ord. 01-05, passed 6-6-2001)

§ 154.161 BUILDING PERMIT, APPLICATIONS, AND THE LIKE.

(A) Prior to the erection, movement, reconstruction, extension, enlargement, or alteration of any structure, a permit for such erection, movement, reconstruction, extension, enlargement, or alteration shall be obtained from the City Administrator. The applicant shall pay a fee as established by city ordinance at the time the application is filed.
(Prior Code, § 152.802)

(B) All petitions, applications, and appeals provided for in this subchapter shall be made on the forms provided by City Administrator.
(Prior Code, § 152.803)
(Ord. 01-05, passed 6-6-2001)

§ 154.162 ADMINISTRATIVE REVIEW PROCESS.

(A) *Purpose*. The purpose of this section is to provide an administrative review process for the review and approval of land use activities, such as plan review, which are not required to proceed through a public hearing process.

(B) *Submittal*. At least ten copies of the proposed site plan, landscaping plan, and grading and drainage plan, if required, shall be submitted to the City Administrator's office, along with a completed application form.

(C) *Notice of application*.

(1) Within ten days after receipt of a complete application for administrative action, notice of the request shall be mailed to:

(a) The applicant and owners of property within 250 feet of the subject property. The list shall be compiled from the most recent property tax assessment roll; and

(b) Any affected governmental agency, department, or public district within whose boundaries the subject property lies.

(2) The notice provided by the City Administrator shall:

(a) Explain the nature of the application and the proposed use(s) which could be authorized;

(b) Set forth the street address or other easily understood geographical reference to the subject property;

(c) Provide a ten-day comment period, from the day the notice is mailed, for submission of written comments prior to the decision;

(d) State that failure to raise an issue in writing within the comment period or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Planning Commission on that issue;

(e) List by commonly used citation the applicable criteria for the decision;

(f) State the place, date, and time that comments are due;

(g) State that a copy of the application, all documents and evidence relied upon by the applicant, and all applicable criteria are available for inspection at no cost and will be provided at a reasonable cost; and

(h) Include the name and telephone number of the City Administrator to contact for additional information.

(3) The failure of a property owner to receive notice as provided in this section shall not invalidate such proceedings if the city can show that such notice was given.

(D) *Time limits*. All applications processed as administrative actions shall be approved, approved with conditions, denied, or postponed with consent of the applicant within 45 days after the filing of a complete application.

(E) *Staff report*. Administrative decisions shall be signed by the City Administrator or designee and be based upon and accompanied by a staff report that includes:

(1) An explanation of the criteria and standards considered relevant to the decision;

(2) A statement of basic facts relied upon in rendering the decision; and

(3) Findings which explain and justify the reason for the decision based on the criteria, standards, and basic facts set forth.

(F) *Final decision.* The approval, approval with conditions, or denial of an administrative action shall be the city's final decision.

(G) *Notice of decision.* Decision notice shall be provided to the applicant, the Planning Commission, and any party of record. The decision notice shall include:

(1) A brief summary of the decision and the decision making process.

(2) An explanation of appeal rights and requirements.

(H) *Effective date of decision.* A final decision on administrative actions is effective on the date notice of the decision is mailed to the applicant and parties of record.

(I) *Appeal.* Administrative actions may be appealed to the Planning Commission per the provisions of § 154.165.
(Prior Code, § 152.804) (Ord. 01-05, passed 6-6-2001)

§ 154.163 PUBLIC HEARINGS.

(A) Each notice of hearing authorized by this chapter shall be published in a newspaper of general circulation in the city at least ten days prior to the date of hearing.

(B) In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within 250 feet of the property for which the variance, conditional use, or zone boundary amendment has been requested. The notice of hearing shall be mailed at least ten days prior to the date of the hearing. Said notice shall:

(1) Explain the nature of the application and the proposed use or uses which could be authorized, O.R.S. 797(3)(a);

(2) List the applicable criteria from the ordinance and the plan that apply to the application, O.R.S. 797(3)(b);

(3) Set forth the street address or other easily understood geographical reference to the subject property, O.R.S. 197.797(3)(c);

(4) State the date, time, and location of the hearing, O.R.S. 197.797(3)(d);

(5) State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue, O.R.S. 197.797(3)(e) and O.R.S. 197.797(1);

(6) State that failure to provide sufficient specificity to afford the decision maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue, O.R.S. 197.797(3)(e);

(7) Include the name of a local government representative to contact and a telephone number where additional information may be obtained, O.R.S. 197.797(3)(g);

(8) State that a copy of the following are available for inspection at no cost and will be provided at reasonable cost, O.R.S. 197.797(3)(h):

(a) The application;

(b) All documents and evidence relied upon by the applicant; and

(c) Applicable criteria.

(9) 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, O.R.S. 197.797(3)(i);

(10) Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings, O.R.S. 197.797(3)(j); and

(11) If a proposed zone boundary amendment has been initiated by the city and is declared by the city to be a major reclassification, the mailing of individual notice is not required, but such additional means of informing the public as may be specified by the City Council shall be observed.
(Prior Code, § 152.805) (Ord. 01-05, passed 6-6-2001)
Statutory reference:
Related provision, see O.R.S. 197.797(1), (3)(a) through (3)(e), (3)(g), (3)(h), and (3)(j)

§ 154.164 AUTHORIZATION OF SIMILAR USES.

The Planning Commission may permit, by following the procedures outlined in § 154.061, 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 of an unlisted use in a zone when said use is either specifically listed in another zone or is of the same general type and is similar to a use specifically listed in another zone.
(Prior Code, § 152.806) (Ord. 01-05, passed 6-6-2001)

§ 154.165 APPEAL FROM DECISION OF CITY STAFF.

(A) An appeal from a decision of the city staff may be filed with the City Administrator.

(B) An appeal from a decision of the city staff may only be initiated by filing a notice of intent to appeal.

(C) The decision of the city staff shall be final unless a written notice of intent to appeal is filed with the City Administrator within 15 days of the date of the decision.

(D) The notice of intent to appeal shall contain a copy of the application for the permit and a copy of the city staff's decision.

(E) The notice of intent to appeal shall state the specific issues which are the basis for the appeal and the specific reasons the appellant contends the decision of the city staff is not in conformance with the applicable criteria and standards set forth in this chapter.

(F) A notice of intent to appeal shall be accompanied by the required fee as set by City Council resolution.

(G) An appeal of a decision of the City Planner shall be heard by the Planning Commission following the procedures of § 154.163.
(Prior Code, § 152.807) (Ord. 01-05, passed 6-6-2001)

§ 154.166 APPEAL OF DECISIONS OF PLANNING COMMITTEE.

(A) The applicant or any person who provided testimony, either in person or in writing, at the hearing before the Planning Commission may appeal the decision of the Planning Commission to the City Council.

(B) The appeal of a decision of the Planning Commission may only be initialized by filing a notice of intent to appeal as set forth herein.

(C) The decision of the Planning Commission shall be final unless a written notice of intent of appeal is filed with the City Administrator within 15 days from the date it was signed by the Chair unless the City Council, on its own motion, orders a review of the decision within 15 days of the date of the recorded decision.

(D) Every notice of intent to appeal shall contain:

(1) A copy of the application or adequate reference to the matter sought to be appealed and the date of the decision of the Planning Commission;

(2) Statement that the appellant either participated in the hearing in person or in writing or that the appellant is the applicant;

(3) The specific issues which are the basis for the appeal and the specific reasons the appellant contends the decision of the hearing body is not in conformance with the Comprehensive Plan, Zoning Code, subdivision regulations, or state statues. Such issues shall be raised with sufficient specificity so as to afford the City Council an adequate opportunity to respond to each issue;

(4) The required fee as set by this chapter; and

(5) Hearings before the City Council shall be conducted in compliance with § 154.163.

(E) The City Council's consideration of the Planning Commission's decision may be confined to the record of the proceeding before the Planning Commission, or the City Council may hear the material de novo. The record shall include:

(1) All materials, memorandum, stipulations, exhibits, and motions submitted during the proceeding and received or considered by the Planning Commission;

(2) All materials submitted by the city staff with respect to the application;

(3) The minutes of the hearing before the Planning Commission;

(4) The written decision of the Planning Commission;

(5) The notice of intent to appeal; and

(6) Oral and written argument, if any, by the hearing participants, their legal representatives, or city staff made at the time of the hearing before the City Council.

(F) The City Council may affirm, reverse, or modify the action of the Planning Commission in full or in part. The City Council may also remand the matter back to the Planning Commission for further consideration.

(G) The City Council shall adopt a written decision that clearly states the basis for its decision within 30 days of the close of the hearing. When an application is approved, the term of approval shall be specified including any restrictions and conditions. A proposed decision submitted by the city staff or any other person may be adopted by the City Council as submitted or as amended by the City Council. (Prior Code, § 152.808) (Ord. 01-05, passed 6-6-2001)

§ 154.167 RESUBMITTAL.

If a request is denied by the city staff or hearing body and no appeal is filed or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the hearing body, on its own motion, may consider new evidence and waive the six-month restriction.
(Prior Code, § 152.809) (Ord. 01-05, passed 6-6-2001)

§ 154.168 FILING FEES.

(A) Filing fees shall be established by City Council resolution.

(B) The city, like many cities in the state, is faced with a severely reduced budget for the administration of the city's ordinances. The land use planning process in the state has become increasingly complex. To properly process a land use application, the city must rely upon professional consultants to assist in preparing the legal notices, conducting on-site inspections, preparation of staff reports and, in some cases, actual attendance at the Planning Commission and/or City Council meeting. The city utilizes a consultant to ensure land use applications are processed fairly and promptly. Because of the reduced budgets, the city finds it necessary to transfer those administrative costs to the applicant as a part of the land use planning process.
(Prior Code, § 152.810) (Ord. 01-05, passed 6-6-2001)

§ 154.999 PENALTY.

(A) Violation of any provision or amendment of this chapter is punishable, upon conviction, by a fine of not more than $100 for each day of violation where the offense is a continuing offense.

(B) In case a building or other structure is currently or proposed to be located, constructed, maintained, repaired, altered, or used or land is currently or proposed to be used in violation of this chapter, the building or land thus in violation shall constitute a nuisance and 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, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

(C) Any person who violates § 154.025 or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $1,000 for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.
(Prior Code, § 152.999) (Ord. 01-05, passed 6-6-2001)