

CITY OF WINSTON

ZONING ORDINANCE

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ASSISTED BY THE

DOUGLAS COUNTY PLANNING DEPARTMENT

SEPTEMBER 2005

ORDINANCE NO. 590

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ORDINANCE NO. 590

AN ORDINANCE ESTABLISHING ZONES IN ORDER TO REGULATE THE USE OF LAND AND STRUCTURES IN THE CITY OF WINSTON FOR THE PURPOSES OF PROMOTING THE PUBLIC HEALTH, SAFETY AND WELFARE AND ASSISTING IN CARRYING OUT THE COMPREHENSIVE PLAN OF THE CITY; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AS AMENDED BY ORDINANCE 608.

The City of Winston ordains as follows:

ARTICLE 1. INTRODUCTORY PROVISIONS

SECTION 1.010. Title

This ordinance shall be known as the Winston Zoning Ordinance.

SECTION 1.020. Definitions

1. Words used in the present tense include the future; the singular includes the plural; and the word “shall” is mandatory and not discretionary. Whenever the term “this Ordinance” is used herewith, it shall be deemed to include all amendments hereto as may hereafter from time to time be adopted.
2. For the purposes of this Ordinance, unless otherwise specifically provided, certain words, terms and phrases are defined as follows:

Abutting. Adjoining with a common boundary line, except that where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting if the common property line between the two parcels measures less than eight (8) feet in a single direction.

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

Access easement. A private street which is part of the lot, parcel or unit of land providing accessing to one or more lots, parcels or units of land.

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

Adjusted lot. A unit of land created by a lot line adjustment. Once created, the term “adjusted lot” is synonymous with “lot” and “parcel” for purposes of this Ordinance.

Administrative Action. A proceeding pursuant to this ordinance in which the legal rights, duties or privileges of specific parties are determined by the City Administrator, and any appeal or review thereof.

Administrator. The person designated by the City Council to act as administrator of this ordinance, or such person as the administrator designates.

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

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

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

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

Base Flood. The flood having a one percent (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."

Boarding House. A single family dwelling where lodging and meals re provided to guests, for compensation, for time periods of at least sixteen (16) consecutive nights.

Building. A structure comprised of typical construction materials built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind

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

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

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

Child. A person under 15 years of age.

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

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

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

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

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

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

Contiguous. Touching at least one (1) point or that which would be so except it is separated only by a public right-of-way or a body of water.

Council. The City Council of Winston, Oregon.

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

Day Care Center. A facility which provides day care for 13 or more children.

Day Care Group Home. A facility which provides day care for six or more full-time children with a maximum of 12 full or part-time children.

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

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

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

- 1) the resort will be located on a site of 20 acres or more;
- 2) at least 25 but not more than 75 units of overnight lodging shall be provided; and,
- 3) restaurant and meeting rooms with at least one seat for each unit of overnight lodging shall be provided.

Development. Any manmade change to improved or unimproved real estate, including but not limited to the construction, alteration or use of buildings, division of land, creation of private or public streets, construction of public and private utilities and facilities, mining, excavation, grading, installation of fill, open storage of materials, or any other activity specifically regulated by the provisions of this Ordinance. Except when in conjunction with other development, installation of less than 3,000 square feet of asphalt or other impervious paving surfaces shall not be included in this definition.

Duplex. See “Dwelling, Two-Family (Duplex) definition.

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

Dwelling, Multi-family. A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-family. A detached building, other than a trailer house, designed for and occupied by not more than one (1) family which either:

1. has passed inspection for compliance with the State of Oregon Uniform Building Code (UBC) standards; or,
2. is a manufactured home constructed after June 15, 1976, which also meets all of the following standards:
 - a. the manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet;

- b. the manufactured home shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than 18 inches above grade.
 - c. the manufactured home shall have a pitched roof with a slope of at least a nominal three feet in height for each 12 feet in width.
 - d. the manufactured home shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by such a person as the City Administrator may direct.
 - e. the manufactured home shall be certified by the manufacturer to have an exterior thermal envelop meeting requirements specified by the National Manufactured Housing Construction and Safety Standards Act, in effect at the time the manufactured home was constructed.
 - f. unless inconsistent with the above, the manufactured home and the lot upon which it is sited shall also be subject to all other development standards, architectural requirements and minimum size requirements to which a conventional single-family residential dwelling on the same lot would be subject.
3. Exempt from these standards is the Family Hardship Variance according to Section 8.050 of the Zoning Ordinance allowing the following special requirements for such:
- a. The manufactured home shall enclose a space of not less than 900 square feet and at least 14 feet in width;
 - b. The manufactured home may be placed on concrete pads or crushed rock pad and skirted within 45 days of the placement. It shall be equipped with skirting which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home, unless the manufactured home is anchored to a permanent, continuous concrete or block foundation, or both. Nonporous skirting material shall be such that there are no gaps or openings between the unit and the ground, except for windows and vents. Porous skirting material shall extend from the manufactured home to within, but not closer than, six inches from the ground to prevent dry rot.
 - c. No placement permit shall be issued for a manufactured home that does not exhibit the Oregon Department of Commerce “Insignia of Compliance.”

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

Dwelling Unit. A building, or portion thereof occupied in whole or in part as a home, residence or sleeping place, either permanently or temporarily, excluding hotels and motels, designed for occupancy one (1) family unit.

Family. An individual or two or more persons related by blood, marriage, legal adoption, or legal guardianship living together as one housekeeping unit using one kitchen, and providing meals or lodging to not more than two (2) additional persons, excluding servants; or a group of not more than five (5) unrelated persons living together as one housekeeping unit using one kitchen ; or a group of six or more persons living together as one housekeeping unit using one kitchen, if said persons are handicapped persons as defined in the Federal Fair Housing Amendments Act of 1988.

Family Day Care Home. A facility which provides day care in the home of the provider to fewer than 13 children, including children of the provider, regardless of full time or part time status.

Family Day Care Provider. For the purposes of this Ordinance, the terms “Family day Care Home” and “Family Day Care Provider” shall be synonymous. See “Family Day Care Home”.

Family Hardship Dwelling. A mobile home used temporarily during a family hardship situation, pursuant to Section 8.050 of this Ordinance, when an additional dwelling is allowed to house aged or infirm persons or persons physically incapable of maintaining a complete separate residence apart from their family.

Fish and Wildlife Management. The protection, preservation, propagation, promotion and control of wildlife by either public or private agencies or individuals.

Flood 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 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 (1) foot.

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

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

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

1. attic space providing head room of less than seven (7) feet.
2. basement, if the floor above is less than six (6) feet.
3. uncovered steps or fire escapes.
4. private garages, carports, or porches.
5. accessory water towers or cooling towers.
6. accessory off-street parking or loading spaces.

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

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

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

Governing Body. The City Council of the City of Winston, Oregon.

Grade (Ground Level). The average elevation of the finished ground level at the centers of all walls of a building except that if a wall is parallel to, and within five (5) feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground level.

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

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

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

Home Occupation. A home occupation is an occupation carried on within a dwelling by members of the family occupying the dwelling with no non-family employees performing work or rendering services to clients upon the premises. All aspects of a home occupation shall be contained and conducted within a completely enclosed building which shall be the same structure as the principal residence or appropriate accessory building. The residential character of the building shall be maintained and the home occupation shall be conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the rights of neighboring residents to enjoy the peaceful occupancy of their homes. Such occupation shall be a secondary use on the premises, and shall not occupy more than 25% of the floor area of one floor of the dwelling. Products made or sold shall be disposed of primarily by delivery from the premises to the homes or places of business of customers. No sign, other than a nameplate which identifies the nature of the home occupation and the operator thereof, not to exceed one square foot in area, shall be displayed that will indicate from the exterior that the building is being used in whole or in part for any purpose other than that of a dwelling. For the purpose of this definition, a day nursery or child care center is not a home occupation.

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

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

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

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

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

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

Lot. A unit of land created by a subdivision of land. Once created, the term “lot” is synonymous with the term “parcel” for the purposes of this Ordinance.

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

Lot Corner. A lot abutting on two (2) or more streets, other than an alley, at their intersection.

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

Lot Line. The property line bounding a lot.

Lot Line Adjustment. The adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with the development standards of this Ordinance.

Lot Line, Front. The lot line separating the lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

Lot Line, Rear. The lot line which is opposite and most distant from the front line. In the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at maximum distance from the front line.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot of Record. A unit of land created as follows:

1. A lot in an existing, duly recorded subdivision;
2. A parcel in an existing, duly recorded major or minor land partition;
3. An adjusted lot resulting from an approved lot line adjustment;
4. An existing unit of land for which a survey has been duly filed which conformed to all applicable regulations at the time of filing;
5. Any unit of land created prior to zoning and partitioning regulations by deed or metes and bound description, and recorded with the Douglas County Clerk; provided, however, that contiguous units of land so created under the same ownership and not conforming to the minimum property size of this Ordinance shall be considered one (1) lot record.

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

Manufactured Home. A structure, transportable in one or more sections, containing sleeping, cooking and plumbing facilities and designed for human occupancy. This definition for the purposes of this ordinance is synonymous with "mobile home". "Manufactured home" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450".

Manufactured Home Park or Subdivision. For the purpose of this ordinance, the terms "manufactured home park" and "manufactured home subdivision" shall have the same respective meaning as "mobile home park" and mobile home subdivision."

Mobile Home. For the purpose of this Ordinance, the term "mobile home" shall have the same meaning as "manufactured home."

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

Mobile Home Subdivision. A residential subdivision subject to Mobile Home Subdivision Overlay standards.

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

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

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

Nonconforming Structure or Use. A lawful existing structure or use at the time this ordinance or any amendment thereto becomes effective which does not conform to the requirements of the zone in which it is located.

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

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

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

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

Parcel. A unit of land created by a partition of land. Once created, the term “parcel” is synonymous with the term “lot” for the purposes of this Ordinance.

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

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

Parking Space. An off-street enclosed or unenclosed surfaced area of not less than eighteen (18) feet by nine (9) feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one (1) automobile.

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

Partition land. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. “Partition land” does not include divisions of land resulting from foreclosure; divisions of land resulting from foreclosure of recorded contracts for the sale of real property; divisions of land resulting from the creation of cemetery lots; the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner; “partition land” does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by applicable zoning or other provisions of this Ordinance; and “partition land” does not include a sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Comprehensive Plan.

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

1. The applicant and all owners or contract purchasers of record, as shown in the files of the Douglas County Assessor's Office, of the property which is the subject of the application.
2. All property owners of record, as provided in (1) above, within 250 feet of the property which is the subject of the application.
3. Any affected unit of local government or State or Federal agency which has entered into an agreement with the City to coordinate planning efforts and to receive notices of land use actions.
4. Any other person, and/or his representative, who is specially, personally, adversely and substantially affected in the subject matter, as determined by the Planning Commission.

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

Planned Unit Development (PUD). A unit of land planned and developed as a single unit, rather than an aggregate of individual lots, with design flexibility from traditional siting regulations or land use regulations and subject to the provisions of Section 4.310 of this Ordinance.

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

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

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

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

Public Utility. Any corporation, company, individual association of individuals or its lessees, trustees, or receivers, that owns, operates, manages or controls all or any part of any plat or equipment for the conveyance of telegraph, telephone messages, with or without wires, for the transportation as common carriers, or for the production,

transmission, delivery or furnishing of heat, light, water or power, directly or indirectly to the public.

Recreational Vehicle. A vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use and which is intended for human occupancy and is being used for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink or toilet.

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

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

Residential Care Facility. A facility that provides for six or more physically handicapped or socially dependent individuals residential care in one or more buildings on contiguous properties.

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

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

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

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

Rooming House. A single-family dwelling where lodging, but not meals, is provided to guests, for compensation, for time periods of at least sixteen (16) consecutive nights.

Salvage Yard. Any property where scrap, waste material or other goods, articles or second-hand merchandise are dismantled, sorted, stored, distributed, purchased or sold in the open.

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

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

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

Sign Face. The functional surface of a sign including all sign elements facing in the same direction.

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

Start of Construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structures.

Street, Private. Any street, road or right-of-way which is not a public street as defined in this Ordinance.

Street, Public. A street or road which has been dedicated or deeded to the use of the public. The purposes of this Ordinance, public street may include “alley”, “lane”, “place”, “court”, “avenue”, “boulevard”, and similar designations, and any County roads and State highways.

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

Structure. A walled and roofed building including a gas or liquid storage tank that is principally above ground.

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

Subdivision. Either an act of subdividing land or an area or a trace of land subdivided as defined in this Section.

Substantial Improvement. Any repair, construction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure, either:

1. before the improvement or repair is started; or
2. if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

Swimming Pool. Any constructed or prefabricated pool used for swimming or bathing, twenty-four (24) inches or more in depth.

Urban Area. All territory, whether incorporated or unincorporated, located within the Winston Urban growth Boundary.

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

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

Use, Principal. The primary use of a lot or site, and includes a permitted or conditional use.

Variance. A deviation from the strict application of standards established by this Ordinance with respect to lot area and dimensions, setbacks, building height and other such standards. The authority to grant a variance does not extend to use regulations.

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

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

Yard, Front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building. Any yard

meeting this definition and abutting on a street other than an alley shall be considered a front yard.

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

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

Yard, Street Side. A yard adjacent to a street between the front and rear lot line measured horizontally a right angles from the side lot line to the nearest point of a building.

ARTICLE 2. GENERAL PROVISIONS

SECTION 2.010. Intent

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

The basis for this ordinance is the City's Comprehensive Plan, which sets the character of the City, provides policies pertaining to land and public improvements, and lays out the general design of the City.

SECTION 2.020. Compliance with Ordinance Provisions

1. A parcel of land may be used or developed, by land division or otherwise, and a structure may be used or developed, by construction, reconstruction, alteration, occupancy or otherwise only as this Ordinance permits.
2. In addition to complying with the criteria and other provisions within this Ordinance, each development shall comply with the applicable standards published by the Public Works Superintendent.
3. The requirements of this Ordinance apply to the person undertaking a development, or the user of a development, and to the person's or user's successors in interest.

SECTION 2.030. Interpretation

It shall be the duty of the Planning Commission to interpret the provisions of this ordinance in such a way as to carry out the intent and purpose, and to rule on the proper application. When in the administration of this Ordinance there is doubt regarding the intent of the Ordinance or the suitability of uses not specified, the City Administrator or designee may request an interpretation of the provision by the Commission. An interpretation by the Planning Commission shall not have the effect of amending the provisions of this Ordinance. Any interpretation of the Ordinance by the Planning Commission shall be deemed an administrative action, subject to review by the City Council pursuant to Section 11.310 and 11.320 and based on the following considerations:

1. The City of Winston Comprehensive Plan;
2. The purpose and intent of the Ordinance as applied to the particular section in question; and, if necessary,
3. The opinion of the appointed legal counsel of the approving authority.

SECTION 2.040. Restrictiveness

Where the conditions imposed by a provision of this ordinance are less restrictive than comparable conditions imposed by other provisions of this ordinance or any other ordinance of the city, or any provisions of state law, the provisions which are more restrictive shall govern.

SECTION 2.050. Severability

The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 2.060. Minor Text Corrections

The Administrator may correct the Zoning and Subdivision Ordinances, the Comprehensive Plan and the Transportation System Plan, without prior notice or hearing, so long as the Administrator does not alter the sense, meaning, effect, or substance of any adopted ordinance and, within such limitations, the Administrator may:

1. Renumber chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies of Zoning and Subdivision Ordinances, the Comprehensive Plan and the Transportation System Plan;
2. Rearrange chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;
3. Change reference numbers to agree with renumbered chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals, objectives, and policies;
4. Delete references to repealed chapters, articles, sections, subsections, findings, goals, objectives, and policies, and parts of chapters, articles, sections, subsections, findings, goals objectives, and policies;
5. Substitute the proper chapter, article, section, subsection, finding, goal, objective, or policy numbers;
6. Change capitalization and spelling for the purpose of uniformity;
7. Correct manifest clerical, grammatical or typographical errors; and,

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

The Administrator shall maintain a record, available for public access, of all corrections made under this Section.

Corrections to the Zoning and Subdivision Ordinances, the Comprehensive Plan and the Transportation System Plan made by the Administrator pursuant to this Section are prima facie evidence of the law, but they are not conclusive evidence. If any correction to the Zoning and Subdivision Ordinances, the Comprehensive Plan and the Transportation System Plan made pursuant to this Section differs in sense, meaning, effect, or substance from any adopted ordinance, the adopted ordinance shall prevail.

ARTICLE 3. ESTABLISHMENT OF ZONES

SECTION 3.010. Classification of Zones

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

<u>ZONE</u>	<u>ABBREVIATED DESIGNATION</u>
Agriculture/Open Space	A-O
Residential Low Density A	R-L-A
Residential Low Density B	R-L-B
Residential Low Density C	R-L-C
Residential Medium Density	R-M
Residential High Density	R-H
Special Historic Commercial	C-SH
Office/Professional Commercial	C-OP
Highway-Commercial	C-H
General Commercial	C-G
Industrial Limited	M-L
Industrial General	M-G
Planned Development	PD
Floodway	FW
Floodway Fringe	FF
Flood Hazard	FH
Public Reserve	P-R
Steep Slope Overlay	SSO

SECTION 3.020. Zoning Map

The City of Winston Zoning Map is hereby adopted by reference. The boundaries for the zones listed in this ordinance are indicated on the City of Winston Zoning Map which is hereby adopted by reference. An amendment shall be performed as provided in Article 9. The map, and any amendment thereto, shall be dated with the number and effective date of the ordinance adopting or amending the map. A certified print of the adopted map or amended map shall be maintained in the office of the City Recorder.

SECTION 3.030. Zoning of Annexed Areas

Areas annexed to the City shall retain their existing zoning classifications until they are rezoned by the City. The Governing body may rezone such areas(s) to City zoning classification(s) concurrent with the effective date of the annexations(s). At the option of the Governing Body such rezoning may be heard by the Commission pursuant to Section 11.075(3), or the choice of zoning classification(s) for such area(s) may be done as legislative act(s) within the authority of the Governing Body. In either event, the Governing Body may seek recommendations from the Commission regarding such zoning classifications. Such classifications shall conform to the criteria set forth in Section 3.042, conditions may be imposed as provided in Section 3.043 and the official map shall be changed as provided in Section 3.044.

SECTION 3.040. Zone Boundaries

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights-of-way, or such lines extended.

SECTION 3.050. Zone Change

This Section provides the criteria for amending the boundaries of any district delineated on the official zoning maps. Zoning shall be consistent with the Comprehensive Plan and maintain the general purpose of this Ordinance and specific purpose of the applicable zone classification.

SECTION 3.051. Criteria for Zone Change

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

1. The rezoning will conform with the City of Winston Comprehensive Plan, including the land use map and written policies.
2. The site is suitable to the proposed zone with respect to the public health, safety and welfare of the surrounding area.

SECTION 3.052. Conditions Relative To the Approval of Zone Change

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

1. Special yards and spaces.
2. Fences and walls.
3. Special parking and/or loading provisions.
4. Street dedication and improvements or bonds in lieu of improvements.
5. Control of points of vehicular ingress and egress.
6. Special provisions for signs.
7. Lighting, landscaping and maintenance of grounds.
8. Control of noise, vibration, odors or other similar nuisances.

SECTION 3.053. Grant of Authority for Zone Change

The Governing Body shall have the authority to order a change in the official map to effectuate the rezoning of property as provided by the provisions of this Ordinance. The

Governing body shall order a change in the official map within ten (10) days of the date the decision becomes final.

ARTICLE 4. ZONING CLASSIFICATIONS

AGRICULTURE/OPEN SPACE (A-O)

SECTION 4.010. Agriculture/Open Space (A-O)

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

1. Uses permitted outright. In an A-O zone, the following uses and their accessory
a. Forest management
b. Farm use in accordance with the City's animal ordinance
c. Fish and wildlife management
d. The development of water impoundments and canals
e. Publicly owned parks, playgrounds, campgrounds, boating facilities, lodges, camps and other such recreational facilities
f. Fire prevention, detection and suppression facilities
g. Nursery for the growing, sale and display of trees, shrubs, and flowers
h. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches
i. Single family dwellings customarily provided in conjunction with use permitted in this classification, providing residence for the landowner, immediate family members, or an employee, providing that: a minimum average density of 10 acres per dwelling shall be maintained
j. Home occupations
k. Buildings and structures necessary to the above uses
2. Conditional uses permitted. In an A-O zone, the following uses and their accessories may be permitted subject to the provisions of Article 7:
 - a. Use or keeping of animals other than that permitted
 - b. Quarry, gravel pit or mining

- c. Beekeeping
 - d. Operating a zoological park or botanical garden
 - e. Other similar agricultural and open space uses which are consistent with the Comprehensive Plan and purpose of this zoning district and deemed by the Planning Commission to be conditional
 - f. Recreational vehicle park
3. Lot size. Except as provided in Sections 5.090 and 7.10, the minimum lot size within an A-O zone shall be as follows:
- a. The minimum lot area shall be 10 acres.
4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, and 7.010, in an A-O zone, yards shall be as follows:
- a. Front yard - 30 feet
 - b. Side yard - 20 feet
 - c. Rear yard - 30 feet
 - d. No structure shall be located closer than forty (40) feet from the center line of a street other than an alley
5. Building height. Except as provided in Sections 5.020, 5.110, and 7.010, in an A-O zone no building shall exceed a height of thirty-five (35) feet.
6. Parking. Refer to Section 5.040.

RESIDENTIAL LOW DENSITY (R-L)

SECTION 4.020. Residential Low Density Zone (R-L).

The R-L zone has three general variations to designate minimum lot size. They are:

R-L-A with a minimum lot size of 6,000 square feet;

R-L-B with a minimum lot size of 8,500 square feet; and

R-L-C with a minimum lot size of 20,000 square feet.

The following regulations apply to the R-L-A through R-L-C zones:

- 1. Uses permitted outright. In an R-L zone the following uses and their accessory uses are permitted outright:

- a. One single-family dwelling;
 - b. One manufactured home;
 - c. Agricultural use of land provided that no livestock shall be raised or kept on the premises without permit in accordance with the city's animal ordinance.
 - d. Residential home.
 - e. Family Day Care Home.
2. Conditional uses permitted. In an R-L zone the following uses and their accessory uses may be permitted subject to the provisions of Article
- a. Cemetery
 - b. Church, non-profit religious, or philanthropic institution
 - c. Community Center
 - d. Governmental structure or use of land including but not limited to park, playground, fire station, or library
 - e. Home occupation
 - f. Hospital
 - g. Kindergarten, nursery, day nursery, or similar facility
 - h. Private golf course or country club, but excluding golf driving range, miniature golf course or similar facility
 - i. Private non-commercial recreational club such as tennis club, swimming club, or archery club, but excluding commercial amusement enterprises.
 - j. Private school offering curricula similar to public school
 - k. Public utility facility
 - l. Day Care Center
 - m. Day Care Group Home
 - n. Accessory residential units in conjunction with a single-family dwelling
 - o. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but

not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks.

3. Lot size and width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in an R-L zone shall be as follows:

- a. The minimum lot areas shall be:
 - (i) R-L-A 6,000 square feet
 - (ii) R-L-B 8,500 square feet
 - (iii) R-L-C 20,000 square feet
 - (iv) Accessory Residential Unit: shall not exceed one per single-family unit; maximum size is 1,000 square feet or no more than 50% of the gross floor area of the primary residence; at least one unit shall be owner occupied; each accessory unit shall have one (1) additional off-street parking space; the primary heat source shall be electric or gas, not wood; existing accessory units will not be “grandfathered; but, can be legalized by applying for a Conditional Use Permit
- b. The minimum lot width at the front lot line shall be:
 - (i) R-L-A 60 feet for an interior lot
 - (ii) R-L-A 70 feet for a corner lot
 - (iii) R-L-B 80 feet
 - (iv) R-L-C 85 feet
- c. The maximum lot length shall be three times the width.

4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 5.100 and 7.010, in an R-L zone yards shall be as follows:

	R-L-A	R-L-B	R-L-C
a. Front yard	20'	20'	30'
b. Side yard (except as below)	5'	5'	10'
c. Side yard adjacent to a street 15'	15'	15'	
d. Rear yard	10'	15'	20'

- e. No structure shall be located closer than forty (40) feet from the center line of a street other than an alley.
- 5. Building height. Except as provided in Sections 5.020, 5.110 and 7.010, in an R-L zone no building shall exceed the height of thirty (30) feet.
- 6. Parking. Refer to Section 5.040.
- 7. Screening. Sight obscuring fences or hedges six (6) feet in height are required along property lines that border residential areas for:
 - a. Churches, meetings halls, community halls and general assemblies
 - b. Day Care Center
 - c. Day Care Group Home

RESIDENTIAL MEDIUM DENSITY (R-M)

SECTION 4.030. Residential Medium Density Zone (R-M).

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

- 1. Uses permitted outright. In an R-M zone the following uses and their accessory uses are permitted outright:
 - a. Single-family dwelling
 - b. One manufactured home.
 - c. Two-family dwelling (duplex)
 - d. Triplex
 - e. Fourplex
 - f. Residential home
- 2. Conditional uses permitted. In an R-M zone the following uses and their accessory uses may be permitted subject to the provisions of Article 7.
 - a. A use permitted as a conditional use in an R-L zone
 - b. Nursing home, rest home, retirement home, convalescent hospital or home, or similar facility
 - c. Mobile home parks, subject to Section 5.200

- d. Residential facilities to include: residential care facility, residential training facility and residential treatment facility.
3. Lot size and width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in an R-M zone shall be as follows:
 - a. The minimum lot area and width standards which apply in an R-L-A zone shall apply in an R-M zone.
 - b. The minimum lot area per dwelling unit shall be as follows:
 - (i) One dwelling unit on 6,000 square feet.
 - (ii) Two dwelling units on 9,000 square feet.
 - (iii) Three dwelling units on 14,000 square feet.
 - (iv) Four dwelling units on 18,500 square feet.
 4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 5.100 and 7.010, in an R-M zone yards shall be as follows:
 - a. The front yard shall be a minimum of fifteen (15) feet.
 - b. Each side yard shall be a minimum of five (5) feet from any portion of the building for one-story buildings, and fifteen (15) feet for two or more story buildings.
 - c. The street side yard shall be a minimum of fifteen (15) feet.
 - d. The rear yard shall be a minimum of ten (10) feet for one-story buildings.
 - e. No structure shall be located closer than forty (40) feet from the center of the lot.
 5. Building height. Except as provided in Sections 5.020, 5.100 and 7.010, in an R-M zone no building shall exceed a height of thirty (30) feet.
 6. Parking. Refer to Section 5.040.
 7. Screening. Sight obscuring fences or hedges six (6) feet in height are required along property lines that border residential areas for:
 - a. Churches, meetings halls, community halls and general
 - b. Day Care Center
 - c. Day Care Group Home
 - d. Residential Facility

RESIDENTIAL HIGH DENSITY (R-H)

SECTION 4.040. Residential High Density Zone (R-H).

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

1. Uses permitted outright. In an R-H zone one of the following uses and its accessory uses are permitted outright:
 - a. A use permitted outright in an R-M zone
 - b. Duplex, triplex, or fourplex
 - c. Multi-family dwellings
 - d. Residential home
2. Conditional uses permitted. In an R-H zone the following uses and their accessory uses may be permitted subject to the provisions of Article 7:
 - a. A use permitted as a conditional use in an R-L zone
 - b. Clinic
 - c. Mobile home park, subject to Section 5.200
 - d. Mortuary
 - e. Professional office
 - f. Residential facilities to include: residential care facility,
training facility, and residential treatment facility
3. Lot size and width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in an R-H zone shall be as follows:
 - a. The minimum lot area and width standards which apply in an R-M zone shall apply
 - b. The minimum lot area per dwelling unit shall be 2,500 square feet for un
4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 5.100 and 7.010, in an R-H zone yards shall be as follows:
 - a. The front yard shall be a minimum of fifteen (15) feet.
 - b. Each side yard shall be a minimum of five (5) feet from any portion of the building for one story buildings and fifteen (15) feet for two or more story buildings.
 - c. The street side yard shall be a minimum of fifteen (15) feet.

- d. The rear yard shall be a minimum of ten (10) feet for one story buildings, and fifteen (15) feet for two or more story buildings.
 - e. No structure shall be located closer than forty (40) feet from the center
5. Building height. Except as provided in Section 5.020, 5.110 and 7.010, in an R-H zone no building shall exceed a height of thirty-five (35) feet.
 6. Parking. Refer to Section 5.040.
 7. Screening. Sight obscuring fences or hedges six (6) feet in height are required along property lines that border residential areas for:
 - a. Churches, meetings halls, community halls and general assemblies
 - b. Day Care Center
 - c. Day Care Group Home
 - d. Residential Facility

PUBLIC RESERVE ZONE (P-R)

SECTION 4.050. Public Reserve Zone (PR).

In a Public Reserve zone the following regulations shall apply:

1. Purpose. The Public Reserve classification is intended to establish districts within which a variety of public service activities may be conducted without interference from inappropriate levels of residential, commercial, or industrial activities. It is intended to be applied primarily, though not exclusively, to publicly owned lands.
2. Uses Permitted Outright. In a Public Reserve zone the following uses and their accessory uses are permitted outright:
 - a. Farm uses
 - b. Parks, playgrounds, campgrounds, boating activities, golf courses, lodges
 - c. Public and private schools
 - d. Churches
 - e. Cemeteries
 - f. Hospitals, residential facilities, and nursing homes

- g. Fish and wildlife management
 - h. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks.
 - i. Single-family dwellings that are accessory to, and necessary for, a use pe
3. Conditional Uses Permitted. In the Public Reserve zone, the following uses and their accessory uses may be permitted subject to the provisions of Article 7:
- a. Quarry gravel pit or mining
 - b. Beekeeping
 - c. Other uses later deemed by the Planning Commission to be conditional
4. Lot Size and Width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in any Public Reserve zone shall be as follows:
- a. The minimum lot area shall be six thousand (6,000) square feet.
 - b. The minimum lot width at the front building line shall be sixty (60)feet.
5. Yards. Except as provided in Sections 5.020, 5.050, 5.080, and 7.010, in a Public Reserve zone yards shall be as follows:
- a. No structure shall be located closer than thirty (30) feet from the center line of a street, other than and alley, which has a right-of-way width of less than sixty (60) feet.
 - b. All yards abutting a lot in a Public Reserve zone shall be a minimum of ten(10) feet.
 - c. For corner lots, see Section 5.030, Clear-Vision Areas.
6. Building Height. Except as provided in Sections 5.020, 5.110, and 7.010, in a Public Reserve zone, no building shall exceed a height of thirty-five (35) feet.
7. Parking. Refer to Section 5.040.

SPECIAL HISTORIC COMMERCIAL ZONE (C-SH)

SECTION 4.110. Special Historic Commercial Zone (C-SH). In a C-SH zone the following regulations shall apply:

1. Purpose. To maintain the commercial uses of recognized historic areas and preserve their character.
2. Procedure. No building or structure shall be erected, altered or moved which is designated Special Historic Commercial without first obtaining specific approval of the City Planning Commission. The decision of the Planning Commission may be appealed as provided in Article 11.
3. Criteria. In reviewing such proposals the following shall be considered:
 - a. Uses of buildings shall be compatible with the nature of the historic site and surrounding area.
 - b. Rehabilitation, remodeling or movement of buildings should not alter t
 - c. Repair of architectural features or replacement with similar features shall be encouraged.
 - d. Review shall include uses, building and parking locations, site layout
4. Uses permitted outright. In a C-SH zone the following uses and their accessory uses are permitted outright:
 - a. A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor business building and if the following conditions are met:
 - (i) There shall be parking designated for the exclusive use of residents only, in an amount as specified in Section 5.040.
 - (ii) For each residential unit, there shall be yard, patio, or other private open space of at least 100 square feet, with a minimum dimension of seven (7) feet in any direction.
 - b. Car wash
 - c. Automobile, boat, truck, or trailer sales, service, or repair, provided that all repair shall be conducted entirely within an enclosed building.
 - d. Bakery

- e. Commercial amusement or recreation establishment including uses such as bowling alley, theater, pool hall, or miniature golf course, but excluding establishments such as race tracks or automobile speedways.
- f. Financial institution
- g. Gift or souvenir shop
- h. Motel or hotel
- i. Restaurant
- j. Tavern, nightclub, cocktail lounge
- k. Barber or beauty shop
- l. Bus station, taxi stand
- m. Clinic
- n. Club, lounge, fraternal organization
- o. Drug store
- p. Food store.
- q. Laundromat
- r. Museum, art gallery, or similar facility
- s. Office
- t. Parking lot
- u. Implement, machinery, and heavy equipment sales and service
- v. Mortuary
- w. Newspaper office
- x. Tire sales and repair (not including tire recapping) provided that all repair shall be conducted entirely within an enclosed
- y. Upholstery shop
- z. The following uses provided that all business, service, storage,

building

- (i) Veterinarian, animal hospital
- (ii) Lumber or building materials sales and storage
- (iii) Contractor's office and storage

5. Conditional uses permitted. In a C-SH zone, the following uses and their accessory uses may be permitted subject to the provisions of Article 7:

- a. Boat moorage or launching facility
- b. Cabinet or similar woodworking shop
- c. Church, non-profit religious or philanthropic institution
- d. Golf course
- e. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, wastewater treatment plants and parks.
- f. Hospital, nursing home, rest home, retirement home, or similar facility
- g. Public utility facility

6. Lot size and width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in any C-SH zone shall be as follows:

- a. The minimum lot areas shall be six thousand (6,000) square feet.
- b. The minimum lot width at the front of the building line shall be sixty (60) feet.

7. Yards. Except as provided in Sections 5.050, 5.080 and 7.010, in a C-SH zone y

- a. No structure shall be located closer than thirty (30) feet from the center line of a street, other than an alley, which has a right-of-way width of less than sixty (60) feet.
- b. All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minimum of ten (10) feet.
- c. For corner lots, see Section 5.030, Clear-Vision Areas.

8. Building height. Except as provided in Sections 5.020, 5.110 and 7.010, in a C-SH zone no building shall exceed a height of thirty-five (35) feet.

9. Parking. Refer to Section 5.040.

OFFICE-PROFESSIONAL COMMERCIAL ZONE (C-OP)

SECTION 4.120. Office-Professional Commercial Zone (C-OP). In a C-OP zone the following regulations shall apply:

1. Uses Permitted Outright. In a C-OP zone the following uses and their accessory uses are permitted:
 - a. A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor of a business and if the following conditions are met:
 - (i) There shall be parking designated for the exclusive use of residents only, in an amount as specified in Section 5.040.
 - (ii) For each residential unit, there shall be a yard, patio, or other private open space area of at least one hundred (100) square feet with a minimum dimension of seven (7)feet in any direction.
 - b. Professional offices, including banks and financial institutions, doctor, dentist, insurance, and utility offices.
2. Conditional uses permitted. In a C-OP zone, the following uses and their accessory use
 - a. Hospitals
 - b. Schools
 - c. Churches
 - d. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks.
3. Lot size and width. Except as provided in Sections 5.090 and 7.010, the minimum lot size and width in a C-OP zone shall be as follows:
 - a. The minimum lot area shall be six thousand (6,000) square feet.
 - b. The minimum lot width at the front of the building line shall be six
4. Yards. Except as provided in Sections 5.020, 5.050 and 7.010, in a C-OP zone yards shall be as follows:
 - a. Front yard – 0

- b. Side yard – 0
 - c. Rear yard – 0
 - d. No structure shall be located closer than thirty (30) feet from the center line of a street, other than an alley, which has a right-of-way width of less than sixty (60) feet.
 - e. All yards abutting a lot in any residential zone shall be a minimum of ten (10) feet.
 - f. For corner lots, see Section 5.030, Clear Vision Areas.
5. Building height. Except as provided in Section 5.020, 5.110 and 7.010, and in a C-OP zone no building shall exceed a height of thirty-five (35) feet.
6. Parking. Refer to Section 5.040.

HIGHWAY-COMMERCIAL ZONE (C-H)

SECTION 4.130. Highway - Commercial Zone (H-C). In an H-C zone the following regulations shall apply.

- 1. Uses permitted outright. In a H-C zone the following uses and their
 - a. Hotels and motels
 - b. Restaurants
 - c. Gift or souvenir shops
 - d. Destination resorts
- 2. Conditional uses permitted. In a H-C zone, the following uses and their access
 - a. Service stations providing fuel and minor repair
 - b. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches.
- 3. Lot size and width. Except as provided in Sections 5.090, 7.010, and 7.020, the minimum lot size and width in an H-C zone shall be as follows:
 - a. The minimum lot area shall be fifteen thousand (15,000) square feet.

- b. The minimum lot width at the front building shall be one hundred (100)
4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 7.010, and 7.020, in an H-C zone yards shall be as follows:
 - a. Front – 20 feet
 - b. Side (except as below) – 0 feet
 - c. Side where adjacent to street – 10 feet
 - d. Rear – 0 feet
 - e. No structure shall be located closer than forty (40) feet from the
 - f. All yards abutting a lot in any residential zone shall be a minimum
 - g. For corner lots, see Section 5.030, Clear - Vision Areas.
 5. Building height. Except as provided in sections 5.020, 5.110, 7.010, and 7.020, in an H-C zone no building shall exceed a height of thirty-five (35) feet.
 6. Parking. Refer to Section 5.040.

GENERAL COMMERCIAL (C-G)

SECTION 4.140. General Commercial (C-G). In a C-G zone the following regulations shall apply:

1. Uses permitted outright. In a C-G zone the following uses and their accessory use
 - a. A use permitted outright in the R-H zone provided that family dwellings are permitted only above the ground floor of a business building and if the following conditions are met:
 - (i) There shall be parking designated for the exclusive use of residents only, in an amount specified in section 5.040.
 - (ii) For each residential unit, there shall be a yard, patio, or other private open space of at least one hundred (100) square feet, with a minimum dimension of seven (7) feet in any direction.
 - b. Car wash

- c. Bakery
- d. Bowling alley, theater or miniature golf course.
- e. Financial institution
- f. Gift or souvenir shop
- g. Motel or hotel
- h. Restaurant
- i. Tavern, night club, cocktail lounge
- j. Barber or beauty shop
- k. Bus station, taxi stand
- l. Clinic
- m. Club, lodge, fraternal organization
- n. Drug store
- o. Food store
- p. Laundromat
- q. Museum, art gallery, or similar facility
- r. Office
- s. Parking lot
- t. Implement, machinery, and heavy equipment sales and service
- u. Mortuary
- v. Newspaper office
- w. Tire sales and repair (not including tire recapping), provided that all repairs shall be conducted entirely within an enclosed building.
- x. Upholstery shop
- y. The following uses provided that all business, service, storage, sales, repair, and display shall be conducted entirely within an enclosed building:

- (i) Veterinarian, animal hospital
 - (ii) Lumber or building materials sales and storage
 - (iii) Contractor's office and storage
 - z. Service stations providing fuel and minor repair
2. Conditional uses permitted. In a C-G zone, the following uses and their access
- a. Boat moorage or launching facility
 - b. Cabinet or similar woodworking shop
 - c. Church, non-profit religious or philanthropic institution
 - d. Golf course
 - e. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks.
 - f. Hospital, nursing home, rest home, retirement home, or similar facilit
 - g. Public utility facility
 - h. Manufacturing, assembling, fabrication, processing, packing, storage, or wholesaling use, except for use specified in section 4.220 (2), and except a use declared a nuisance by this ordinance, or by a court of competent jurisdiction.
 - i. Commercial amusement or recreation establishment
 - j. "Mini" storage warehouses
 - k. Automobile, boat, truck, or trailer sales, service, or repair, provided that all repair shall be conducted entirely within an enclosed building
3. Lot size and width. Except as provided in Sections 5.090, 7.010, and 7.020, the minimum lot size and width in any C-G zone shall be as follows:
- a. The minimum lot areas shall be six thousand (6,000) square feet.
 - b. The minimum lot width at the front building line shall be sixty (60)

feet.

4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 7.010, and 7.020, in a C-G zone yards shall be as follows:
 - a. No structure shall be located closer than thirty (30) feet from the center
 - b. All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minir
 - c. For corner lots, see section 5.030, Clear - Vision Areas.
5. Building height. Except as provided in Sections 5.020, 5.110, 7.010, and 7.020, in a C-G zone no building shall exceed a height of thirty-five (35) feet.
6. Parking. Refer to Section 5.040.

SECTION 4.210. Industrial Limited Zone (M-L). In an M-L zone the following regulations shall apply:

1. Uses permitted outright. In an M-L zone the following uses and their accessory uses are permitted outright but not subject to the same limitations which apply to the conduct of business, sales, service, repair, and storage in an enclosed building in an C-G zone:
 - a. Boat moorage or launching facility
 - b. Cabinet or similar woodworking shop
 - c. Commercial amusement or recreation establishment
 - d. Feed and seed store
 - e. Ice or cold storage plant
 - f. Implement, machinery, heavy equipment repair
 - g. Truck terminal, freight depot
 - h. Warehouse
 - i. Welding, sheet metal, or machine shop
 - j. Wholesale establishment
2. Conditional uses permitted. In an M-L zone the following uses and their access
 - a. Family dwellings above the ground floor of a business building and if the following conditions are met:

- (i) There shall be parking designated for the exclusive use of residents only, in an amount as specified in Section 5.040.
 - (ii) For each residential unit, there shall be a yard, patio, or other private open space of at least one hundred (100) square feet with a minimum dimension of seven (7) feet in any direction.
- b. Bulk oil or gas storage facility
 - c. Church, non-profit religious or philanthropic organization
 - d. Community center
 - e. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants and parks
 - f. Public utility facility
3. Lot size and width. Except as provided in Sections 5.090, 7.010, and 7.020, the minimum lot size and width in any M-L zone shall be as follows:
- a. The minimum lot areas shall be fifteen thousand (15,000) square feet.
 - b. The minimum lot width at the front building line shall be one hundred feet.
4. Yards. Except as provided in Sections 5.020, 5.050, 5.080, 5.100, 7.010, and 7.020, in an M-L zone yards shall be as follows:
- a. No structure shall be located closer than thirty (30) feet from the center line of a street, other than an alley, which has a right-of-way width of less than sixty (60) feet.
 - b. All yards abutting a lot in an R-L, R-M, and R-H zone shall be a minimum of ten (10) feet.
5. Building height. Except as provided in Sections 5.020, 5.110, 7.010, and 7.020, in an M-L zone no building shall exceed a height of thirty-five (35) feet.
6. Parking. Refer to Section 5.040.

INDUSTRIAL GENERAL ZONE (M-G)

SECTION 4.220. Industrial General Zone (M-G). In an M-G zone the following regulations shall apply:

1. Uses permitted outright. In an M-G zone the following uses and their accessory uses are permitted outright:

- a. Manufacturing, assembling, fabricating, processing, packing, storage, or wholesaling use except a use specified in Section 4.220 (2) and except a use declared a nuisance by statute, by ordinance, or by a court of competent jurisdiction
- b. Automobile, truck, or trailer sales, service, repair, display, or storage
- c. Boat moorage or launching establishment
- d. Feed and seed stores
- e. Governmental structure or land use
- f. Implement, machinery, or heavy equipment sales, service, repair,
- g. Office
- h. Residence for night watchmen or caretaker
- i. Truck terminal, freight depot
- j. Public utility facility

2. Conditional uses permitted. In an M-G zone the following uses and their accessory uses are permitted:

- a. Acid manufacture
- b. Automobile wreckage yard
- c. Cement, lime, gypsum, plaster of Paris manufacture
- d. Explosives manufacture and storage
- e. Extraction or processing of sand, gravel, or other earth product
- f. Fertilizer manufacture
- g. Gas manufacture
- h. Glue manufacture
- i. Junk yard
- j. Petroleum or petroleum products refining

- k. Pulp mill
 - l. Refuse disposal area
 - m. Rendering plant
 - n. Slaughter house, stockyard
 - o. Smelting or refining of metallic ore
 - p. Public and semi-public buildings, structures and uses essential to the physical, social and economic welfare of the area, including but not limited to fire stations, schools, granges, community halls, water and wastewater treatment plants, parks and churches
3. Lot size and width. Except as provided in Sections 5.090, 7.010, and 7.020, the minimum size and width in any M-G zone shall be as follows:
- a. The minimum lot area shall be one (1) acre.
 - b. The minimum lot width at the front building line shall be one hundred
4. Yards. Except as provided in Section 5.020, 5.050, 5.080, 5.100, 7.010, and 7.020, in an M-G zone yard shall be as follows:
- a. No structure shall be located closer than thirty (30) feet from the center
 - b. All yards abutting a lot in an R-L, R-M and R-H zone shall be a minimum

PLANNED UNIT DEVELOPMENT (PUD)

SECTION 4.310. Planned Unit Development (PUD). The purpose of a Planned Unit Development is to provide a means of creating harmonious planned environments through the application of flexible and diversified land development standards; to encourage the application of new development techniques and technology which will result in superior living or development arrangements; to promote the efficient use of land to facilitate more economic provision of housing, circulation systems, utilities and their maintenance; to promote energy conservation and use of renewable energy resources; to preserve to the greatest extent possible significant landscape features and to utilize such features in a harmonious fashion; and to provide for more usable and suitably located open space and recreation facilities than would otherwise be provided under conventional land development procedures.

The purpose of the Planned Unit Development process is also to provide special site review for development occurring in areas designated in the Comprehensive Plan and Zoning map by a PUD Overlay.

1. Types of PUDs And General Process of Consideration. Planned Unit

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

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

The consideration process shall culminate in the review and

appro'

Factors to be reviewed by the hearings body include the

follow

- (i) Clustered or compact development with open space protection and enhancement.
- (ii) Dedications of land to public for public recreational facilities.
- (iii) Increased density.
- (iv) Architectural design regulation.
- (v) Extraordinary landscaping.
- (vi) Amenities and design for the special needs of children, the elderly, the handicapped or disadvantaged persons.
- (vii) Recreational and cultural amenities.
- (viii) Urban agriculture/silviculture production.
- (ix) Low-cost housing programs.
- (x) Traffic and parking regulation and provisions.

- xi. Energy conservation enhancement.
 - (xii) Special protection of environmentally sensitive areas and historical and natural resources on-site and those off-site.
 - (xiii) Development of uses not normally permitted in the zoning district(s) of the subject property.
 - (xiv) Structure height, setbacks and lot coverage.
 - (xv) Lot area and dimension.
- b. P.U.D.s involving the development without land division or condominium on property whose nature and/or location have been determined by designation in the Comprehensive Plan and/or Zoning map to be of a sensitive nature with an acknowledged potential for adverse impacts on surrounding properties or uses, either directly adjacent or in the general vicinity, and/or on the community in general. The process in this instance is substantively a special site review with public hearing.

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

Factors to be reviewed by the hearings body include the following:

- (i) Screening and buffering of sight, access, noise, light, vibration, etc., from neighboring properties, uses and rights-of-way.
- (ii) Protection of significant landscape features and historic and natural resources.
- (iii) Traffic and parking regulation.
- (iv) Enhancement of storm drainage facilities.
- (v) Uses not normally permitted by the zoning.
- (vi) Extraordinary landscaping.
- (vii) Structure height, setbacks and lot coverage.

2. Definitions. The following definitions apply only to the Planned Unit Essential Improvements. Public and/or private streets and other improved

Gross Acreage. The acreage of the entire P.U.D., less the acreage devoted to public streets, public or semi-public building, kindergarten or day-care uses.

Landscape Features. Natural features of the P.U.D. Site, including waterways, wetlands, rock outcroppings, forest areas and significant wildlife habitat areas.

Net Acreage. The acreage of the P.U.D. Devoted to residential use, including residential building sites, private open space and private streets and driveways.

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

Common Open Space. Open space reserved primarily for the leisure and recreational use of all P.U.D. Residents, and owned and maintained in common by them through a homeowners association or other legal arrangement.

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

Public Open Space. Open space dedicated in fee to a public agency and

3. P.U.D. Preliminary Development Plan Application and Approval
 - a. An application for PUD preliminary development plan approval shall be initiated as provided in Article 11 of this Ordinance.
 - b. The PUD preliminary development plan shall consist of the following:

Written Documents

- (i) A legal description of the total site proposed for development, including a statement of present and proposed ownership and present zoning, or any proposed zoning.
- (ii) A statement of planning objectives to be achieved by the PUD through the particular approach proposed by the applicant. This statement should include a description of

the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant landscape features of the site and adjacent areas, and the rationale behind the assumptions and choices made by the applicant.

- (iii) A development schedule indicating the approximate date when construction of the PUD or stages of the PUD can be expected to begin and be completed.
- (iv) A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the P.U.D., such as land areas, dwelling units, commercial and industrial structures, etc.
- (v) Information regarding the establishment of a property owners association or other similar entity, if any common space or facilities are contemplated.
- (vi) Quantitative data for the following: Total number and type of dwelling units; parcel sizes; proposed lot coverage of buildings and structures; approximate gross and net residential acreage; total amount of open space; amounts of private, common and public open space; total area and types of nonresidential construction; economic feasibility studies or market analysis where necessary to support the objectives of the development.
- (vii) Proposed covenants, if any.

Site Plan and Supporting Maps. A site plan and any maps

neces:

- (i) The existing site conditions, including contours at five-foot intervals, water courses, floodplains and other areas subject to natural hazards, significant landscape features and forest cover.
- (ii) Proposed lot lines and layout design.
- (iii) The location and floor area size of all existing and proposed buildings, structures and other improvements, including maximum heights, types of dwelling units, and non-residential structures, including commercial and industrial facilities, and elevation plans of major structures. Major structures do not include single-family and two-family dwellings.
- (iv) The location and size in acres or square feet of all areas to be conveyed, dedicated or reserved as common or public

open spaces or recreational areas, school sites and similar public and semi-public uses.

- (v) The existing and proposed circulation system of arterial, collector and local streets, including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way. Notations of proposed ownership--public or private--should be included where appropriate.
 - (vi) The existing and proposed pedestrian and bicycle circulation system, including its interrelationships with the vehicular circulation system indicating proposed treatment of points of conflicts.
 - (vii) The existing and proposed system for providing sewage disposal, water, electricity, gas, fire protection and telephone services.
 - (viii) A general schematic landscape plan indicating the technique and materials to be used for private, common and public open spaces.
 - (ix) A preliminary subdivision or partition plan if the land is to be divided, including all information required for the filing of a preliminary subdivision or partition plan as specified in Ordinance No. 290, Subdivision and Partition Regulations and Procedures.
 - (x) Enough information on land areas adjacent to the proposed P.U.D., including land uses, zoning classifications, densities, circulating systems, public facilities and significant landscape features, to indicate the relationships between the proposed development and the adjacent areas.
 - (xi) The proposed treatment of the perimeter of the P.U.D., including materials and techniques to be used, such as landscaping, screens, fences and walls.
4. The approving authority shall approve the PUD preliminary development plan if it finds:
- a. The proposed PUD is consistent with applicable Comprehensive Plan goals, policies and map designations, and with the purpose set forth in Section 4.310 of this Ordinance.
 - b. The preliminary development plan meets the development standards of Section 4.310 of this Ordinance.

- c. If the preliminary development plan provides for phased development, pursuant to Sections _____ of this Ordinance, that each phase meets the standards of Section _____, and that the applicant has the capability to obtain final development plan approval in the time limits imposed.
- d. Exceptions from the standards of the underlying zone district or from the quantitative requirements of Ordinance No. 290, Subdivision and Partitions, are warranted by amenities and other design features of the PUD furthering the purpose of Section 4.310 of this Ordinance.
- e. Any conditions or modifications imposed by the approving authority in the preliminary development plan approval are necessary to meet the requirements of Section _____ to _____, to further the purposes of Section 4.310 of this Ordinance, or to comply with the Comprehensive Plan.

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5. Standards and Criteria for PUD Development in Non-Residential Districts
PUDs in non-residential districts shall be developed to standards applied the approving authority pursuant to Section 4.310 and 4.310.1 of Ordinance.

6. Standards and Criteria for PUD Development in Residential Districts
A PUD must meet the development standards of this subsection and those Ordinance.

a. Minimum Site Size. A parcel to be developed as a PUD in any residential district shall be of such a size that at least four (4) dwelling units would be permitted by the underlying district.

7. Permitted Uses. The following uses are permitted subject to the general standards of the Planned Unit Development section of this Ordinance:

a. Residential Uses. Single-family dwellings, duplexes, mobile homes conforming to the standards established in Section 5.300 of this Ordinance, multi-family dwellings, including townhouses, row houses, apartments and condominiums and accessory buildings such as garages, storerooms, woodsheds, hobby shops, laundries, playhouses, or similar and related uses may be permitted.

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

- c. Other Uses. If designed to serve primarily the residents of a PUD, the following uses may be permitted. If designed to serve residents of adjacent areas, as well, the following uses may be permitted by the approving authority if it finds that such use is consistent with the purposes of Section 4.310 of this Ordinance and with the surrounding zone district:
 - (i) Public and semi-public buildings, including schools, churches, libraries, community centers, fire stations, pump stations and substations.
 - (ii) Park, playground or golf course.
 - (iii) Privately-operated kindergartens or day nurseries.

- 8. Density Criteria
 - a. Basic Allowable Density. The number of dwelling units in a PUD shall not exceed the number that would be allowed on the gross acreage of the site by the Comprehensive Plan Land Use Designation, except that the Commission may allow an increase of up to 15 percent (15%) if it finds that such increase is compensated by the provision of amenities described in Section 4.310.1(a) and can be reasonably accommodated on the site without adversely affecting public facilities, significant landscape features, or properties and uses in the vicinity.

- 9. Lot Sizes.
Where lots are proposed, size and shape shall be determined with consideration given to the types of structures contemplated and the privacy and safety needs of the residents. Appropriateness shall be demonstrated.

- 10. Building Spacing and Yard Requirements.
 - a. General Requirements. A preliminary development plan shall provide for reasonable light, ventilation, safety separation and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise. High-rise buildings shall be located with a P. U. D. In such a way as to avoid adverse impact on neighboring low-rise buildings and shall not invade the privacy of the occupants of such low-rise buildings.

 - b. Yard Requirements - Detached Dwellings. Yard requirements (setbacks) for detached dwellings in a PUD Shall be as established by the applicable zoning district, except that one side yard may be reduced or eliminated, provided the adjoining side yard of the

abutting lot shall be increased by an amount equal to the reduction, or by fifty percent (50%) over the minimum side yard requirement of the applicable zoning district, whichever is less.

- c. Yard Requirements - Attached Dwellings. Yard requirements for attached dwellings in a PUD shall be as established by the applicable zoning district, except that two single-family dwellings may be attached along one common lot line and may also have a garage or carport attached along the same common line, provided the conditions of Section 4.350(5) are satisfied.

- d. Front Yard Variation. In a PUD, front yards may be varied so as to facilitate a staggered effect to avoid monotony and enhance the aesthetics of the development, provided the following requirements are met:
 - (i) The average front yard of no more than every three consecutive dwellings along a street shall be no less than the minimum requirement of the applicable zoning district, and in no case shall a front yard be less than ten (10) feet.

 - (ii) Front and side yards of corner lots shall not be varied under the provisions of the Planned Unit Development section of this Ordinance if such variation would result in encroachment into the required clear vision area otherwise established by this Ordinance.

- e. Zero Lot Line Development.
 - (i) Zero lot line development shall only be permitted in a Planned Unit Development approved pursuant to the provisions and standards set forth in the Planned Unit Development section of this Ordinance.

 - (ii) All lots utilizing zero lot line shall be clearly identified on the development plan. Once approved, such specified lots shall be considered fixed and shall not be transferable except as proved in Section

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

 - (iv) In addition to the declaration of covenants and restrictions otherwise required by the Planned Unit Development section of this Ordinance, the applicant or developer shall prepare special deed restrictions that run with each lot to be approved for zero lot line development. Such special deed

restrictions shall be acceptable to the approving authority, and shall make provision for the following:

- (a) Assurance that the lots and the dwellings thereon will be used for residential purposes only.
- (b) Provisions for the repair and maintenance of the lots, the dwellings thereon, and all related facilities, as well as a method of fair payment for such repairs and maintenance.
- (c) Provisions for mutual consent prior to making structural, paint or decorative changes to the building exterior, as well as the location, height and design of fencing and major landscape work.
- (d) Provisions for equitably resolving liens filed against areas of common responsibility or interest.
- (e) Provisions granting access or easement to each owner for the purpose of maintaining or repairing the lots, the dwellings located thereon, and related facilities and improvements.
- (f) Provisions for liability and equitable treatment in the event of damage or destruction of the building due to fire or other casualty.
- (g) Provision for emergency action by one party in the absence of the other where an immediate threat exists to the property of the former.

Such special deed restrictions, when accepted by the approving authority, shall be filed with the County Clerk, and shall become perpetual deed restrictions running with the subject lots. No building permit shall be issued for zero lot line development until the deed restrictions required

by thi:

- f. Special Setbacks. If the approving authority finds it necessary to meet the perimeter design standards of Section 4.350(9), it may require a special setback from all or a portion of the perimeter of the PUD.

11. Open Space

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

- b. Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purpose of the P.U.D. Unless the approving authority requires otherwise to meet the environmental design standards of Section 4.350 (7), common or public open space shall be distributed equitably throughout the PUD in relation to the dwelling units of the residents they are intended to serve.
- c. Open spaces shall be altered only to the extent necessary for their intended use or as otherwise reasonably necessary to permit development, use and maintenance of the PUD open spaces containing significant landscape features shall be left unimproved, or may be improved to assure protection of the features, subject to the requirements imposed by the approving authority pursuant to 4.350(6).
- d. The development schedule required by Section 4.330(2)(a)(3) shall provide for coordination of the improvement of open spaces with the construction of other proposed site improvements.
- e. The approving authority shall require that the applicant assure the permanent maintenance of the common or public open space in a manner provided for by ORS 94.550 to 94.780.

12. Environmental Design

- a. The preliminary development plan shall provide, to the greatest extent possible, for the preservation of significant landscape features, historic sites and landmarks, and for the integration of the proposed development with the environmental characteristics of the site and adjacent areas. The approving authority may require that significant landscape features and historical sites be preserved as part of the common or public open space of the project.
- b. Excessive site clearing of topsoil, trees and natural features before the commencement of construction operations shall be discouraged. The approving authority may require the applicant to submit a grading plan detailing proposed excavation, earth-moving procedures, and other changes to the landscape, in order to ensure preservation of the character of the area to be retained in open space.
- c. Sites or residential and non-residential buildings shall be discouraged in areas of natural hazards, such areas subject to flooding, landslides and areas with unstable soil formations. The approving authority may require that all floodplains be preserved as permanent common or public open space of the proposed development and be left unimproved or improved to assure minimization of the hazard.

- d. All slopes shall be planted or otherwise protected from the effects of storm runoff erosion and shall be of a character to cause the slope to blend with the surrounding terrain and development. The applicant shall provide for maintenance of the planting for a period of time established by the approving authority.
 - e. Preliminary development plans are encouraged to promote the conservation of energy and use of solar or other renewable energy resources through such factors as the location and extent of site improvements, the orientation and exposure of buildings and usable open spaces, the types of buildings and the selection of building materials.
13. Traffic Circulation.
The location and number of points of access to the site, the interior circulation pattern of streets and pedestrian ways, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and uses shall be designed to maximize safety and convenience and be compatible with neighboring road systems, buildings and uses. Design of facilities shall be appropriate to the anticipated usage and shall be approved by the Director of Public works.
14. Perimeter Design
- a. The preliminary development plan shall minimize adverse impacts of proposed uses and structures in the PUD on existing and anticipated uses and structures in the adjacent area.
 - b. If topographical or other barriers do not provide reasonable privacy and the mitigation of potential adverse impacts on existing uses adjacent to the development, the approving authority shall require one or more of the following:
 - (i) A special setback or setbacks of residential and nonresidential structures located on the perimeter, sloping of abutting lots to provide on-site drainage and view retention of existing structures.
 - (ii) Residential and nonresidential structures located on the perimeter of the development be screened by fencing, landscaping or other natural or man-made materials.
15. Development Phasing
- a. The applicant may provide in the preliminary development plan for development of the project up to three (3) phases.

- b. In acting to approve the preliminary development plan, the approving authority may require that development be completed in up to three specific phases, if it finds that existing public facilities would not otherwise be adequate to serve the entire development.
- c. If the preliminary development plan provides for phased development, each phase shall provide a suitable share of the development facilities and amenities, as approved by the approving authority.
- d. If the preliminary development plan provides for phased development, the approving authority shall establish time limitations for the approval of final development plans for each phase, except that the final development plans for the first phase must be approved within twelve (12) months of the date of preliminary approval.

16. Duration of P.U.D Preliminary Development Plan Approval

- a. Approval of the preliminary development plan shall be valid for twelve (120 months from the date of approval, provided that if an approved preliminary development plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to the time limitations of Section 4.360(4) of this Ordinance.
- b. If any time for obtaining final development plan approval is exceeded, the approved preliminary development plan, or phase of the preliminary development plans and any subsequent phase, shall be void. Any subsequent proposal by the applicant for planned development of the subject property shall be deemed a new action.

17. Extension of P.U.D. Preliminary Development Plan Approval

- a. An applicant may request an extension of preliminary development plan approval, or, if the preliminary development plan approval with respect to the phase the applicant is then developing.
- b. Such request shall be considered an application for administrative action, and shall be submitted to the City Administrator or his designee in writing, stating the reasons why an extension should be granted.
- c. The City Administrator may grant an extension of up to twelve (12) months of preliminary development plan approval, or, if the preliminary development plan provides for phased development, an extension of up to twelve (12) months of a preliminary development plan approval with respect to the phase then being developed, if he determines that a change of conditions, for which

the applicant was not responsible, would prevent the applicant from obtaining final development plan approval within the original time limitation.

18. Improvement Procedures

The design and installation of improvements to be dedicated to the public shall conform to the standards of Section 18 of the Ordinance No. 290, the Subdivision Ordinance.

19. P.U.D. Final Development Plan Approval

a. Within twelve (12) months of the date of approval of the preliminary development plan, unless otherwise specified pursuant to Sections 4.360 and 4.380 of this Ordinance, the applicant shall submit a final development plan, prepared by an Oregon registered professional engineer, and supporting documents to the City Administrator or his designee.

b. The final development plan shall include:

- (i) The site plan and maps submitted pursuant to Section 4.330(2) in their final, detailed form.
- (ii) The documents submitted pursuant to Section 4.330(2)(a) amended to incorporate any conditions imposed on the preliminary development plan approval.
- (iii) Final subdivision plat or partition map, if the land is to be divided.
- (iv) Declaration of creation of a planned community as required by ORS 94.550 to 94.780.
- (v) Certification by the Public Works Superintendent that public improvements have been installed conformance with applicable standards.

20. Acceptance of Improvements

a. Before approval of the final development plan, the applicant shall install the essential improvements required by the preliminary plan approval and repair existing streets and other public facilities damaged in the development of the P.U.D. The applicant may enter into an agreement with the property owners association, if one is incorporated, to construct non-essential improvements after approval of the final development. Such agreement shall specify the time period within which the required improvements will be completed. Such agreement is subject to the approval of the

approving authority and shall be accompanied by an assurance as specified in Section 4.391(4).

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

21. Performance Bond for Non-Essential Improvements

- a. To assure full performance of the improvement agreement, an applicant shall file one of the following:
 - (i) A surety bond executed by a surety company authorized to transact business in the State of Oregon on a form approved by the Governing Body; or,
 - (ii) A cash deposit with the property owners association.
- b. Such assurance of full and faithful performance shall be for a sum determined by the Public Works Superintendent to be sufficient to cover the cost of the improvements and repairs that may be required prior to approval of the final plan, including related engineering, and may include an additional percentage as determined by the Public Works Superintendent to cover any inflationary costs which may be incurred during the construction period to the full and final completion of the project.

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

- a. The applicant has submitted all information and documents required pursuant to Section 4.391(2),(3) and (4); and,
- b. The final development plan is in substantial compliance with the approved preliminary development plan and any conditions imposed by the approving authority. Substantial compliance means that any differences between the final and preliminary plans are “minor amendments”, as defined in Section 4.392(1) of this Ordinance.

23. Filing and Recording of Final Development Plan

- a. After final development plan approval, the applicant shall submit without delay the final development plan for signatures of the following officials in the order listed:

- (i) Planning Commission Chair;
 - (ii) City Administrator;
 - (iii) Surveyor, in accordance with the provisions of ORS 92.100;
 - (iv) Assessor; and,
 - (v) County Clerk.
24. The approved final development plan shall be recorded in the County Clerk's Office within thirty (30) days of the date of approval.
25. Amendments To Approved Preliminary and Final Plans
- a. Definitions.
 - (i). "Minor amendment" means a change which:
 - (a) Does not increase residential densities;
 - (b) Does not enlarge the boundaries of the approved plan;
 - (c) Does not change any use;
 - (d) Does not change the general location or amount of land devoted to a specific land use, including open space;
 - (e) Does not eliminate the preservation of a significant landscape feature; and,
 - (f) Includes only minor shifting of the location of buildings, proposed public or private streets, pedestrian ways, utility easements or common or public open spaces.
 - b. "Major amendment" is any change which does not meet the definition of a "minor amendment".
 - c. A minor amendment to an approved preliminary or final development plan may be approved ministerially by the City Administrator or his designee.
 - d. A major amendment to an approved preliminary or final development plan shall be considered a quasi-judicial action, subject to the provisions of Article 11 of this Ordinance.

STEEP SLOPE OVERLAY (SSO)

SECTION 4.400. Purpose. This Steep Slopes Overlay Zone (SSO) is intended to ensure that development on lands of steep or hazardous slopes is done without causing danger to life or property either on or adjacent to such development.

1. Designation.

Lands designated with this overlay include areas twenty-five (25) percent or

2. Requirements.

Any permit requesting for a building or structure on land designated as Steep conjunction with the slope of the proposed building site to support the buildings, structures and accompanying roads, driveways and excavations. The Planning Commission and the City Council shall consider the report and other material when reviewing a permit request in an area zoned Steep Slopes Overlay. [Sec. 4.042 added by Ord. 327, Sec.3, passed Nov. 1, 1982.]

3. Procedure. The Planning Commission at a public hearing shall consider the submitted report, application materials, any testimony offered, and any other permanent material. If the Planning Commission determines that the application is in accord with the purpose of this overlay zone, it shall approve, with or without conditions, the permit requested. The procedure for review and appeal shall be as prescribed in Article 11 of City Ordinance 289, Zoning Ordinance.

LARGE LOT OVERLAY (LLO)

SECTION 4.500. PURPOSE. This large lot overlay zone is intended to be used in combination with another zone to protect lands in and around Wildlife Safari from potentially harmful development impacts associated with more intense urban uses by maintaining a fifty (50) acre minimum lot size.

SECTION 4.501. DESIGNATION. Lands designated with this overlay include areas around Wildlife Safari where more intense development may pose a threat to the economic and environmental well-being of the City of Winston and Wildlife Safari.

SECTION 4.502. REQUIREMENTS. Lots designated within a Large Lot overlay zone must maintain a minimum lot size of fifty (50) acres, subject to the conditions of Section 5.090 of the this Ordinance. All other requirements of the zone used in combination with the Large Lot Overlay zone shall remain in effect.

SECTION 4.503. PROCEDURE. The procedure for review and appeal of any action by the planning commission regarding interpretation or enforcement of the requirements of this zone shall be as prescribed in Article 11 of this Ordinance.

ARTICLE 5. SUPPLEMENTARY PROVISIONS

SECTION 5.010. Access. Every lot shall abut a street, other than an alley, for a width of at least twenty-five (25) feet.

SECTION 5.020. General Provisions Regarding Accessory Uses. An accessory use shall comply with all requirements for a principal use, except as this ordinance specifically allows to the contrary, and shall comply with the following limitations:

1. In all zones, fences and walls may be located within required yards, but shall not exceed four (4) feet in height in the required front yard. No fence or wall shall exceed six (6) feet in height.
2. Regardless of the side and rear yard requirements of the zone, an accessory structure in a residential zone may be built to within five (5) feet of a side or rear lot line provided the structure is more than sixty-five (65) feet from the street abutting the front yard and twenty (20) feet from the street abutting the street side yard, provided the structure is detached from all other buildings by ten (10) feet or more, and provided the structure does not exceed a height of fifteen (15) feet and an area of six hundred (600) square feet.
3. Boats, trailers, pickup campers or coaches, motorized dwellings, and similar recreational equipment may be stored, but not occupied, on a lot as an accessory use to the dwelling provided that:
 - a. Parking or storage in a front yard or in a street side yard shall be permitted only on a driveway.
 - b. Parking or storage shall be at least three (3) feet from an interior side or rear lot line.
4. A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.
5. A single-family dwelling may be permitted as an accessory use to a use permitted in the Commercial or Industrial zones, provided it is located in the main building.

SECTION 5.030. Clear-Vision Areas. In all residential zones a clear-vision area shall be maintained on the corners of all property at the intersection of two streets. However, the provisions of this section shall not apply to any of the following:

- a. a public utility pole; or,

- b. an official street sign, warning sign or signal.
1. A clear-vision area shall contain no planting, fence except for chain link or woven wire fences described below, wall, structure, or temporary or permanent obstruction exceeding three (3) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade. Fences constructed of chain link or woven wire may be allowed exceeding three (3) feet where there is no obstruction in or around the fence, and the fence does not obstruct vision. Trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight (8) feet above the grade. Plantings exceeding three (3) feet may be allowed in a clear-vision area as long as the plantings do not obstruct vision.
 2. In all zones, except as otherwise provided by this Ordinance, a clear-vision area at the intersection of two (2) streets shall consist of a triangular area, two sides of which are lot lines measured from the corner intersections of the street rights-of-way for a distance of twenty (20) feet, or where the rights-of-way have rounded corners, the rights-of-way extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides.
 3. In residential zones, a clear-vision area at the intersection of a street and a driveway shall consist of a triangular area formed by the right-of-way line of a street and the edge of the driveway or other accesses at such intersections and a straight line connecting said right-of-way line and said driveway edge at points which are twenty (20) feet distant from the intersection along the street right-of-way and 10 feet distant from the intersection along the edge of the driveway.

SECTION 5.040. Off-Street Parking Requirements. At the time of erection of a new structure or at the time of enlargement or change in the use of an existing structure, off-street parking spaces shall be provided by the property owner or the developer in accordance with this Section, except as otherwise provided. In an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Section. Where square feet are specified, the area measured shall be the gross floor area open to the public, necessary to the function of the particular use of the property, but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises during the largest shift at peak season, including proprietors.

USE MINIMUM STANDARD

1. RESIDENTIAL
 - a. One, two or three 2 spaces per DU

Family Dwellings	
b. Multi-family Dwelling four (4) or more DU	1 1/2 spaces per DU
c. Rooming or Boarding	1 space for every 2 rooms
d. Manufactured and/or Mobile Home	2 spaces per DU
e. Residential Home	1 space for every 2 rooms
2. COMMERCIAL/RESIDENTIAL	
a. Motel/Hotel	1 space per guest room or suite plus 1 space per each 5 rooms
b. Residential Care Center	1 space per employee including the operator plus 1 space per each 5 beds.
c. RV Park	1 space per unit
3. INSTITUTIONAL	
a. Welfare or Correctional	1 space per 5 beds Institution based on max
b. Residential Facility	1 space per 5 beds based on maximum capacity
c. Hospital	2 spaces per bed based on maximum capacity
4. PLACES OF PUBLIC ASSEMBLY	
a. Church or other place of religious assembly	1 space per 4 seats in the main auditorium based on maximum capacity, or 1 parking space for each 5 occupants based on maximum capacity as calculated under the provision of the Uniform Building Code
b. Library, Reading Room, Museum, Art Gallery	1 space per 300 square floor area plus 1 space per employee

c. Pre-School, Nursery, Day or Child Care Facility, Kindergarten area	2 spaces per off-street loading and unloading
d. Elementary or Junior High	1 space per employee School plus off-street loading and unloading area
e. High School	1 space per employee, plus one space for each 3 students of driving age
f. College; Commercial School	1 space per seat in classrooms, or 1 parking space per occupant as calculated under the provisions of the Uniform Building Code
g. Political, Civic, Social or Labor Organization Meeting	1 space per 4 seats based on maximum Halls capacity or 1 space for each 5 occupants based on maximum as calculated in the Uniform Building Code
h. Other Auditorium, Meeting	1 space per 4 seats maximum capacity or 1 space for each 5 occupants based on maximum calculated in the Uniform Building Code
5. Commercial Recreation	
a. Stadium, Arena, Theater	1 space per 3 seats based on maximum capacity or 1 space for each 5 occupants based on maximum capacity as calculated under the provisions of the Uniform Building Code.
b. Bowling Alley	5 spaces per lane plus 1 per employee
c. Dance Hall	1 space per 100 square feet of floor area, plus 1 space per 2 employees.

	d. Skating rink	1 space per 200 square feet of floor area plus 1 space per 2 employees
	e. Swimming pool facility	1 space per 100 square feet of floor area
	f. Racquet court, athletic	1 space per court, plus 1 space per 100 square feet of exercise area
	g. Other indoor recreation	1 space per 100 square feet facility
	h. Outdoor recreation	1 space per 500 square feet of field or recreation area.
6.	COMMERCIAL	
	a. Grocery stores and retail	1 space per 150 trade shopping centers square feet of floor area
	b. Other Retail and Specialty Service	1 space per 300 Store or square feet of floor area
bulk	c. Furniture, appliance or retail	1 space per 500 square feet of floor area
	d. Auto, boat, manufactured home, mobile home, trailer sales	1 space per 1,000 square feet of floor area plus 1 per 2 employees
	e. Bank, Professional Office and Research and Development Laboratory	1 space per 300 square feet of floor area
	f. Medical and Dental Office, Veterinary Clinic and Hospitals	1 space per 200 square feet
	g. Emergency or Urgent Care Clinics	1 space per 100 square feet of floor area
	h. Beauty and Barber Shop or other personal service floor area	1 space per 100 square feet of floor area
floor	i. Restaurant, tavern, bar	1 space per 100 square feet of area

space area,	j. Drive-in restaurant or other drive-in services	1 space per 4 seats or one per 200 square feet of floor whichever is greater
	k. Mortuary, Funeral parlor or Mausoleum	1 space per 4 seats based on on maximum seating capacity as calculated under the Uniform Building Code
plus	l. Ambulance or Rescue Service	1 space per rescue vehicle 1 space per employee
service pumps	m. Repair Garages and Automobile Service Stations	4 parking spaces for each stall and 1 per 2 gasoline
	n. Truck, trailer and auto- mobile rental	1 space per 500 square feet of floor area and 1 space per employee
	o. Private Utility (gas, electric, telephone)	1 space per 500 square feet of floor area plus 1 space per employee
	p. Laundromat and Dry Cleaning Facility	1 space per 300 square feet
on	q. Passenger Transportation Terminal	1 space for each 5 seats based maximum capacity for each
	7. INDUSTRIAL	
	a. Manufacturing establishments	1 space per each 500 square feet floor area
feet 2	b. Storage, Warehouse, Wholesale establishment; rail or trucking freight terminal; truck, trailer or auto storage	1 space per each 500 square of floor area plus 1 space per employees
	c. Building or Specialty Trade Contractor Office or Shop	1 space per 300 square feet of floor area

8. **USES NOT SPECIFIED**

The parking requirements for buildings and uses not set forth herein shall be determined by the City Administrator or his designee, and such determination shall be based upon the requirements for the most comparable building or

SECTION 5.041. OFF-STREET LOADING AND DRIVE-UP USES

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

2. **MERCHANDISE, MATERIALS OR SUPPLIES.** Buildings or structures to be built or substantially altered to receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

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

- a. **Restaurants.** Each lane shall provide a minimum capacity for 8 automobiles.
- b. **Banks.** Each lane shall provide a minimum capacity of 5 automobiles.
- c. **Other Drive-up uses.** Each lane shall provide a minimum capacity for 2 to 8 automobiles, as determined by the Director or his designee.
- d. For purposes of this Section, an automobile shall be considered no less than 18 feet in length. The driveway shall be at least 12 feet wide.

SECTION 5.042. GENERAL PROVISIONS--OFF-STREET PARKING AND LOADING

The provisions and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building permit shall be issued until plans are

presented showing property that is and will remain committed to exclusive use of required off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until the required increase in off-street parking or loading is provided.

SECTION 5.043. PARKING AREA LOCATION

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

1. Parking Area in relation to building. The nearest point of the parking facility shall be no more than 200 feet from the nearest point of the building that such facility is required to serve; and,
2. Parking Area in relation to street block. Such off-street parking facility is located entirely within the same block as the building such facility is required to serve.

SECTION 5.044. PARKING AREA AND DRIVEWAY DESIGN

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

1. Driveway specifications. Groups of three or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley, will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site, but in no case shall two-way and one-way driveways be less than twenty (20) feet and twelve (12) feet wide, respectively, nor shall any driveway have a width in excess of forty (40) feet.
2. Driveway Maneuvering Aisles. Driveways shall be aligned with maneuvering aisles so as to facilitate safe and convenient ingress and egress.

3. Access Grades. Access grades shall not exceed fifteen percent (15%) and shall be graded to allow clearance to pass an automobile eighteen (18) feet in length.
4. Driveway Location in relation to Intersections. Access driveway to loading and service areas, and to parking areas having ten (10) or more spaces, shall be located such that the near edge of such driveway is not less than twenty five (25) feet from the intersection of a side street right-of-way line or the curb return, whichever is nearer.
5. Driveway Location in relation to Lot Lines. Access driveways shall not be located closer than five (5) feet to an interior side lot line, except that common access driveways (not exceeding forty (40) feet in width) to two adjacent properties may be provided at the common lot line when a common driveway agreement is executed on a form provided by the City Administrator or his designee and recorded with the County Clerk.
6. Parking Area Marking. Access driveways to parking areas having ten (10) or more spaces shall be clearly marked to indicate one-way or two-way access. Two-way driveways shall have a painted centerline at least two-and-one-half inches in width and at least ten feet in length beginning at the interior edge of the sidewalk; or, where sidewalks are not present, at a point five feet from the curb line; or, where neither sidewalks or curbs are present, at a point five feet from the edge of the paved street surface.
7. Driveway Location in relation to Adjacent Driveways. One-way driveways to parking areas having ten (10) or more spaces shall not be closer than twenty (20) feet to any other one-way driveway, nor closer than thirty-five (35) feet to any two-way driveway. Two-way driveways to parking area having ten or more spaces shall not be closer than fifty (50) feet from any other two-way driveway, nor closer than thirty-five (35) feet from any one-way driveway.

SECTION 5.045. COMMON PARKING FACILITIES FOR MIXED USES

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

1. Joint Use of Parking Facilities. The City Administrator or his designee may authorize the joint use of parking facilities required by said uses and any other parking facilities, provided that:
 - a. The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities is proposed.

- b. The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have parking facilities.
- c. The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the City Administrator or his designee as to form and content. Such instrument, when approved as conforming to the provisions of this Ordinance, shall be recorded in the office of the County Recorder, and copies thereof filed with the City Administrator or his designee.

SECTION 5.046. PARKING AREA IMPROVEMENTS

- 1. Surfacing. All parking areas, vehicle maneuvering areas and access driveways shall have a durable, dust-free surfacing of asphaltic concrete, Portland cement concrete, brick, or concrete paver blocks. In all residential districts, a minimum of two-and-one-half inches asphalt over four inches of aggregate base will be provided or four inches of Portland cement concrete. In all other districts, either three inches asphalt over four inches aggregate base or a single pavement of five inches of Portland cement concrete is required. All parking areas, except those in conjunction with a single-family or two-family dwelling on a single lot, shall be graded so as not to drain storm water over the public sidewalk or onto any abutting public or private property.
- 2. Perimeter Curb. All parking areas except those required in conjunction with a single-or two-family dwelling shall provide a curb of not less than four (4) inches in height located at a minimum of five (5) feet from any one property line.
- 3. Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area shall be arranged and designed so as to prevent light from adversely affecting any abutting or adjacent residential district.
- 4. Striping. All parking spaces shall be sufficiently marked with painted stripes or other permanent markings acceptable to the City Administrator or his designee and otherwise comply with Section ____ of this Ordinance.
- 5. Wheel Bumper. All parking stalls front a sidewalk, alleyway, street, property line, or building shall provide a secured wheel bumper not less than four (4) inches in height, nor less than six (6) feet in length, and shall be set back a minimum of 2 1/2 feet from the front of the stall.

SECTION 5.047. PARKING PLAN SUBMITTAL REQUIREMENTS

A parking plan, drawn to scale, just accompany site Plan Review applications. Depending on the nature and magnitude of the development, it may be possible to show the needed parking information on the site plan (See Section ____ (site plan review

needs to be added to Zoning Ordinance). The plan must show the following elements in conjunction with the requirements of this Ordinance:

1. Delineation of individual parking spaces, including handicapped accessible parking spaces.
2. Loading areas and docks.
3. Circulation area necessary to serve spaces.
4. Location of bicycle and motorcycle parking areas.
5. Access to streets, alleys, and properties to be served.
6. Curb cuts.
7. Abutting land uses.
8. Grading, drainage, and surfacing details.
9. Location of lighting fixtures.
10. Specifications of wheel bumpers.
11. Proposed number of employees and amount of floor space applicable to the parking requirements for the proposed use.

SECTION 5.048. PARKING AREA SCREENING

All public and private parking areas, including service and access driveways, which abut residentially zoned properties shall be screened along and immediately adjacent to any interior property line. The screening standard shall apply to all parking areas and service drives, except those in conjunction with single and two-family dwellings. The placement of screening shall adhere to the Clear Vision Standards in Section 5.030. Screening shall be located at a distance not more than 5 feet from the interior property line.

1. Minimum Screening Area Requirements. The minimum improvements within a screening area shall consist of the following:
 - a. Screening shall consist of either 1 row of evergreen shrubs which will grow at least 6 feet in height within 1 year of planting or an earth berm combined with specified evergreen plantings which forms a sign and noise buffer at least 6 feet in height within 1 year of installation. The earth berm evergreen plantings shall include at least 5 five-gallon shrubs or 10 one-gallon shrubs for each 100 lineal feet of required screening area.

SECTION 5.049. PARKING AREA LANDSCAPING AND BUFFERING

The design of the parking area landscaping shall be the responsibility of the developer and should consider visibility of signage, traffic circulation, comfortable pedestrian

access and aesthetics. Trees shall not be sited as a reason for applying for or granting a variance on placement of signs.

1. Application. Parking area landscaping and buffering standards shall apply to all public and private outdoor parking areas that provide for 4 or more spaces or to any paved vehicular use area 3000 square feet or larger on the same lot or on contiguous tax lots under the same common ownership or use. Parking area landscaping requirements are limited to 10% of the gross land area.
 - a. Exemptions. The parking area landscaping and buffering standards shall be exempt for building additions which increase the size of an existing building by less than 20% of the gross floor area. In addition, any paved vehicular area which provides fewer than 10 spaces shall be exempt from the interior lot line buffering and interior parking area landscaping requirements. Areas used specifically as a utility storage lot or a truck loading area shall also be exempt from interior parking area landscaping requirements.
2. Specifications for Trees and Plant Materials.
 - a. Deciduous Trees. Deciduous shade or ornamental trees shall be a minimum 1 1/2 inch caliper measured 6 inches above ground, balled and burlapped.
 - b. Conifer or Evergreen Trees. Coniferous or evergreen trees shall be a minimum of 6 feet in height above ground, balled and burlapped.
 - c. Evergreen and Deciduous Shrubs. Evergreen and deciduous shrubs shall be at least 1 to 5 gallon size.
 - d. Living ground covers. Living ground covers shall be fully rooted and shall be well branched or leafed.
 - e. Other ground covers. Other ground covers shall consist of a decorative treatment of bark, rock or other attractive ground cover.
 - f. Lawns. Lawns shall consist of grasses, including sod or seeds. Lawns shall be 100% coverage and weed free.
3. Parking Area Buffering. Parking areas shall be buffered from the required areas listed below with a 5-foot wide strip of landscaping materials.
 - a. Required Buffer Areas. The parking area shall be buffered from the following areas:
 - (i) Street Frontage. The parking area shall be buffered from adjacent lineal street frontage, exclusive of driveways, entrances and exits with the designated landscaping strip.

- (ii) Interior Lot line. The parking area shall be buffered from the interior lot line when abutting residential zones with the designated landscaping strip. Where screening is required in Section 5.049, the screening area shall be incorporated into the landscaping strip. This requirement shall not in any way prohibit joint access driveways between two or more adjacent parking areas.
 - b. Buffer Area Landscaping Standards. Minimum landscaping acceptable per 50 lineal feet of required buffer area is as follows:
 - (i) One tree at least 5 feet in height. The tree shall be selected from the Street Tree List (Table No. _____) in order to avoid root damage to pavement and utilities.
 - (ii) 5 five-gallon or 8 one-gallon shrubs.
 - (iii) The remaining area shall be treated with living ground cover, lawn or other ground cover.
- 4. Interior Parking Area Landscaping. Minimum area required to be landscaped within a parking lot shall be no less than five percent (5%) of the total area within the paved parking and maneuvering area or at a ratio of one landscape planter per 10 parking spaces, whichever is greater. Area landscaped to meet minimum interior parking area landscaping requirements shall be located within the paved parking lot area, not in adjacent buffer or screening areas. This requirement shall not in any way prohibit a developer from grouping the required interior landscaping area in one or more sections of the parking lot.
 - a. Interior Parking Area Landscaping Standards. Trees and landscaping shall be installed as follows:
 - (i) Each 160 square feet of required interior parking area landscaping shall contain 1 tree at least 6 feet high. At least 2 shrubs shall be placed for every 100 square feet of interior parking lot landscaping. The remaining planter area shall be treated with ground cover.
 - (ii) The tree species may be selected from the Street Tree list (See Table No. _____) to avoid root damage to pavement and utilities, and damage from droppings on parked cars and walkways.
 - (iii) Planters shall be surrounded by a perimeter curb not less than 4 inches high.

- (iv) The tree shall be planted in a landscaped area such that the tree trunk is at least 2 feet from any curb or paved area.
- 5. Prohibited Trees. Trees listed in Table No. _____ are prohibited for use as street trees as their roots cause damage to sewers, pavements and sidewalks. Furthermore, these trees are prohibited for planting in a parking lot buffer area adjacent to a street or right-of-way.
- 6. Irrigation of Required Landscaping. All required landscaped areas must be provided with a piped underground water supply irrigation system, unless a licensed landscape professional submits written verification that the proposed plant materials do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit from the City Public Works Superintendent.
- 7. Landscape Plan Submittal Requirements. A Landscape plan, drawn to scale, must accompany Site Plan Review applications. The plan must show the following elements, drawn to scale, in conjunction with the requirements of this Ordinance:
 - a. Type of landscaping, fencing or other screening materials, including name of plant species. Heights of landscaping materials shall also be noted.
 - b. Location and size of landscaped areas on the development site.
 - c. Abutting land uses and/or zones.
 - d. If existing trees and plant materials are proposed to be preserved, methods for the protection of the plant material shall be noted. This shall include the drip line measurements for trees (See item No. 11 below for information on Landscape Area Credit for the preservation of Existing Trees).
 - e. Plan for underground irrigation system.
- 8. Performance Guarantees. Certificates of Occupancy may be issued prior to the complete installation of all required landscaping if a signed bid contract equal to 100% of the cost of plant materials and labor is submitted to the City Administrator or his designee. In addition, the applicant will be required to sign a standard development agreement to ensure such landscape installation within nine months of occupancy permit issuance.
- 9. Clear Vision. All buffering and landscaping material shall not encroach into the Clear Vision areas at the intersections of streets or at the intersection of a street and driveway, as defined in Section 5.030.

10. Maintenance of Landscaped Areas. It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner, free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.
11. Landscape Area Credit for Preservation of Existing Trees. A system of landscape area credits has been established as an incentive for property owners and developers to preserve existing trees and to include them in the landscape plan for proposed developments.
 - a. Criteria for Landscape Credit. Tree(s) preserved on the development site may reduce the total landscaped area required for interior parking lots. Credit shall be considered for approval if a qualified arborist or landscape professional submits the following information to the City Administrator or his designee:
 - (i) A statement confirming that the size, health, and physical appearance of the tree(s) warrant landscape credit.
 - (ii) A protection plan for the trees' health during construction. This shall include verification of the radius of the drip line area or an area recommended by a licensed landscape professional. The drip line area shall be defined as the ground area and vegetation measured from the outermost branches to the trunk of the tree. Trees preserved for landscape credit shall not have construction or grading occur within the drip line.
 - (iii) A plan for future maintenance of the tree(s).
 - b. Landscape Credit System. The City Administrator or his designee shall grant landscape credit based on the total area of the preserved tree drip line or the number of required interior parking area planters. The area of the drip line shall be directly credited toward the required landscaping area for interior parking lots. As an alternative to this crediting method, the City Administrator or his designee may reduce the number of required interior parking area planters by 1 for each preserved tree on the development site. In order to secure credit for either method, the entire area within the drip line of the preserved tree must be protected from encroachment unless an alternative is otherwise approved by the City Administrator or his designee.
 - c. Limits to Landscape Area Credit. Landscape credits for preserved trees shall not eliminate or reduce the parking area screening and buffering requirements. Landscape credit shall be applied only to the required interior parking area landscaping (See Section 5.049.1(4)). Credit for preserved trees shall be limited to 60% of the total interior parking area landscaping requirement. The

remaining 40% shall be provided according to Section 5.049.1 (4). Landscape credit shall not be granted for trees preserved within a required Riparian Habitat.

SECTION 5.049.1. ACCESSIBLE PARKING

All parking areas for government and public buildings shall provide accessible parking based on the following ratio:

<u>Total Parking Area Spaces</u>	<u>Required Accessible Space</u>
1-25 spaces	1 space
26-50 spaces	2 spaces
51-75 spaces	3 spaces
76-100 spaces	4 spaces
101-150 spaces	5 spaces
151-200 spaces	6 spaces
201-300 spaces	7 spaces

One additional accessible parking space shall be provided for each additional 100 spaces or fraction that are provided thereafter.

For each accessible parking space provided which conforms to the provisions of this Section, one parking space, otherwise required by Section 5.040, may be eliminated subject to the following limitations:

1. Space specifications. Each accessible parking space shall be at least 9 feet wide and shall have an adjacent access aisle. The adjacent aisle shall be at least 6 feet wide for standard spaces and 8 feet wide for “van-accessible” spaces. If one accessible space is provided, it shall be designated “van-accessible”. All other spaces may be either “van-accessible” or standard spaces.
2. Access Aisle. The aisle shall be located on the passenger side of the parking space except that two adjacent accessible parking spaces may share an aisle. (See Table No. _____).
3. Signs and Pavement Markings. A sign shall be posted for each accessible parking space. The sign shall be clearly visible to a person parking in the space and marked with the international symbol of accessibility; indicate that the spaces are reserved for persons with disabled person parking permits and be designed to standards adopted by the Uniform Building Code. The pavement of each accessible parking space shall be clearly marked with the international symbol of accessibility and be designed to standards adopted by the Uniform Building Code.
4. Space Location. Each accessible parking space and adjacent aisle shall be situated so as to avoid requiring any person using the space from having to

cross or traverse within any access driveway, vehicle maneuvering area or other vehicle traffic lane.

5. Ramps. When accessible parking spaces are provided, safe and convenient curb ramps shall be installed to meet uniform Building Code specifications. Building design and subsequent activities shall not unreasonably impair access by physically challenged persons to the principal use.

SECTION 5.049.2. VARIANCE FOR PARKING/LANDSCAPING REDUCTIONS

The City Administrator or his designee may reduce the number of parking spaces and landscape area through a variance procedure pursuant to Article 8 of this Ordinance for lots 10,000 square feet or less, or lots developed prior to the adoption of this Ordinance. The City Administrator or his designee may grant reductions only if, on the basis of investigation and evidence submitted that a lot is 10,000 square feet or less, or existing developments are unable to meet the parking and landscaping provisions due to existing lot and building configurations.

SECTION 5.049.4. PARKING TABLE AND DIAGRAM

TABLE NO. _____ provides the minimum dimensions of public or private parking areas.

Compact Car Parking. The City Administrator or his designee may authorize the creation of compact car spaces in any public or private parking area which contains a minimum of ten parking spaces. The number of parking spaces established for compact cars shall be based on the following ration:

<u>Number of Spaces Required</u>	<u>Percent of Designated Compact spaces</u>
10-25 spaces	15 percent
26-50 spaces	20 percent
51-100 spaces	25 percent
Over 100 spaces	30 percent

All compact car parking spaces created under the provisions of this Section shall have a minimum of eight (8) feet and shall be clearly identified as compact car spaces, and shall be located in a manner approved by the City Administrator or his designee. All other parking spaces, except parallel spaces, shall have a minimum width of nine (9) feet.

SECTION 5.050. SIGNS PURPOSE AND INTENT

The provisions of this Ordinance are made to establish reasonable and impartial regulations for all exterior signs and to further the objectives of the Comprehensive Plan of the City of Winston; to protect the general health, safety, convenience and welfare; to reduce traffic hazards caused by unregulated signs which may distract, confuse and impair the visibility of motorists and pedestrians; to ensure the effectiveness of public streets, highways and other public improvements; to facilitate the creation of an attractive and harmonious community; to protect property values and to further economic development.

SECTION 5.050.1. DEFINITIONS

For purposes of this Article, the following terms and phrases shall have the following meaning. If the general definitions in Section 1.020 of the City Zoning Ordinance No. 590 conflict, the following definitions shall control for purposes of this Article.

Illegal Sign: A sign constructed in violation of regulations existing at the time the sign was built.

Indirect Illumination: A light directed toward a sign so that the beam of light falls upon the exterior surface of the sign and is not flashing.

Inflatable Sign: A sign that is expanded with air or gas and anchored to a structure or the ground.

Lot: A unit of land created by a subdivision of land; the term “lot” is synonymous with the term “parcel” for the purposes of this ordinance.

Nonconforming Sign: A sign meeting all legal requirements when constructed prior to the adoption of this Ordinance. An illegal sign is not a nonconforming sign.

Pole Sign: A sign wholly supported by a sign structure in the ground and not exceeding 200 square feet.

Portable Sign: A sign temporarily fixed to a standardized advertising structure that may be regularly moved from structure to structure at periodic intervals. This sign may be placed no closer than ten (10) feet from the face of the curb and shall comply with all other provisions of this Ordinance.

Projected Image: An optical appearance of an object projected onto a wall of a building or structure.

Projecting Sign: A sign other than a wall sign that projects from and is supported by a wall of a building or structure.

Residential Signs: Signs in residential zones that identify subdivisions or multiple-family complexes.

Roof Sign: Any sign erected on a roof or which extends in height above the roofline of the building on which the sign is erected.

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

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

Sign Face: The functional surface of a sign including all sign elements facing in the same direction.

Sign Height: The height of a sign shall be the distance from the grade level where the sign is erected to the top of the sign or sign structure, whichever is greater.

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

Wall Sign (Attached): A sign attached flat against a wall of a building and parallel to the wall.

Wall Sign (Painted): A sign painted to a wall or a building.

Wall Sign (Projecting): A sign other than a wall sign that projects from and is supported by a wall of a building or structure.

SECTION 5.050.2 OFF-PREMISE SIGN

No sign advertising a business which is not conducted on the premises, or a commodity or service which is not the primary product, sale or service on the premises, shall be allowed except seasonal agricultural signs and “exempt” signs addressed in Section (5.050.3) of this Ordinance.

SECTION 5.050.3. EXEMPT SIGNS The following signs shall not be subject to the permit requirements of Section 5.050.5, nor subject to the number and type limitations of this Article, but shall be subject to all other provisions of this Article, and the requirements of this section:

Directional Sign: A sign giving on-site directional assistance for the convenience of the public, which does not exceed four (4) square feet in area and which does not use flashing illumination.

Event Sign/Banner: An election sign not exceeding 32 square feet, provided the sign is removed within seven (7) days following an election. A temporary non-illuminated sign or banner not exceeding 200 square feet used for a fund raising event solely for charitable purposes, placed by a legally-constituted non-profit organization.

Flag/Pennant: A governmental flag with or without letters or numbers and other flags and pennants without letters or numbers. Such flags and pennants shall be made of non-rigid material.

Historical/Landmark Sign: A marker erected or maintained by a public authority or by a legally constituted historical society or organization identifying a site, building or structure of historical significance.

Holiday Sign: A sign or decoration used to commemorate a holiday which is removed within seven (7) days following the holiday period.

Interior Sign: Any sign which is not visible and not directed to people using a public street or public pedestrian way.

Mural: A large picture painted on the wall of a building not advertising a specific business or product.

Public Sign: A sign erected by a government agency. A public notice or warning required by a valid and applicable federal, state or local law or regulation and an emergency warning sign erected by a public utility or by a contractor doing authorized work in the public way.

Real Estate or Construction Signs: Temporary non-illuminated real estate (not more than two (2) per lot) or construction signs not exceeding 32 square feet, provided said signs are removed within 15 days after closing or signing of the sale, lease or rental of the property or within seven (7) days of completion of the project.

Window Sign: A sign painted or placed upon a window in a non-residential zone.

If the foregoing exemptions conflict with the City of Winston Zoning Ordinance No. 590, said Ordinance shall govern.

SECTION 5.050.4. PROHIBITED SIGNS The following signs are prohibited:

Abandoned Sign: A sign or a sign structure existing more than 60 days after a business ceases to operate shall be taken down and removed by the owner, agent or person having the beneficial use of the lot upon which such sign may be found.

Billboard: A pole sign exceeding 200 square feet of sign area.

Simulated Traffic Signs and Obstructions. Any sign which may be confused with or obstruct the view of any authorized traffic signal or device, or extend into the traveled portion of a public street or pedestrian way.

Vacant Lot Sign: Except exempt signs, a sign erected on a lot that has no structures capable of being occupied as a residence or business. Notwithstanding the foregoing, signs otherwise permitted under this Article may be placed on a lot improved for off-street parking as provided by the City of Winston Zoning Ordinance No. 289.

Vehicular Sign: Any sign written or placed upon or within a parked motor vehicle with the primary purpose of providing a sign not otherwise allowed by this Ordinance. This does not include any sign permanently or temporarily placed on or attached to a motor vehicle, when the vehicle is used in the regular course of business for purposes other than the display of signs.

Vision Clearance: Any sign in the Clear-Vision Area as defined in Section 5.030 of the City of Winston Zoning Ordinance.

SECTION 5.050.5. PERMIT PROCEDURES Except as provided in Section 1.030, no sign or a sign structure shall be displayed, erected, altered, relocated or replaced until a sign permit has been issued by the City Administrator or designee. For the purpose of this Ordinance, all signs are considered accessory uses of the lot upon which they are located.

1. Application for a sign permit shall be made by the owner, tenant or authorized agent of the property upon which the sign is to be located. The application shall be approved, denied or referred back to the applicant within ten (10) working days from the date the application was submitted.
2. Criteria For Permit Approval: A sign permit will be approved if compliance to the following exists:
 - a. Conformance to structural requirements and electrical code, if applicable.
 - b. Meets location standards
 - c. Sign allowed in zoning designation.
3. Plan Requirements: The application for a sign permit shall be accompanied by a site plan with the following information:
 - a. Name, address and telephone number of the owner, tenant or authorized agent of the property upon which the sign is to be located.
 - b. Location by legal description (township, range, section, tax lot) and physical address.
 - c. Dimensions of the sign and the sign structure and, where applicable, the dimensions of the wall surface of the building to which the sign is to be attached and a current photograph of the building.
 - d. Proposed location of the sign in relation to the face of the building, in front of which or above which the sign is to be erected.

- e. Proposed location of the sign in relation to the boundaries of the lot upon which the sign is to be placed.
4. Signs Exempt From Permits: These exceptions do not relieve the owner of the sign from the responsibility of its erection, maintenance and compliance with the provisions of this Ordinance or any other law or Ordinance regulating same. The following changes do not require a sign permit:
 - a. The changing of the advertising copy or message of a painted, plastic face or printed sign only. Except for signs specifically designed for the use of replaceable copy, electrical signs shall not be included in this exception.
 - b. The electrical, repainting, cleaning, repair or maintenance of a sign.
 5. Fees: The fee for a sign permit shall be as set by Council resolution. The fee for any sign which has been erected without a sign permit shall be double the regular sign fee.
 6. Building Code Compliances: All signs and sign structures shall comply with the Uniform Building Code and the Oregon Electrical Safety Specialty Code adopted by the City of Winston. All pole signs, attached or projecting wall signs and roof signs will require a building permit in addition to the sign permit. Signs for which a building or electrical permit is required shall be subject to inspection by the City's Building Official or State Electrical Inspector. The Building Official may order the removal of a sign that is not maintained in accordance with this Ordinance. Signs may be reinspected at the discretion of the Building Official.

SECTION 5.050.6. STANDARDS AND CRITERIA

General Sign Provisions:

1. Signs may not project over public property or right-of-way
2. All signs shall have a vertical clearance of seven (7) feet above public property.
3. No signs shall stand or be based in public property without authorization of agency jurisdiction.
4. Regulatory equipment shall be installed in all illuminated signs to preclude interference with radio and television.
5. All signs shall be maintained in good repair, and where applicable, in full operating conditions at all times.

6. Flashing signs or any material that gives the appearance of flashing such as reflective disks are prohibited. Tracer lights are not prohibited.
7. Commercial signs shall not be located within 50 feet of a residential zoning designation.
8. External illumination of signs shall be shielded so that the light source elements are not directly visible from property in a residential zoning district which is adjacent to or across a street from the property in the non-residential zoning district.
9. Signs shall be located not less than six (6) feet horizontally or twelve (12) feet vertically from overhead electrical conductors that are energized in excess of 750 volts. The term "overhead conductors" as used in this section refers to an electrical conductor, either bare or insulated, installed above the ground, except when conductors are enclosed in iron pipe or other approved material covering of equal strength.
10. Signs or sign structures shall not be erected in such a manner that a portion of their surface or supports will interfere with the free use of any fire escape or exit.
11. Signs shall not obstruct building openings to the extent that light or ventilation is reduced. Signs erected within five (5) feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics.

Signs in Residential Zones In the RLA, RLB, RLC, RM and RH zones, no sign shall be allowed except the following:

1. One (1) sign identifying only the name of the owner or occupant of a building, provided such sign does not exceed six (6) inches by eighteen (18) inches in size, is unilluminated and shall not be located in a required yard.
2. One (1) sign identifying only the business name of a home occupation occupying that lot, provided such sign does not exceed one (1) square foot of sign area, is unilluminated and shall not be located in a required yard.
3. One(1) sign pertaining to the lease or sale of a building or property, provided such sign does not exceed six (6) square feet of sign area.
4. One (1) identification sign facing the bordering street, not to exceed sixteen (16) square feet of sign area, for any permitted or conditional use except residences and home occupations. Such sign shall be solely for the purpose of displaying the name of the institution and its activities or

services. It may have indirect illumination but non-flashing and shall not be located in a required yard.

5. Temporary sign, for one year, advertising a new subdivision, provided such sign does not exceed thirty-two (32) square feet of sign area, advertises only the subdivision in which it is located, is unilluminated, and is erected only at a dedicated street entrance and within the lot lines. Such sign shall be removed if construction on the subdivision is not in progress within sixty (60) days following the date of the sign permit.
6. The maximum sign height is seven (7) feet.

Signs in Commercial/Industrial Zones In the C-G, C-SH, C-OP, C-H, ML, MG and PR zones, all signs located on a lot shall conform to the following limitations:

1. Except as provided in (3) below, for a single business whether on one or more contiguous lots the maximum number of signs requiring a permit is three (3), one of which may be a pole sign.
2. Except as provided in (3) below, for multiple businesses in a shopping center, for multiple businesses sharing common off-street parking facilities or for multiple businesses with the same property owner, all of which are located on one or more contiguous lots, the maximum number of signs requiring a permit is one (1) pole sign per business and one (1) additional sign which may be a portable sign.
3. When a business or businesses have 200 continuous lineal feet of frontage on one street, the maximum number of signs shall be increased by one sign (pole or portable) for each 100 feet of frontage up to a maximum of four additional signs. Any two (2) of these signs may be combined in a single sign not to exceed 200 square feet in area.
4. Pole signs shall be placed at least 100 lineal feet apart.
5. A roof sign may be substituted for one of the allowed pole signs.
6. Except for attached wall signs, each sign face shall not exceed 100 square feet in area and shall not exceed 35 feet in height.
7. Attached wall signs shall not exceed 200 square feet in area.
8. Each business at a new location may have one temporary sign on each street frontage of the lot occupied by that business provided the sign area does not exceed 50 square feet and provided the sign is not displayed for more than 365 days or until the permanent sign is installed, whichever first occurs.

Signs in Agricultural Zones In the A-O zone, the following criteria for signs apply:

1. Maximum number of signs requiring a permit is three (3).
2. Maximum number of pole signs is one (1).
3. Except for attached wall signs, each sign face shall not exceed 50 square feet in area.
4. Attached wall signs shall not exceed 100 square feet of sign area.
5. Pole signs shall not exceed 35 feet in height.

SECTION 5.050.7. NONCONFORMING SIGNS Except for signs located in A-O, ML and MG zones, any nonconforming pole sign that is greater than 200 square feet shall be reduced to not more than 200 square feet in area or be removed within one (1) year from the approval date of this Ordinance.

All other non-conforming signs shall be subject to the regulation of structures as provided in Article 10 of the City of Winston Zoning Ordinance relating to the continuation of a nonconforming use or structure, the discontinuance of a nonconforming use, the change of a nonconforming use and the destruction of a nonconforming use or structure.

SECTION 5.060. EXTERIOR LIGHTING. The purpose of this provision is to make the lighting used for residential, commercial and public areas appropriate to the need and to keep the light from shining offsite onto adjacent public rights-of-way or private properties. Further, it is to encourage, through regulation of type, kinds, construction, installation, and uses of outdoor electrically powered illuminating devices, lighting practices and systems to conserve energy without decreasing safety, utility, security and productivity while enhancing nighttime enjoyment of property with the City.

1. Requirements for installation. Except as exempted by provisions of this ordinance, as of the date of adoption, the installation of outdoor lighting fixtures shall be subject to the provisions of this ordinance.
2. Shielding. All nonexempt outdoor lighting fixtures shall have directed shielding so as to prevent direct light from the fixture from shining beyond the property limits where the fixture is installed. This means that a person standing at the adjacent property line would not see the light-emitting source.
3. Prohibitions.
 - a. Laser Source Light. The use of laser source light or any similar high intensity light when projected beyond property lines is prohibited, excepting lasers used for construction surveying or any such purposes.
 - b. Searchlights. The operation of searchlights for purposes other than public safety or emergencies is prohibited, excepting authorization by the City Administrator or his designee for special events.

4. Exemptions.
 - a. Nonconformance.
 - (i) Outdoor light fixtures lawfully installed prior to and operable prior to the effective date of the requirements of this ordinance are exempt from all such requirements except as follows:
 - (a) All replacement of outdoor lighting fixtures, as of the date of adoption, shall be subject to the provision of this Ordinance.
 - (b) Until a date five years after the date of the adoption of this Ordinance.
 - b. Airport operations lighting and aircraft navigational beacons as established by the Federal aviation Administration are exempt from these provisions. All other airport outdoor lighting must conform with this Ordinance.
 - c. Lights of less than 20 watts used for holiday decorations for no more than 45 days are exempt from the requirements of this Ordinance.
 - d. Carnivals and fairs that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this Ordinance.
 - e. Lighting for U. S. Flags properly displayed.
 - f. Temporary exemptions to the requirements of Ordinance for up to five days per calendar year.
 - g. Construction lighting necessary for an allowed use are exempt except that permanent installations at dedicated sites must conform to the requirements of this Ordinance.
 - h. Individual light fixtures with lamps of less than 60 watts.

SECTION 5.070. Manufactured Homes. In addition to the general requirements established for single-family dwellings, manufactured homes shall be subject to the following special requirements:

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

2. the manufactured home shall be placed on an excavated and backfilled
3. the manufactured home shall have a pitched roof with a slope of at least a
4. the manufactured home shall have exterior siding and roofing which in predominant materials used on surrounding dwellings as determined by such a person as the City Administrator may direct.
5. the manufactured home shall be certified by the manufacturer to have an exterior thermal envelop meeting requirements specified by the National Manufactured Housing Construction and Safety Standards Act, in effect at the time the manufactured home was constructed.
6. Unless inconsistent with the above, the manufactured home and the lot upon which it is sited shall also be subject to all other development standards, architectural standards, and other applicable codes and ordinances. Exempt from these standards is the Family Hardship Variance according to Section 8.050 of the Zoning Ordinance allowing the following special requirements for such:
 - a. The manufactured home shall enclose a space of not less than 900 square feet and at least 14 feet in width;
 - b. The manufactured home may be placed on concrete pads or a crushed rock pad and skirted within 45 days of the placement. It shall be equipped with skirting which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home, unless the manufactured home is anchored to a permanent, continuous concrete or block foundation, or both. Nonporous skirting material shall be such that there are no gaps or openings between the unit and the ground, except for windows and vents. Porous skirting material shall extend from the manufactured home to within, but not closer than, six inches from the ground to prevent dry rot.
 - c. No placement permit shall be issued for a manufactured home that does not exhibit the Oregon Department of Commerce “Insignia of Compliance.”

SECTION 5.080. Projections from Buildings. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than twenty-four (24) inches into a required yard.

SECTION 5.090. General Exceptions to Lot Size Requirements. If a lot or other aggregate of contiguous lots held in a single ownership, as recorded in the office of the County Clerk at the time of the passage of this ordinance, has an area or dimensions which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone. If there is an area deficiency, residential use shall be limited to

a single-family dwelling or to the number of dwelling units consistent with the density requirement of the zone.

SECTION 5.100. General Exceptions to Yard Requirements. The following exceptions to the yard requirements are authorized for a lot in any zone:

1. If there are dwellings on both abutting lots which are within 100 feet of the intervening lot, and the dwellings have front yards of less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots.

2. If there is a dwelling on one abutting lot which is within 100 feet of the lot, and this dwelling has a front yard of less than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the front yard of the abutting lot and the required front yard depth.

SECTION 5.110. General Exceptions to Building Height Limitations. Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles, and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.

SECTION 5.120. Riparian Habitat Setbacks. Mature ground cover and trees, wildlife habitats, and the natural contours of identified significant stream banks shall be preserved for distances noted in the following table, measured from the top of the stream bank. Within the required setback area there shall be no structural or physical alteration or development such as clearing, grading parking lots, retaining walls, channel alterations, etc. from the stream bank unless, after consultation with the Oregon Department of Fish and Wildlife, findings are made by the administrator that a proposed reduction in setback:

1. Will not have a significant adverse impact on stream bank erosion, water
2. Is required for flood control, and actions are taken to mitigate such impacts as much as is possible; or
3. Is not required for flood control and will include actions as are necessary to prevent or sufficiently mitigate any significant stream bank erosion, adverse impact on water temperature and quality, or wildlife, and such mitigation measures are specified; and
4. Is not in conflict with any adopted ordinances or plans.

For the purposes of this section, the top of the stream bank shall be as determined by the city administrator acting with the advice of the Department of Fish and Wildlife.

RIPARIAN HABITAT SETBACKS

All Residential

All Commercial and

	<u>Zones</u>	<u>Industrial Zones</u>
South Umpqua River	50 feet	50 feet
Lookingglass Creek	50 feet	50 feet
Applegate Creek	50 feet	50 feet
Brockway Creek	50 feet	50 feet

SECTION 5.200. Mobile Home Parks.

1. Review required. In addition to the general provisions of this ordinance, special provisions shall apply to the Planning Commission. The Planning commission may grant such approval only after reviewing preliminary site plans for the proposed manufactured home park.
2. Information Required for Preliminary Site Plan Review. The application for a preliminary site plan shall be on a scale of not smaller than one inch (1") representing fifty (50) feet. The drawing shall show the following information:
 - a. Name of the property owner, applicant and person who prepared the plan.
 - b. Name of the manufactured home park and address.
 - c. Scale and North point of the plan.
 - d. Vicinity map showing relationship of manufactured home park to adjacent properties.
 - e. Boundaries and dimensions of the manufactured home park.
 - f. Location and dimensions of the mobile home site; each site designated by number, letter or name.
 - g. Location and dimensions of each existing or proposed structure.
 - h. Location and width of park streets.
 - i. Location and width of walkways.
 - j. Location of each lighting fixture for lighting the mobile home park.
 - k. Location of recreational areas and buildings, and area of recreational space.
 - l. Location and type of landscaping plantings, fence, wall or combination of any of these, or other screening materials.

- m. Location of point where manufactured home park water system connects with public system.
 - n. Location of available fire and irrigation hydrants.
 - o. Location of public telephone service for the park.
 - p. Enlarged plot plan of a typical mobile home site, showing location of the pad, patio, storage space, parking, sidewalk, utility connections and landscape.
3. Final Site Plan and Submission Requirements. At the time of application for final approval to construct a new manufactured home park or expansion of an existing manufactured home park, the applicants shall submit copies of the following required detailed plans to the city and appropriate state agencies as required by law or ordinance:
- a. New structures.
 - b. Water supply and sanitary sewer facilities.
 - c. Electrical systems.
 - d. Road, sidewalk and patio construction
 - e. Drainage system.
 - f. Recreational area improvements.
4. General Standards for Mobile Home Park Development.
- a. Access. A manufactured home park shall not be established on any site that does not have frontage on or direct access to a publicly owned and maintained street which has a minimum right-of-way width of sixty (60) feet. No park entrance shall be located closer than 100 feet away from any intersection of public streets.
 - b. Park Street. A park street shall connect each mobile home site to a public street or road. The park street shall be a minimum of thirty (30) feet in width, with a surface width of at least twenty (20) feet if no parking is allowed, and thirty (30) feet if parking is allowed on one side only.
 - c. Walkways. Walkways of not less than three (3) feet in width shall be provided from each mobile home site to any service building or recreational area.

- d. Paving. Park streets and walkways shall be paved with a crushed rock base and asphaltic or concrete surfacing, according to the structural specifications established for streets.
- e. Off-Street Parking.
 - (i) Two parking spaces shall be provided for each mobile home site, either on the site or within 200 feet thereof in the manufactured home park, which shall be not less than nine (9) by eighteen (18) feet in size and paved with asphaltic macadam or concrete surfacing.
 - (ii) Guest parking shall also be provided in every manufactured home park, based on a ratio of one (1) parking space for each four (4) mobile home sites. Such parking shall be paved with asphalt.
- f. Fencing and Landscaping.
 - (i) Every manufactured home park shall provide a site obscuring fence, wall, evergreen or other suitable screen/planting along all boundaries of the manufactured home park site abutting public roads or property lines that are common to other owners of property, except for point of egress.
 - (ii) Walls or fences shall be six feet in height. Evergreen plantings used in perimeter screening shall not be less than five feet in height, and shall be maintained in a healthy, living condition for the life of the manufactured home park. No fence, hedge or wall, other than a retaining wall, higher than three (3) feet shall be located within the required clear vision area on a corner lot.
 - (iii) There shall be suitable landscaping provided within the front and side yard setback areas, and all open areas in the manufactured home park not otherwise used.
- g. Area.
 - (i) Size of manufactured home park site. No manufactured home park shall be located on a lot less than the minimum area specified in the zoning ordinance.
 - (ii) Manufactured home sites. The average area of all manufactured home sites within a manufactured home park shall not be less than the minimum area specified in the zoning ordinance.
 - (iii) Setbacks. No manufactured home or access thereto shall be located any closer than twenty five feet from a park property line abutting a public street or road, five feet from all other park property lines and ten feet from any such

areas as a park street, a common parking area, or a common walkway.

- (iv) Spacing. A manufactured home shall be separated from an adjoining manufactured home and its accessory structures by a minimum of fifteen (15) feet.
- (v) Overnight spaces. Not more than five percent of the total manufactured home park area may be used to accommodate persons wishing to park their manufactured homes or camping vehicles overnight.

h. Other Site Requirements.

- (i) Recreational area. An average of 200 square feet of recreational area shall be provided for every manufactured home site.
- (ii) Pad Improvements. Manufactured home pads or stands shall be paved with asphaltic or concrete surfacing, or with crushed rock.
- (iii) Skirting. Every manufactured home located on a manufactured home site shall be equipped with skirting which in design, construction and material shall meet the requirements of the International Residential Code for Manufactured Homes, 2000 Edition, as amended.
- (iv) Accessories. Accessory structures located on a manufactured home site shall be limited to the normal accessories, such as an awning, cabana, ramada, patio, carport, garage or storage building. No other structural additions shall be built into or become part of the any manufactured home, and no manufactured home shall support any building in any manner.
- (v) Utilities. Each manufactured home site shall be provided with a connection to a community sanitary sewer system and a community water supply system. All utilities within a manufactured home park shall be underground.
- (vi) Storage Yards. Storage yards in parks for boats, campers and recreational vehicle equipment shall be constructed of a dust free all weather surface, and shall be enclosed by a six foot high sign to and stored in a manufactured home park unless it is properly installed on a lot or site.
- (vii) State requirements. Rules and regulations governing manufactured home facilities as contained in Oregon Revised Statutes Chapter 446, and "Rules and Regulations Governing Manufactured Home Parks" shall be adopted and shall be more stringent than those imposed by state law, rules or regulations.

SECTION 5.400. Standards for Auto Wrecking Yards, Junk Yards and Automobile Towing Businesses. In addition to the general standards of this ordinance, special provisions for the establishment and operation of auto wrecking yards, junk-yards and automobile towing businesses are established.

1. The outdoor storage area of auto wrecking yard, junk yard or automobile towing business shall be fully enclosed by a sight-obscuring fence, free of advertising, maintained in good condition, and not less than six (6) feet in height. All automobiles being stored, wrecked or otherwise, shall be kept inside the fenced area at all times, except that vehicles belonging to customers may be parked outside the fence while at the establishment on business. Vehicles shall not be stored so as to exceed the height of the fence.
2. All sales, display, storage, repair, or other handling of wrecked automobiles shall occur from within an enclosed building or from within an enclosed building or from within the fenced area. All truck loading or unloading shall occur within the boundaries of the property and shall not obstruct any portion of the public right-of-way. All loading and unloading of trucks transporting wrecked vehicles shall be accomplished within a 24-hour period.
3. When any portion of an automobile towing business, auto wrecking yard or junk yard abuts a residential zone, supplemental evergreen plantings shall be installed along and adjacent to that portion of the fence abutting said residential opaque screening of at least 75 percent of the adjacent fence surface within two years of planting. The supplemental planting shall be maintained in good condition at all times.

SECTION 5.500. Lot Line Adjustment. The lot line adjustment between lots or parcels may be adjusted in accordance with this section without the replatting procedures in ORS 92.180 and 92.185 or the vacation procedures in ORS 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the boundary or property line, not the original line. The City Administrator or his designee has authority to approve a lot line adjustment.

1. Application for Lot Line Adjustment. An application for a line adjustment or elimination shall be filed by the owners of all lots or parcels affected. The application shall be accompanied by an appropriate fee and contain the following information:
 - a. Reason for the lot line adjustment.
 - b. Vicinity map locating the proposed line adjustment or elimination in relation to adjacent subdivisions, partitions, other units of land and roadways.
 - c. A plot plan showing the existing boundary lines of the lots or parcels affected by the line adjustment and the approximate location

for the proposed adjustment line. The plot plan shall also show the approximate location of all structures within ten (10) feet of the proposed adjusted line.

2. Approval for Access. An applicant must obtain written approval from ODOT for an access onto a State highway or written approval from Douglas County Public Works for an access onto a County Road. This written approval must be included with the application for a lot line adjustment that creates an additional building lot.
3. No Additional Units of Land; Minimum Size and Setbacks Required, Exceptions.
 - a. A line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment complies with the requirements of the applicable zone.
 - b. A line adjustment is permitted only where existing or planned structures will not encroach within required setbacks as measured from the adjusted line.
 - c. A line adjustment for a lot or parcel that is less than the minimum required size before the adjustment and further reduced as a result of the adjustment is permissible provided the applicant provides proof that, for the lot or parcel reduced in size, the parcel has an approved method of sewage disposal.
4. Same Designation.

The line adjustment shall only be permitted where the sale or transfer of
5. Easements Unaffected.

A line adjustment shall have no affect on existing easements.
6. Map and Monuments Required.
 - a. For any resulting lot or parcel ten acres or less, a survey map that complies with ORS 209.250 shall be prepared.
 - b. The survey map shall show all structures within ten (10) feet of the adjusted line.
 - c. The survey map shall establish monuments to mark the adjusted line.
7. Approval and Filing Requirements.

- a. Upon determination that the requirements of this section have been met, the City Administrator or his designee shall advise the applicant in writing that the line adjustment is tentatively approved.
- b. Within one year from the date of tentative approval, the applicant shall prepare and submit to the City Administrator or his designee any map required by Section 5.500(6). If no map is required, the applicant shall submit proof that the requirements of the tentative approval have been met. The City Administrator shall indicate final approval by _____ endorsement upon the map, if any, or if not map is required the City Administrator or his designee shall advise the applicant in writing that final approval has been granted.
- c. Once endorsed by the City Administrator, the map shall then be submitted to the County Surveyor. When the map is filed, the County Surveyor shall indicate the filing information on the map.
- d. A line adjustment shall be effective when the map is filed by the County Surveyor and an instrument (e.g. Deed or covenant) is recorded with the County Clerk. If no map is required, then the line adjustment shall be effective when final approval is granted by the City Administrator and an instrument is recorded with the County Clerk.

ARTICLE 6. FLOODPLAIN DEVELOPMENT

SECTION 6.010. Finding of Fact.

1. Flood Losses Resulting from Periodic Inundation. The flood hazard areas of the City of Winston are subject to periodic inundation which results in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely effect the public health, safety and general welfare.
2. General Causes of These Flood Losses. These flood losses are caused by:
 - a. The cumulative effect of obstructions in floodways causing increases in flood heights and velocities.
 - b. The occupancy of flood hazard areas by uses vulnerable to floods, or hazardous to others, which are inadequately elevated or otherwise protected from flood damage.

SECTION 6.020. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in paragraph 1, of Section 6.010, by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause increased flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

SECTION 6.030. General Provisions.

1. 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 "Flood Insurance Study for Winston, Oregon," dated 14 September 1974, with accompanying Flood Insurance maps, is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study is on file at 201 Douglas Boulevard (City Hall), Winston, Oregon 97496.

2. Establishing of Flood Hazard Districts. Section 6.030, paragraph 1, of this ordinance divides the floodplain areas of the City of Winston into the following districts:
 - a. The Floodway District (FW).
 - b. The Floodway Fringe District (FF).
 - c. The Flood Hazard District (FH).
3. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
4. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum and shall be liberally constructed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
5. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for the purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Winston, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

SECTION 6.040. Administration.

1. Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 6.030, paragraph 1. The permit shall be for all structures including manufactured homes, as set forth in the "definitions", and for all other development including fill and other activities, also as set forth in the definitions".
2. Designation of the Administrator. The Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

3. Duties and Responsibilities of the Administrator. Duties of the Administrator shall include, but not be limited to:
- a. Permit Review:
 - (i) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - (ii) Review 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.
 - (iii) Review 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 Section 6.050, paragraph 3, a, are met.
 - b. Use of Other Flood Data. When base flood elevation data has not been provided in accordance with Section 6.030, paragraph 1, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the 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 Sections 6.050 , paragraph 2, a, SPECIFIC STANDARDS, Residential Construction, and 6.050, paragraph 2, b, SPECIFIC STANDARDS, Floodways.
 - c. Information To Be Obtained and Maintained:
 - (i) Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 6,040, paragraph 3, b, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains basement.
 - (ii) For all new or substantially improved flood-proofed structures, verify and record the actual elevation (in relation to mean sea level).
 - (iii) Maintain for public inspection all records pertaining to the provisions of this ordinance.
 - d. Alteration of Watercourses:
 - (i) Notify adjacent communities and the Department of Environmental Quality prior to any alteration or relocation

of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

- (ii) 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. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions).
- 4. Appeals. The Planning Commission, as established by the City of Winston, shall hear and decide appeals and requests for variances from the requirements of this ordinance. Such appeals shall be granted consistent with the standards of Section 1910.6 of the rules and regulations of the National Flood Insurance Program (24 CFR 1909, etc.).

SECTION 6.050. Provisions for Flood Hazard Protection.

- 1. General Standards. In all areas of special flood hazards the following standards are required:
 - a. Anchoring:
 - (i) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure.
 - (ii) All manufactured homes must likewise be anchored to prevent floatation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or from ties to ground anchors.
 - b. Construction Materials and Methods:
 - (i) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (ii) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (iii) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from

entering or accumulating within the components during conditions of flooding.

c. Utilities:

- (i) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (ii) 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.
- (iii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals:

- (i) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (iv) 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 5 acres (whichever is less).

e. **Review of Building Permits.** Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 6.040 paragraph 3,b), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

2. **Specific Standards.** In all areas of special flood hazards where the base flood elevation data has been provided as set forth in section 6.050, paragraph 1, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL

FLOOD HAZARD, or Section 6.040, paragraph 3, b, USE OF OTHER BASE FLOOD DATA, the following provisions are required:

- a. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to not less than one (1) foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) 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.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- b. Non-residential Construction: New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to no less than one (1) foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:
 - (i) be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - (iii) 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 subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official a set forth in Section 6.040 paragraph 3, b.
 - (iv) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 6.050 paragraph 2, a.

- (v) Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated one (1) foot below that level).
 - c. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and to be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.050 paragraph 1, a, subsection (2).
3. Floodways. Located within areas of special flood hazard established in Section 6.030, paragraph 1, 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. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. If Section 6.030, paragraph 3, a, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 6.050, PROVISIONS FOR FLOOD HAZARD REDUCTION.
 - c. Prohibit the placement of any mobile homes, except in an existing manufactured home park or existing manufactured home subdivision.

ARTICLE 7. CONDITIONAL USE PERMIT

SECTION 7.005. Purpose. A conditional use in an activity which is basically similar to the uses permitted in a particular zone, but which may not be entirely compatible with the permitted uses. Therefore, a conditional use must be reviewed to ensure that it is, or can be made to be compatible with the other permitted uses in the zone.

SECTION 7.010. Authorization to Grant or Deny Conditional Uses. Conditional uses listed in this ordinance may be permitted, enlarged, or altered in accordance with the standards and procedures set forth in Sections 7.010 through 7.040.

1. In permitting a conditional use or the modification of a conditional use, the Administrator may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which are considered necessary to protect the public health, safety, or general welfare of the surrounding area or the city as a whole. These conditions may include:
 - a. Increasing the required lot size or yard dimension.
 - b. Limiting the height of buildings.
 - c. Controlling the location and number of vehicle access points.
 - d. Increasing the street width.
 - e. Increasing the number of required off-street parking spaces.
 - f. Limiting the number, size, location, and lighting of signs.
 - g. Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
 - h. Designating sites for open space.
 - i. Measures to control noise, vibrations, odors, or similar nuisances.
 - j. Limitations on time of day certain activities may be conducted.
 - k. A time period in which a proposed use shall be developed.
 - l. A limit of total duration of use or activity.
 - m. Posting of a performance bond of up to the value of the improvement in order to assure that the other conditions of the permit are satisfied.

- n. A contractual agreement to assure that the subject property will participate in the cost of future street and public facility improvements which benefit the subject property.
 - o. Other conditions as deemed necessary.
2. In the case of a use existing prior to the effective date of this ordinance and clarified in this ordinance as a conditional use, a change in use or in lot area or an alteration of a structure shall conform with the requirements for issuance of a conditional use permit.
 3. The Administrator shall approve, deny or return the request for revising, if the conditional use request requires further review and study. Denied applications cannot be resubmitted within six (6) months after date of denial.

SECTION 7.030. Procedure for Taking Action on a Conditional Use Application. A property owner may initiate a request for a conditional use by filing an application with the administrator, using the procedures and forms prescribed pursuant to Section 11.070, Applications, and paying a seventy-five dollar (\$75.00) nonrefundable filing fee.

SECTION 7.040. Time Limit on a Permit for a Conditional Use. Authorization of a conditional use shall be void after one (1) year or such lesser time as the authorization may specify unless substantial construction pursuant thereto has taken place. Substantial construction shall mean construction of the permanent, main building structure beyond the stage of exterior walls and roof to such a degree that the estimated value of the structure exceeds 75% of the estimated building value as determined for construction permit purposes. On request, authorization may be extended for an additional period not to exceed one (1) year, on request.

SECTION 7.050. Revocation of a Permit for a Conditional Use.

1. Any permit for a conditional use may be revoked by the Administrator or Planning Commission for violation of any conditions of issuance or other ordinances or regulations.
2. Before the Planning Commission may act on such a revocation, it shall hold a public hearing thereon.
3. Within five (5) days after a decision has been rendered with reference to the revocation, the Administrator shall provide the applicant with written notice of the decision.

ARTICLE 8. VARIANCES

SECTION 8.010. Authorization to Grant or Deny Variances. Variances from the requirements of this ordinance may be authorized where it can be shown that owing to a special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. In granting a variance, conditions found necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this ordinance, may be attached.

SECTION 8.020. Circumstances for Granting a Variance. 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 ordinance 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 ordinance, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City plan or policy.
4. The variance requested is the minimum variance which would alleviate the hardship.

SECTION 8.030. Procedure for Taking Action on a Variance Application. The property owner may initiate a request for a variance by filing an application with the Administrator, using the procedure and forms prescribed pursuant to Section 11.070, Applications and paying a nonrefundable filing fee.

A variance may be approved or denied if the application is not tabled for further review and study. Denied applications cannot be resubmitted within six (6) months after date of denial.

[Section 8.030 amended by Ord. No. 462, sec. 12, passed Oct. 1, 1990.]

SECTION 8.040. Time Limit on a Permit Variance. Authorization of a variance shall be void after one (1) year unless substantial construction pursuant thereto has taken place. On request, the variance authorization period may be extended up to one (1) year.

SECTION 8.050. Family Hardship Variance (Temporary Use of Mobile Home).

Pursuant to the procedures specified in Section 8.030 of this ordinance, the temporary placement of a mobile home may be authorized on a lot as a second dwelling for the purpose of alleviating a family hardship if the following criteria are met.

1. The second dwelling shall be for the purpose of providing housing for a family member who, because of a condition relating to the age, illness or other infirmity of themselves or another family member, must reside in a separate dwelling on the same lot as the principal dwelling.
2. The second dwelling shall conform in all respects to the standards and specifications prescribed by this ordinance, including, but not limited to size, setbacks and skirting requirements.
3. The second dwelling shall be properly connected to water, electrical, sewer and other utilities, and all required permits for the placement of the second dwelling and for its connection to utilities shall be obtained. In the event the property is not served by public sewers and no public sewer is within 300 feet of the property, a subsurface sewage disposal system may be used subject to approval by the Oregon Department of Environmental Quality.
4. Temporary placement of a second dwelling as provided for in this section shall be limited to a specified period not to exceed two years unless upon a subsequent application by the property owner an extension is granted.
5. Authorization shall be supported by written findings which describe the nature of the hardship, including the names of the family members occupying the second dwelling, their relationship to the property owner, a brief description of the condition which is causing the hardship, and the time period for which the temporary placement of the second dwelling is authorized.
6. Prior to the issuance of a placement permit for a second dwelling, written authorization shall be filed with the Douglas County Clerk. A copy of the recorded authorization shall be submitted with, and made a part of, the application for the placement permit.
7. Upon expiration of the time period for which the temporary placement of a second dwelling has been authorized, or when the condition which warranted the authorization no longer exists, or upon revocation of such authorization as provided for in Section 8.060 of this ordinance, the property owner shall have thirty days in which to remove the temporary dwelling from the property, unless a properly filed application for an extension is made. If an extension is authorized, the property owner shall, within 10 days of such extension, file a copy of the written extension with the Douglas County Clerk and return a copy of the recorded extension to the City Administrator.

SECTION 8.060. Revocation of Authorization.

1. Authorization for the temporary placement of a second dwelling as provided for in Section 8.050 may be revoked by the Planning Commission upon finding that the conditions which warranted the authorization no longer exist, or upon finding that the applicant has misrepresented the facts upon which the authorization had been granted.
2. Before the Planning Commission may act on such a revocation, it shall hold a public hearing thereon.
3. Within five days after a decision has been rendered with reference to the revocation, the Administrator shall provide the property owner with written notice of the decision of the Commission.

ARTICLE 9. AMENDMENTS

SECTION 9.000. Purpose. This Article provides the substantive requirements for quasi-judicial amendments of the Winston Comprehensive Plan. Procedural provisions for such plan amendments, unless otherwise provided by this Article, are set for in Article 11 of this Ordinance. A quasi-judicial amendment is a change in the Comprehensive Plan Future Land Use Map for a particular parcel or limited number of parcels of land.

SECTION 9.010. Authorization to Initiate Amendments. An amendment to the text of the Comprehensive Plan or the Future Land Use Map, this ordinance or to the Zoning Map, and an amendment to any of the land use regulation ordinances, may be initiated by the City Council, the City Planning Commission, or by the application of the property owner. The request by a property owner for an amendment shall be accompanied by a filing fee and shall be accomplished by filing an application with the City Administrator or his designee using the procedures and forms prescribed pursuant to Section 11.065, Application.

SECTION 9.020. Application and Hearing Dates. All quasi-judicial plan amendment applications shall be filed with the City Administrator or his designee at least sixty (60) days prior to the hearing date. Application shall be made on forms provided by the City Administrator or his designee and shall be accompanied by the required fee. Once the City Administrator or his designee has deemed the application complete, the Planning Commission shall schedule and conduct a public hearing on the proposed amendment following the procedures described in Sections 11.075 - 11.300. Quasi-judicial plan amendment hearings shall be scheduled and conducted only on regular meeting dates scheduled in the months of April and October.

SECTION 9.021. Application Form and Content and Amendments Standards

1. The City Administrator or his designee shall prescribe forms for applications for quasi-judicial plan amendments which, when completed, shall be sufficient to describe the nature and effect of the proposed amendment.
2. The application shall address the following requirements, which shall be the standard for amendment:
 - a. That the amendment complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission, pursuant to ORS 197.240, or as revised pursuant to ORS 197.245. If it appears that it is not possible to apply an appropriate goal to specific properties or situations, then the application shall set forth the proposed exception to such goal as provided in Statewide Planning Goal 2, Part II. Compelling reasons and facts shall be given why an exception should be adopted, including:
 - (i) Why the proposed use should be provided;

- (ii) What alternative locations within the area could be used for the proposed use;
 - (iii) What are the long-term environmental, economic, social and energy consequences to the locality, the region or the State from not applying the goal or permitting the proposed use; and,
 - (iv) How the proposed use will be compatible with other adjacent uses.
- b. That the amendment complies with applicable polices of the Comprehensive Plan.
 - c. That there is a public need for a change of the kind in question.
 - d. That such need will be best served by changing the Plan designation of the particular piece of property in question as compared with other available property.
3. Applications for quasi-judicial plan amendments may be combined with an application, on the same property, for an administrative action. If a combined application is made, the time periods in this Article shall apply, even if such periods conflict with time periods set for in Article 11 of this Ordinance.

SECTION 9.022. Notice

1. At least twenty (20) days prior to the hearing by the City Planning Commission, notice thereof shall be given as provided in Article 11, Section 11.080 of this Ordinance.
2. If the application proposes an exception to a goal as described in Section 9.021(2)(a), such exception shall specifically be noted in the notice.

SECTION 9.023. Public Hearing By Planning Commission. The City Planning Commission shall conduct a public hearing upon the proposed plan amendment, and, if the proposed amendment is combined with an application for administrative action, the Commission shall conduct any required hearing at the same time. The hearing shall be conducted pursuant to the provisions of Article 11 of this Ordinance.

The City planning Commission shall hear and consider all evidence, comments and recommendations presented by the applicant or his authorized agent; the public or any other body; the County Planning Commission; and, the City Administrator or his designee.

After the close of the hearing, the Commission shall recommend approval, conditioned approval or denial of the application and shall adopt findings of fact supporting its recommendation.

SECTION 9.024. Public Hearing By City Council Within thirty (30) days of the decision of the Commission, a public hearing shall be scheduled before the City Council. The City Council shall conduct a public hearing within sixty (60) days of the decision of the Planning Commission upon all matters heard by the Commission under this Article. If a Notice of Review is filed with the City Administrator or his designee, the City Council shall conduct a hearing pursuant to Article 11 of this Ordinance. If there is no request for review of the Commission's action, the City Council may adopt the findings and conclusions, and initial decision at a regular public business meeting. If the City Council elects to review the Commission's initial decision, either on its own motion or otherwise pursuant to Article 11 Section 11.310 of this Ordinance, notice of the hearing shall be given pursuant to Article 11 of this ordinance. The public hearing shall be confined to the record of the proceeding before the Commission, which shall include those matters contained in Section 9.021 of this Article, and, in addition, argument by the parties or their legal representatives at the time of review before the City Council.

SECTION 9.025. Decision Of City Council After the close of the hearing, the City Council shall adopt, amend, deny or remand to the Commission the application heard by it, and shall adopt written findings of fact and a decision supporting its action.

SECTION 9.026. Conditions of Approval In granting a plan amendment, the City Council or City Planning Commission may, in addition to any other requirements of this ordinance, impose additional conditionals which it considers necessary to protect the best interests of the surrounding area or the city as a whole. These conditions may include:

1. Increasing the required lot size or yard dimension.
2. Limiting the height of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location, and lighting of signs.
7. Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.
9. Other conditions as necessary.

SECTION 9.027. Appeal Appeal of the final action of the City Council relative to an application for a quasi-judicial plan amendment may be pursued in the manner prescribed by statute.

SECTION 9.030. Record of Amendments. The City Recorder shall maintain records of amendments to the text and zoning map of this ordinance.

SECTION 9.040. Limitation. No application of a property owner for an amendment to the text of this ordinance or to the zoning map shall be considered by the Planning Commission within the one (1) year period immediately following a previous denial of such a request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstance warrant it.

ARTICLE 10. NONCONFORMING USES

SECTION 10.010. Continuation of a Nonconforming Use or Structure. Subject to the provisions of Sections 10.010 through 10.040, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended. A nonconforming structure which conforms with respect to use may be altered or extended if the alteration or extension does not cause the structure to deviate further from the standards of this ordinance.

SECTION 10.020. Discontinuance of a Nonconforming Use. If a nonconforming use is discontinued for a period of one (1) year, further use of the property shall conform to this ordinance.

SECTION 10.030. Change of Nonconforming Use. If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.

SECTION 10.040. Destruction of Nonconforming Use or Structure. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to the extent exceeding eighty (80) per cent of its fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform this ordinance. In the case of a nonconforming residential use, the structure may be restored and the occupancy or use of such structure which existed at the time of such destruction may be resumed, provided that the restoration is commenced within a period of one (1) year and is diligently pursued to completion. [Amended by Ordinance No 495, passed November 15, 1993.]

SECTION 10.050 Expansion Of Nonconforming Residential Use. In order to alleviate possible hardships created by a nonconforming residential use, such structures may be increased in floor space by an amount not to exceed twenty-five (25) percent of the floor space used for a nonconforming residential use at the time of the passage of this amendment or at the time the use becomes nonconforming, whichever is the later event. Such nonconforming residential use may be extended to the new area so created. The expansion of nonconforming residential use may be granted only once to any parcel of land existing at the time of the passage of this amendment or at the time the use becomes nonconforming, whichever is the later event. Such expansions must conform to all other City Ordinances and Codes. [Amended by Ordinance No 495, passed November 15, 1993.]

ARTICLE 11. DEVELOPMENT APPROVAL PROCEDURES

SECTION 11.005. Purpose. The purpose of this chapter is to establish procedures for approval of development required by this ordinance, appeals from aggrieved persons and parties, and review of any decision by a higher authority.

SECTION 11.010. Review Process. An application for development approval required by this ordinance shall be processed by quasi-judicial public hearing or administrative action, pursuant to applicable sections of this ordinance. Quasi-judicial hearings shall be held on all regulations, except that hearings shall not be held in those matters the City

Administrator has authority to act upon, unless appealed pursuant to the provisions of this chapter.

SECTION 11.020. Form of Petitions, Applications and Appeals. Petitions, applications, and appeals provided for in this ordinance shall be made on forms prescribed by the city. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the size and relationship on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this ordinance. In the matter of residential facilities, the residential facility application shall also be accompanied by a copy of the state licensing application.

SECTION 11.030. Authorization of Similar Uses. The City Administrator may permit in a particular zone a use not listed in this ordinance provided the use is of the same general type as the uses permitted there by this ordinance. However, this section does not authorize the inclusion, in a zone where it is not listed, a use specifically listed in another zone which is of the same general type and is similar to a use specifically listed in another zone.

SECTION 11.040. Coordination of Development Approval.

1. The City Administrator shall be responsible for the coordination of all development applications and decision making procedures, and shall approve developments when proper application is made and the proposed development is in compliance with the provisions of this ordinance and the City of Winston Comprehensive Plan. Before approving any development, the City Administrator shall be provided with information by the applicant sufficient to establish full compliance with the requirements of this ordinance.
2. After an application has been submitted, no building permit for the proposed use shall be issued until final action has been taken. Following final action on the application, the issuance of a building permit shall be in conformance with the provisions of this ordinance, and any conditions of development approval.

SECTION 11.050. Who May Apply.

1. An application for development approval may be initiated by one or more of the following:
 - a. The owner of the property which is the subject of the application;
or
 - b. The purchaser of such property who submits a duly executed written contract or copy thereof; or

- c. A lessee in possession of such property who submits written consent of the owner to make such application; or
- d. Resolution of the City Council.

Any of the above may be represented by an agent who submits written authorization by his principal to make such application.

SECTION 11.060. Pre-Application Conference. An applicant shall request a pre-application conference prior to submitting a request for development approval. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of the ordinance, provide for an exchange of information regarding applicable elements of the Comprehensive Plan and development requirements, arrange such technical and design assistance as will aid the applicant, and to identify policies and regulations that create opportunities or pose significant constraints for the proposed development. The requirements of this section may be waived at the discretion of the City Administrator.

SECTION 11.065. Application. Application for development approval shall be made pursuant to applicable sections of this ordinance on forms provided by the city. An application shall be complete, contain the information required by these regulations, and address the appropriate criteria for review and approval of the request. All applications shall be accompanied by the required fee.

1. The City Administrator shall check an application for completeness as per this section. The Administrator shall notify the applicant of any missing materials within 30 days of receipt of the application. The applicant shall have 180 days from the date the applicant was informed what materials were missing to submit the missing materials. The application shall be deemed complete when all required materials are received, when 180 days have expired since the applicant was notified of the missing material(s) or on the 31st day after submittal of any incomplete application if the applicant has submitted a written statement that the missing materials will not be submitted.
2. Concurrent Processing - Any application for discretionary permits applied for under this ordinance or under Subdivision Ordinance No. 290, for one development, at the applicant's request shall be processed concurrently.
4. Time Limit on Decisions - The final decision, including any appeals to the City Council, on any applications for discretionary permits applied for under this ordinance or under Subdivision Ordinance 290, or any combination thereof, shall be made within 120 days of the date the applications(s) is (are) deemed complete. The 120 days applies only to the decisions wholly within the authority and control of the city and not to plan and land use regulation decisions required to be forwarded to the Director of the Department of Land Conservation and

Development under ORS 197.610(1). The 120-day period may be extended at the request of the applicant.

4. Review - Approval or denial for an application shall be based upon the comprehensive plan and standards and criteria that were applicable for that land use regulation at the time the application was first submitted.
5. An applicant whose application has not been acted upon finally within the 120 days after the application was deemed complete by the City Administrator may seek a writ of mandamus to compel issuance of the permit or zone change application or a determination that the appeal would violate the city's plan or land use regulations.

SECTION 11.070. Fee to Accompany Annexation Petitions. At the time of filing any annexation petition, the Petitioner shall deposit with the City an annexation fee. Upon presentation of the petition the City Administrator shall review it and determine whether an election may be required for the petition. This fee shall be used to pay expenses to the city in processing the annexation application, including but not limited to, reasonable charge for staff time, election expenses, engineering, and posting or publication costs. If, at the conclusion of the annexation process, any balance is left remaining after payment of the above expenses, the remainder shall be refunded to the applicant.

SECTION 11.075. Land Use Actions.

1. Ministerial Actions. The City Administrator shall have the authority to review the following applications as Ministerial actions, and shall follow the procedures provided by this ordinance to accomplish such review.
 - a. Issuance of building permits and mobile home placement permits.
 - b. Issuance of sign permits.
 - c. Lot line adjustments.
 - d. Family Hardship Variance (Temporary Use of Mobile Home)
2. Administrative Actions. The City Administrator shall have the authority to review the following applications as Administrative actions, and shall follow the procedures provided by this ordinance to accomplish such review. The following applications shall be processed as Administrative Actions:
 - a. Conditional use permit.
 - b. Variance.
 - c. Land partition.

The Planning Commission shall be provided with a copy of Administrative land Use Decisions. The Planning Commission may at a regular meeting, if within the appeal period, request a public hearing on the decision. Any hearing shall be scheduled for the next regular meeting which allows a 10 day notice to the applicant and others who participated in the action. If no hearing is requested by the Planning Commission then the decision shall be final unless otherwise appealed as provided in this ordinance.

3. Quasi-Judicial Actions. Within thirty (30) days after accepting a completed application for Quasi-judicial action pursuant to this section of this ordinance, the City Administrator shall act upon, or cause a hearing to be held upon, the application, unless such time limitation is extended with the consent of the applicant. The following matters shall be heard by the Planning Commission, pursuant to the procedures established in this Article.
 - a. Zone change
 - b. Planned Unit Development
 - c. Subdivision preliminary plat
 - d. Mobile home park preliminary plan review
 - e. Comprehensive plan map amendment
 - f. Review of annexation petition
 - g. Review of an administrative action requested within the appeal period
 - k. Appeals of a decision by the City Administrator
 - l. Matters referred to the Commission by the City Administrator or City Council

SECTION 11.080. Notice.

1. At least twenty (20) days prior to the date of a quasi-judicial public hearing under Section 11.075(3.), and within 60 days of receipt of an administrative action under Section 11.075(2.), notice shall be sent by mail to: The applicant and all owners of contract purchasers of record of the property which is the subject of the applications; all owners of property within one hundred fifty feet (150') of the property; Oregon Department of Transportation Region 3; Douglas County Planning Department; Douglas County Public Works Department and Umpqua Transit.

2. Mobile home park tenants shall be noticed in writing at least 20 days, but not more than 40 days prior to the hearing date(,) for ~~which~~ a proposed rezone of the park within which they reside.
3. The records of the Douglas County Assessor's Office shall be used for notice required by this ordinance. Persons whose names and addresses are not on file at the time of the filing of the application need not be notified of the action. The failure of a property owner to receive notice shall not invalidate the action if a good-faith attempt was made to notify all persons entitled to notice.
4. Any person who requests, in writing, and pays a fee established by the city, shall be entitled to receive copies of notices for administrative actions, either on an urban area wide or site-specific basis, as specified by such person.

SECTION 11.090. Contents of Notice.

1. Notice of an application given pursuant to Section 11.080 shall include the following information:
 - a. The name of the applicant.
 - b. A description of the subject property, reasonably calculated to give notice as to its actual location, and for the purpose of this section, shall include, but not be limited to the tax map designations of the Douglas County Assessor's Office.
 - c. The nature of the application.
 - d. The scheduled date and time of the public hearing.
 - e. The deadline for filing comments on the application.
 - f. A statement explaining the standards and procedures for establishing party status as provided in Section 11.100.
 - g. List the applicable criteria from this Ordinance and the plan that apply to the application at issue.
 - h. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the approving authority an opportunity to respond to the issue precludes appeal based on that issue.
 - i. Include the name of a City representative to contact and the telephone number where additional information may be obtained.

- j. 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.
- k. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and will be provided at reasonable cost.
- l. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

SECTION 11.100. Establishment of Party Status.

- 1. In order to have standing under this chapter, a person shall be recognized as a party by the Planning Commission. Party status, when recognized as by the Planning Commission establishes the right of the person to be heard, either orally or in writing, and pursue a review or appeal under this chapter.
- 2. A written request for establishment of party status shall be made at least seven (7) days before the date set for a quasi-judicial public hearing by any person filing with the City Administrator a written statement regarding the application being considered. Such statement shall include:
 - a. The name, address and telephone number of the person filing the statement;
 - b. How the person qualifies as a party;
 - c. Comments which the party wishes to make with respect to application under consideration; and,
 - d. Whether the person desires to appear and be heard at the hearing.
- 3. Five (5) or more days before the date set for a public hearing, the City Administrator shall mail the applicant a copy of any statements that have been filed to date.
- 4. Other persons may be granted party status by the Planning Commission at the time of the public hearing upon a finding that the person requesting party status is specially, personally, adversely and substantially affected by the subject matter. The burden for showing that party status should be granted shall rest with the person requesting party status.

SECTION 11.200. Hearing Procedure.

- 1. In the conduct of a public hearing, the Planning Commission shall have the authority, pursuant to the provisions of this ordinance, to:

- a. Dispose of procedural requirements or similar matters.
 - b. Determine for the record those person who have standing in the subject matter and rule on requests for granting party status.
 - c. Rule on offers of proof and relevancy of evidence and testimony.
 - d. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross-examination of witnesses and rebuttal testimony.
 - e. Take such other action appropriate for conduct commensurate with the nature of the hearing.
 - f. Grant, deny, or in appropriate cases, attach conditions to the matter being heard.
2. In the event the applicant or his authorized representative is not present at the time set for the hearing, the Planning Commission may postpone the matter to a later time or date. Upon receipt of a signed written statement by the applicant or his authorized representative requesting that the hearing be conducted in his absence the Planning Commission may, at its discretion, proceed with the hearing as otherwise provided for in this chapter.
 3. The applicant or any party wishing to subpoena witnesses to a hearing may do so by application to the City Administrator. Such subpoenas shall be enforceable upon proper completion and inclusion of those fees applicable to civil cases in the Douglas County Circuit Court. Payment of fees and services shall be the responsibility of the party desiring such service.
 4. Order of Procedure: Unless otherwise specified, the Planning Commission shall:
 - a. At the commencement of the hearing, read a statement to those in attendance that:
 - (i) Lists the applicable substantive criteria;
 - (ii) States that testimony and evidence must be directed toward the applicable criteria in the plan or this Ordinance which the person believes to apply to the decision; and,
 - (iii) States that failure to raise an issue with sufficient specificity to afford the approving authority and the parties

an opportunity to respond to the issue precludes appeal based on that issue.

- b. Announce the nature and purpose of the hearing and summarize the rules for conducting the hearing.
- c. Recognize parties to hearing.
- d. Prior to taking any action at the hearing, all members of the Planning Commission shall disclose the content of any significant pre-hearing or ex parte contacts with regard to the matter being heard. Any party to such contact shall be given the opportunity to rebut the substance of the ex parte disclosure.
- e. Request the City Administrator to present the introductory report of the City Administrator and explain any graphic or pictorial displays which are a part of the report. Request the City Administrator to read findings and recommendations, if any, and provide such other information as may be requested by the Planning Commission.
- f. Allow the applicant to be heard first, on his behalf or by representative.
- g. Allow parties or witnesses in favor of the applicant's proposal to be heard.
- h. Allow other parties or witnesses to be heard next in the same manner as in the case of the applicant.
- i. Upon failure of any party to appear, the Planning Commission may take into consideration, written material submitted by such party.
- j. Allow the parties to offer rebuttal evidence and testimony, and to respond to any additional evidence. The scope and extent of rebuttal shall be determined by the Chairman.

- k. Conclude the hearing.
5. Questions may be asked at any time by members of the Planning Commission. Questions by the parties or City Administrator may be allowed by the President upon request. Upon recognition by the President questions may be submitted directly to the witnesses or parties. The witnesses or parties shall be given a reasonable amount of time to respond solely to the questions.
 6. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearings. When the chair reopens the record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
 7. At the conclusion of the hearing, the Planning Commission shall either make a decision and state findings which may incorporate findings proposed by any party, or the City Administrator, or may take the matter under advisement. The Planning Commission may request proposed findings and conclusions from any party to the hearing. The Planning Commission, before finally adopting findings and conclusion, may circulate the same in the proposed form to the parties for written comment. All actions taken by the Planning Commission pursuant to adopting findings and conclusions which support the decision of the Planning Commission shall not be final until reduced to writing and signed by the Chairman. The Planning Commission shall grant, deny, or in appropriate cases, attach conditions to the proposal being heard, and the City Administrator shall notify by mail the parties of the decision.
 8. General Conduct of Hearing. The following rules apply to the general conduct of the hearing:
 - a. No person shall be disorderly, abusive or disruptive of the orderly conduct of the hearing.
 - b. No person shall testify without first receiving recognition from the President.
 - c. No person shall present irrelevant, immaterial or unduly repetitious testimony.
 - d. Audience demonstrations such as applause, cheering and display of signs, or other conduct disruptive of the hearing, shall not be permitted. Any such conduct may be cause for immediate suspension of the hearing.

SECTION 11.201. Quasi-Judicial Hearings/Challenges to Impartiality.

1. Any party to a matter to be heard under this Article and any member of the approving authority or of the City Council may challenge the qualification of any other member of that authority or body to participate in the hearing

and decision regarding the matter. The challenge shall state by affidavit the facts relied upon by the challenger as the basis for the challenge.

- a. Except for good cause shown, the challenge shall be delivered by personal service to the City Recorder and the person whose qualification is challenged, not less than 48 hours preceding the time set for the hearing.
 - b. The challenge shall be made a part of the record of the hearing.
2. No member of the approving authority or of the City Council may discuss or vote on a matter when:
- a. Any of the following has a direct or substantial pecuniary interest in the matter: the member of his or her spouse, brother, sister, child, parent, father-in-law, or mother-in-law; any organization in which the member is then serving as an officer or director or has so served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning a prospective partnership, employment or other business affiliation.
 - b. The member owns all or a portion of the property that is the subject of the matter before the approving authority or City Council or owns abutting or adjacent property.
 - c. The member has a direct personal interest in the matter or for any other reason cannot participate in the hearing and decision impartially. This includes matters where by past conduct or statements the member: has a bias which in the exercise of sound judgment the member cannot vote upon the matter impartially and without prejudice to the substantial rights of the challenging party; owes a present or future fiduciary duty to one of the parties ;shares the member's residence with a party which has a pecuniary interest in the matter; or has a personal bias or prejudice against a party.
3. Because of the importance of preserving public confidence in decisions made by the approving authority or City Council, a member of that authority or body may elect to abstain from a particular hearing when in fact the member is not disqualified but simply desires to avoid the mere appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgment. A member who feels that abstention may be necessary or desirable under this section shall seek the advice of the authority or body and then state the member's decision and the reasons therefore.
4. No other officer or employee of the City who has a financial or other private interest in a matter before the approving authority or City Council may participate in discussion of the matter with, or give an official opinion

on the matter to, the authority or body without first declaring for the record the nature and extent of that interest.

5. At the commencement of the hearing on a matter, members of the approving authority or of the City Council shall reveal all significant pre-hearing and ex parte contacts they have had about the matter. If the contacts have not impaired the member's impartiality, the member shall so state that fact and participate or abstain in accordance with Subsection 4 of this Section and with the member's own judgment.
6. Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the approving authority or City Council and abstains from discussion and from voting on the matter as a member of the authority or body.
7. Whenever the qualifications of a member of the approving authority or of the City Council are challenged, the presiding officer of the authority or body shall give precedence to the challenge by first giving the challenged member an opportunity to respond and then, if necessary, putting the challenge to the authority or board for decision.
8. Disqualification for reasons set forth in Subsections 1, 2, 3 or 5 of this Section may be ordered by a majority of the approving authority or City Council. The member who is the subject of the motion for disqualification may not vote on the motion.
9. If all members of the body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after stating their reasons for abstention or disqualification, shall by so doing be re-qualified and proceed to resolve the issues.
10. A member absent during the presentation of any evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless he or she has reviewed the evidence received.

SECTION 11.210. Official Notice.

1. The Planning Commission may take official notice of the following:
 - a. All facts which are judicially noticeable. Judicially noticed facts shall be stated and made part of the record.
 - b. The Comprehensive Plan and other officially adopted plans, ordinance
2. Matters officially noticed need not be established by evidence, and may be considered by the Planning Commission in the determination of the application.

SECTION 11.220. Record of Proceeding.

1. A verbatim record of the proceeding shall be made. It shall not be necessary to transcribe testimony except as provided for in Section 11.310. In all cases, the tape, transcript of testimony or other evidence of the proceedings shall be part of the record.
2. All exhibits received shall be marked so as to provide identification upon review.
3. A complete record of the hearing, including all exhibits received(,) shall become part of the official records of the city and shall be maintained in accordance with state laws.

SECTION 11.230. Decision.

1. The Planning Commission may approve the application, deny the application, or grant approval subject to special conditions necessary to carry out the purpose and intent of this ordinance.
2. The Planning Commission shall make its decision upon the close of its hearing or upon continuance of the matter to a specified date.
3. The City Administrator shall send a copy of the Planning Commission's final written decision to all parties to the proceeding within seven (7) days of said decision, and shall at the same time, file a copy of the Planning Commission's final order in the official records of the city.

SECTION 11.300. Appeals of City Administrator Decision.

1. Any action taken by the City Administrator in the interpretation, administration or enforcement of this ordinance shall be subject to review by the Planning Commission.
2. Any party may appeal a decision of the City Administrator relative to an administrative action. In the conduct of an appeal hearing, the Planning Commission shall establish that the appellant is qualified as a party as defined by this ordinance, or the appeal shall not be heard and the contested decision shall become final.
3. The Planning Commission may review the action of the City Administrator upon its own motion by resolution filed within fourteen (14) days of the City Administrator's decision, or upon receipt of a Notice of Appeal as prescribed herein. For the purpose of this section, an appeal shall be filed with the City Administrator no later than fourteen (14) days following the date of the decision or action of the City Administrator.

4. Every notice of appeal shall contain:
 - a. A reference to the application sought to be appealed.
 - b. The date of the final decision on the action.
 - c. A statement as to how the petitioner qualifies as a party.
 - d. The specific facts from the record of the hearing which form the basis of the petitioner's request for review.
5. The appeal shall be accompanied by the required fee.
6. At least twenty (20) days prior to the date of the Planning Commission meeting, the City Administrator shall give notice as provided by Section 11.080 (1) of this chapter of the time and place of the meeting to all parties to the case.
7. Members of the Planning Commission shall neither:
 - a. Communicate, directly or indirectly, with any party or representative in connection with any issue related to the appeal except upon notice and opportunity for all parties to participate; nor
 - b. Take notice of any communication, reports, staff memoranda, or other materials prepared in connection with the particular case, unless the parties are afforded an opportunity to review the material so noticed.
8. During the course of the review, the City Administrator shall first present to the Planning Commission the decision and the reasons for such action. The appellant then may present its argument and may call witnesses to give additional testimony.
9. Appeal of an administrative decision to the Planning Commission shall be conducted as a new hearing without prejudice.
10. The review shall be accomplished in accordance with the provisions of this ordinance. The Planning Commission may continue the appeal hearing to a specified time to gather additional evidence or to consider the application fully. Unless otherwise provided by the Planning Commission, no additional notice need be given of continued hearings if the matter be continued to a specific date.
11. The majority of the Planning Commission shall act upon appeal within thirty (30) days of filing thereof, unless such time limitation be extended with the consent of the applicant; provided that, unless otherwise ordered

by the Planning Commission, the City Administrator shall forward such appeals in the order in which they are filed.

12. Any person wishing to subpoena or depose witnesses to an appeal may do so by application to the City Administrator not less than seven (7) days prior to the hearing, and by showing that the witness resides in Oregon, is unable or unwilling to appear, and his testimony is material and relevant. Such subpoenas or depositions shall be enforceable, upon proper completion and inclusion of those fees applicable to civil cases in the Douglas County Circuit Court.
13. All evidence offered may be received. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. All evidence received shall become a part of the record of the hearing.
14. The Planning Commission may affirm, reverse or modify the action of the City Administrator and may reasonably grant approval subject to conditions necessary to carry out the purpose and intent of this ordinance.
 - a. For all cases, the Planning Commission shall make a decision based upon the findings and conclusions from the record of the hearing.
 - b. The Planning Commission shall make its decision upon the close of its hearing, or upon continuance of the matter to a specific date.
 - c. The City Administrator shall send a copy of the Planning

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SECTION 11.310. Review of the Decision of the Planning Commission. Fifteen (15) days from the date of the written decision of the Planning Commission, the decision shall become effective, unless review is sought pursuant to this section.

1. Review of the decision of the Planning Commission:
 - a. Shall be made by the City Council upon any party filing a Notice of Review with the City Administrator within fourteen (14) days of the filing of the written decision sought to be reviewed . Review by the City Council shall be conducted pursuant to Section 11.320.
 - b. May be made by the City Council on its own motion passed within fourteen (14) days of the filing of the written decision sought to be reviewed. Review by the City Council shall be conducted pursuant to Section 11.320.
2. Notice of the time and place of the review, together with any Notice of Review filed, shall be mailed to all parties at least fourteen (14) days prior to the date of review by the City Council.

3. A record of the review shall be made and shall be the same as that required at the hearing before the Planning Commission, pursuant to Section 11.220.
4. Every Notice of Review shall contain:
 - a. A reference to the decision sought to be reviewed.
 - b. The date of the decision sought to be reviewed.
 - c. A statement as to how the petitioner qualifies as a party.
 - d. The specific facts from the record of the hearing which form the basis of the petitioners request for review.
5. Except when filed by the City Council, a Notice of Review shall be accompanied by the required fee.
 - a. If the City Council does not desire a transcript, the applicant or any party may request a transcript. Any such transcript request shall be paid for by the person requesting it in the manner provided in this section. The estimated cost of the transcript shall be specified by the City Administrator. Within five (5) days of such estimate, the person making the request for a transcript shall deposit the estimated cost with the City Administrator. Any deposit excess shall be returned to the depositing person.
 - b. If a transcript is desired by the City Council, the costs shall be borne by the city.

SECTION 11.320. Review by the City Council.

1. The review of the Planning Commission's decision by the City Council shall be confined to the record of the original hearing, which will include the following:
 - a. All materials, pleadings, memoranda, stipulations and motions submitted to the Planning Commission
 - b. All materials submitted by the City Administrator to the Planning Commission
 - c. The transcript of the hearing, if desired by the City Council, or the tape recording of the hearing or other evidence of the proceedings before the Planning Commission.
 - d. The written findings, conclusions and decision of the Planning Commission

- e. Argument by the parties and/or their legal representatives on the record is permitted pursuant to Section 11.200 at the time of review by the City Council.
2. Review by the City Council upon appeal by a party shall be limited to the facts from record of the hearing which form the basis of the petitioner's request for review. New materials or testimony containing facts which were not made part of the original hearing shall not be received.
 3. The City Council may affirm, reverse or modify the action of the Planning Commission, and may approve or deny the request, or grant approval subject to special conditions necessary to carry out the purpose and intent of this ordinance.
 - a. For all cases, the City Council shall make a decision based upon the fir
 - b. The City Council shall enter such findings, conclusions and final orders
 - c. The City Council shall, within seven (7) days of its final order, cause copies of its final written order to be sent to all parties participating in the review before it.
 4. The City Council may remand the matter to the Planning Commission if it is satisfied that testimony or other evidence could not have been presented at the initial hearing. In deciding such remand, the City Council shall consider and make findings and conclusions:
 - a. That substantial prejudice to parties resulted;
 - b. That material, relevant and competent evidence at the time of the initial hearing was unavailable through no lack of diligence of the party offering such testimony and evidence; or
 - c. That surprise to opposing parties occurred.
 5. Only those members of the City Council reviewing the entire record may act on the matter reviewed. The agreement of a majority of those reviewing is necessary to amend, reverse or remand the action of the Planning Commission. Upon failure of a majority of those reviewing to agree, the decision of the Planning Commission shall stand.
 6. City Council decisions for discretionary permits may be appealed to the Land Use Board of Appeals (LUBA), as provided in ORS 197.830.

ARTICLE 12. REMEDIES

SECTION 12.010. Penalty. A person violating a provision of this ordinance shall, upon conviction, be punished by imprisonment for not more than thirty (30) days or by a fine of not more than \$300.00, or both. A violation of this ordinance shall be considered a separate offense for each day the violation continues.

SECTION 12.020. Alternative Remedy. In case a structure is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or land is, or is proposed to be, used in violation of this ordinance, the structure or land thus in violation shall constitute a nuisance. The City may as an alternative to other remedies that are legally available for enforcing this ordinance, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, join, temporarily or permanently, abate, or remove the unlawful location, construction, maintenance repair, alteration or use.

ARTICLE 13. REPEAL

SECTION 13.010. Repeal. Ordinance No. 155, enacted 8 December 1972, and all amendments thereto, is hereby repealed.

Passed by the council and approved by the mayor September 15, 1980.

ARTICLE 14. SITE PLAN REVIEW

SECTION 14.010 Purpose It is the purpose of this Article to ensure that the development of property in the Winston Urban Area is commensurate with the character and physical limitations of the land; to promote and protect the public health, safety and welfare of the community; to enhance aesthetic values; to assure development which is suitably related to its environment; to prevent both extremes of monotonous uniformity and substantial dissimilarity; and, to conform with the adopted goals, objectives and policies of the Winston Comprehensive Plan.

SECTION 14.020 Site Plan Review Required No lot or parcel in any zoning designation established under the provisions of this Ordinance shall hereafter be developed or physically altered, and no building or structure hereafter shall be erected, enlarged or structurally altered until site development plans have been approved in accordance with the provisions of this Article. Without limiting the foregoing on any other provision of this Ordinance, no installation of 3,000 square feet or more of asphalt or other impervious surfaces shall be made until site development plans have been approved in accordance with the provisions of this Article.

To the extent possible, site plan review shall be coordinated with any other plan review required by this Ordinance. Where other provisions of this Ordinance require plan review, such other review shall serve to meet the requirements of this Article are more restrictive than comparable standards imposed by other provisions of this Ordinance, the standards of this Article shall govern.

SECTION 14.030 Authority The City Administrator or his designee shall review all site development plans required by this Article. The City Administrator's authority shall be limited to that necessary to accomplish the provisions of this Article and the provisions of this Ordinance.

1. The City Administrator or his designee may:
 - a. Approve the submitted plan;
 - b. Approve the submitted plans with additions, modification or changes;
or,
 - c. Deny the submitted plans.
2. Application. The applicant for site plan review shall submit to the City Administrator or his designee plans consisting of maps, drawings, written descriptions or other materials necessary and appropriate for the City Administrator or his designee to determine that the proposed development will conform with the general requirements of this Article and the specific requirements of this Ordinance.

3. Appeal. Any administrative action by the City Administrator or his designee with respect to approval, modification or denial of site plan review may be appealed by the applicant, as provided for in Section 11.300 of this Ordinance.

SECTION 14.040 Criteria and Standards In addition to the other specific requirements of this Ordinance, other applicable ordinances, ODOT State Highway access standards, Douglas County Road access standards, development plans submitted to the City Administrator or his designee shall comply with the following standards and criteria:

1. Improved Street Access - Statement of Policy. It is recognized that many streets with the Winston Urban area do not conform to minimum design standards as established by this Ordinance. It is further recognized that significant increases in traffic volume on such substandard streets could result in the inefficient and unsafe movement of traffic within and throughout the Winston urban Area, and could otherwise adversely affect the general health, safety and welfare. Furthermore, it is recognized that the improvement of such substandard streets to City standards is essential for the ultimate development of the Winston Urban Area in a safe, orderly and efficient manner.

Therefore, any development for which four or more off-street parking spaces are required by Section 5.040 shall be permitted only if the property fronts on, and is served primarily by, a street having a minimum paved width of twenty-four (24) feet along the entire frontage of the property, and such paved street connects with a collector or arterial street, either directly or via other streets having a minimum paved width of twenty-four (24) feet. In the case where property fronts on a street which conforms to the requirements of this Section but otherwise is not fully improved to the standards established elsewhere in this Ordinance, either expressly or by reference, or in the case where property abuts a street which does not conform to the standards established elsewhere in this Ordinance, either expressly or by reference, the property owner shall improve the street as required to the standards established elsewhere in this Ordinance, or, upon the City Administrator's or his designee's determination, shall file with the Governing Body a suitable instrument of commitment of the subject property in perpetuity to any Local Improvement District, present or future, which may be created for the purpose of financing improvements of abutting streets to the minimum standard established elsewhere in this Ordinance, either expressly or be referenced.

2. Access, Parking and Loading. With respect to vehicular and pedestrian ingress, egress and circulation, including walkways, interior drives and parking and loading areas, the location and number of access points for normal and emergency uses, general interior circulation, separation of pedestrian, bicycle and vehicular traffic, and arrangement of parking, loading and service areas and driveways shall be reviewed for safety, convenience and mitigation of potential adverse impacts on neighboring properties, on the operation of public facilities, and on the traffic flows of adjacent and nearby streets and shall also be reviewed for conformance with the standards established in Sections 5.040 through 5.049.4.

3. Surface Water Drainage. Adequate provisions shall be made to ensure property drainage of surface waters, and to prevent soil erosion and flooding. Site drainage provisions shall provide for acceptance of off-site drainage waters, and conveyance of all drainage waters, including crawl space and roof drainage, such that they are discharged off-site at a location and in such a manner that they do not damage off-site properties, do not violate drainage ordinances or laws, and are not increased in volume over natural or pre-project flows without said increase being in conformance with drainage law or first having obtained the approval of the downstream owners(s).

If a development is, or will periodically be, subject to accumulation of surface water or is traversed by a water course, drainage way, channel, stream, creek or river, the applicant may be required to dedicate to the public storm drain easements approved by the Public Works Superintendent to provide for present and future drainage needs of the area, including access for maintenance. Storm drainage facilities shall conform to the standards established by the Public Works Superintendent.

4. Underground Utilities. All new major development, as defined in this Subsection, shall be served by underground utilities, including, but not limited to, electrical, telephone, cable television and street lighting lines.

For purpose of this Section, new major development is any new development containing more than 5,000 square feet of gross floor area, either in a single structure or in the sum of all structures constructed on a single lot or parcel, or any enlargement or structural alteration exceeding 5,000 square feet of gross floor area, for which site plan review is required by this Article, or any development subject to the requirements of Section 4.310 of this Ordinance and the Subdivision Ordinance.

Under special circumstances and conditions, the City Administrator or his designee may vary the strict application of the requirements of this subsection upon finding that such strict application is impractical due to the location of existing overhead utilities, unusual and special utility requirements of the development, or other conditions beyond the control of the developer.

Whenever overhead utilities are utilized in a development, the City Administrator or his designee shall review the proposed location of such overhead utilities, and may require their arrangement and location in such a manner to better carry out the purpose of this Article.

5. Lighting. Adequate exterior lighting shall be provided to promote public safety and shall be designated to avoid unnecessary glare upon other properties.
6. Screening. Except in the Industrial Limited (M-L) and Industrial General (M-G), exposed storage areas, utility buildings, machinery, garbage and refuse storage areas, service and truck loading areas, and other accessory uses and

structures shall be adequately set back and screened. Screening may consist of fences, walls, berms and landscaping, or any combination thereof, and which otherwise conforms with the standards established by this Ordinance. Screening or buffering of parking areas in all districts shall conform to the standards established in Section 5.048.

7. Compatibility. Compatibility with the surroundings and the Comprehensive Plan's designation for uses on surrounding property, particularly when the surrounding property is residential in character, the following criteria apply:
 - a. Odor, dust, smoke, fumes, noise, glare, heat and vibration from uses which might create a nuisance or be offensive to other uses in the area or be incompatible with such other uses, shall be adequately eliminated or controlled.
 - b. Due consideration shall be given to the preservation of attractive and distinctive historical and natural features.
 - c. Non conforming uses shall not take precedence over a proposed development which enhances the aesthetics or value of the surrounding property.
 - d. This standard and criteria shall not take precedence over the need for housing for all income groups in the City.
 - e. Signs shall be of a scale that is in harmony with the site and surrounding development and may be illuminated if within the lighting and other standards and criteria of this section.
8. Riparian Habitat Protection. The City Administrator or his designee shall comply with Section 5.120 of this Ordinance.
9. Water for Domestic Use. All structures containing a plumbing fixture shall be required to use the Winston-Dillard Water District's water supply system as the sole water source. No development shall be permitted which uses a well as a water source for any structure containing a plumbing fixture.
10. Additional Factors. Additional specific factors as necessary to fulfill concerns raised at the time the property was zoned or rezoned.

SECTION 14.050 Dedications and Improvement Petitions: Where the City Administrator or his designee determines that the public need would be better served by dedication of rights-of-way rather than an easement, the site plan shall so indicate, and the land shall be conveyed to public ownership by instrument. Where the City Administrator or his designee determines that it is in the public interest to delay construction of any local improvement required by this Article, the City Administrator or his designee may require the property owner file with the Governing Body a suitable instrument of commitment for the subject property in perpetuity to the formation of a local improvement district, present or

future, which may be created for the purpose of constructing and financing the local improvement by special benefit assessment.

SECTION 14.060 Documentation Of Approved Plans: Approval of site plan becomes effective on the date of action by the City administrator or his designee.

SECTION 14.070 Limits Of Approval: If a building permit for a development for which site plan approval has been granted is not obtained within eighteen (18) months of said approval, unless an extension has been requested and granted by the City Administrator or his designee within that time period, said approval is deemed automatically revoked, and a new site plan and application must be submitted and approved prior to issuance of a building permit.

SECTION 14.080 Modifications: Except for interior structural modifications, changes in use that are in character with those associated with original approval and changes deemed minor by the City Administrator or his designee, all modifications subsequent to site plan approval must be reviewed and approved according to the requirements for original submittal.

SECTION 14.090 Compliance: Once approved, the development of the site must conform to approved site plans and all conditions attached thereto. Any departure constitutes a violation of this Ordinance.

SECTION 14.100 Special Additional Site Review For Registered Historic Resources: The purpose of this historic preservation provisions is to preserve, protect, maintain and enhance those historic resources which represent or reflect elements of the cultural, social, economic, political and architectural history. Historic resources are the sites, buildings, structures, objects, natural features or specific districts that relate to events or conditions of our past. Protected resources will provide educational value, enjoyment and economic diversification as well as beautification of the City and enhancement of property values. This Section is intended to allow the City to review development or demolition proposals at the time of site review to ensure that registered historic resources are preserved.

SECTION 14.110 Historic Resources For the purposes of this Section, historic resources are those within the Douglas County Historic Resource Register and the National Register of Historic Places.

SECTION 14.120. Exterior Remodeling or Alteration of Historic Structures Upon receipt by the Planning Department of all building permit requests for exterior alteration of a historic building, the City Administrator or his designee shall within 15 working days, review the permit application for compliance with the requirements of Section 14.140 of this Ordinance and shall refer the request to the Winston Planning commission and schedule a hearing to review the permit request. The Winston Planning Commission shall review the permit request and shall:

1. Initiate review within 30 working days of the date the completed permit application was submitted to the Planning Department. The applicant shall be notified of the time and place of the review and be encouraged to be present.

A failure to initiate review within 30 working days shall be considered as an approval of the application.

2. Direct the City Administrator or his designee to submit to the Douglas County Building Department a statement of development approval if the Planning Commission finds the proposed alterations to be in compliance with Section 14.140.
3. Initiate one of the following if the Planning Commission finds the proposed alterations to be in non-compliance with Section 14.140:
 - a. Approve the application subject to compliance with conditions which will bring the application into conformance with Section 14.140; or,
 - b. Place up to a 60-day delay from the date of the hearing action on issuance of a building permit for the proposed alteration to provide additional time for gathering information, to further evaluate the proposal or to identify alternatives for the owners; or,
 - c. Provide the applicant with information concerning local, state and federal preservation programs so that the applicant may gain knowledge of alternatives available to him.

SECTION 14.130. Demolition of Historic Structures or New Construction of Historic Sites.

Upon receipt from the Planning Department of request for demolition of a historic building or new construction on historical sites on which no structure exists, the City Administrator or his designee shall schedule a hearing before the Planning commission to review the request. However, if the structure for which the demolition permit request has been filed has been damaged in excess of 70% of its assessed value due to fire, flood, wind, or other action of God, a demolition permit may be approved by the City Administrator or his designee after ratification by the Planning Commission. If the Planning Commission does not ratify a demolition permit, then the City Administrator or his designee shall schedule a hearing before the Planning Commission to review the demolition request. A failure to initiate review within 30 working days shall be considered as an approval of the application.

The Planning Commission may delay the issuance of the demolition permit or building permit for up to 60 days from the date of the hearings action by the Planning Department. The Planning Commission's decision shall be based upon consideration and completion of the following factors:

1. Reasonable efforts shall be made by the Planning Commission to provide the owner of the structure with possible alternatives for demolition, including information concerning local, state and federal preservation programs;
2. Reasonable effort shall be made by the Planning Commission to maintain the historic structure by an acquisition, protection, stabilization, preservation,

rehabilitation, restoration or reconstruction project. (A demonstrated lack of private and public funding for the above is sufficient cause to allow demolition).

3. Consideration shall be given to the Guidelines listed in Section 14.140.
4. The Planning Commission shall seek assistance through referrals from at least the following agencies and organizations: the State Historic Preservation Office, the Douglas County Museum, the Douglas County historic Resource Review Committee and the Umpqua Historic Preservation Society.

Following review, the Planning Commission may grant or deny the request for issuance of a building permit or demolition permit.

The City Administrator or his designee shall file a memorandum of the decision in the records of the Planning Department and shall send a copy to the applicant by mail.

The decision of the Planning Commission is final unless a written appeal from the property owner is received by the City Administrator or his designee within fourteen (14) days after the date on which the decision was filed.

SECTION 14.140. Guidelines For Exterior Alteration of a Historic Building: Affirmative findings shall be documented addressing the following guidelines based upon their relative importance.

1. Retention of original construction. All original exterior materials and details shall be preserved to the maximum extent possible.
2. Height. Additional stories may be added to historic building if:
 - a. The added height complies with requirements of the building and zoning codes.
 - b. The added height does not exceed that which was traditional for the style of the building.
 - c. The added height does not alter the traditional scale and proportions of the building style.
 - d. The added height is visually compatible with adjacent historic buildings.
3. Bulk. Horizontal additions may be added to historic buildings provided that:
 - a. The bulk of the additions does not exceed that which was traditional for the building style.
 - b. The addition maintains the traditional scale and proportion of the building style.

- c. The addition is visually compatible with adjacent historic buildings.
- 4. Visual integrity of Structure. The lines of columns, piers, spandrels, and other primary structural elements shall be maintained so far as is practicable.
- 5. Scale and Proportion. The scale and proportion of altered or added building elements, the relationship of voids to solids (windows to walls) shall be visually compatible with traditional architectural character of the historic building.
- 6. Materials and Texture. In-kind materials and textures shall be used in the alteration or addition of historic structures. Exterior alteration or addition shall follow the requirements of the Secretary of interior's Standards for historic preservation projects and the Historic Preservation League of Oregon's Rehab Oregon Rights manual.
- 7. Signs, lighting and other appurtenances. Signs, exterior light, and other appurtenances, such as walls, fences, awnings, and landscaping shall be visually compatible with the traditional architectural character of the historic building.

ARTICLE 15. NUISANCES

SECTION 15.001. Definitions.

1. Person. A natural person, firm, partnership, association or corporation.
2. Person in Charge of Property. An agent, occupant, lessee, contract purchaser or other person having possession or control of property.
3. Person Responsible. Each of the following, jointly and severally:
 - a. The owner.
 - b. The person in charge of property, as defined in Subsection 2.
 - c. The person who caused to come into or continue in existence a nuisance, as defined in this Ordinance or another ordinance of this City.
4. Public Place. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.
5. Code Enforcement Official. The City Administrator or his designee authorized to enforce this Ordinance. This shall include, but not be limited to, Police Officers and the Fire Chief.
6. Noxious vegetation. This includes:
 - a. Weeds, grass, or legumes above a height of twelve (12) inches;
 - b. Poison oak or poison ivy;
 - c. Vegetation or blackberry vines that:
 - (i) are a fire hazard because they are near other combustibles;
 - (ii) extend into a public way; or,
 - (iii) are used for habitation by trespassers.

Noxious vegetation does not include agricultural crops that are not a fire hazard or a vision obstruction nor natural vegetation in areas designated to remain in their natural vegetative state and do not constitute a fire hazard as determined by the Fire Chief.
7. Rodent habitat. Any condition which attracts or is likely to attract, feed or harbor rats or part, thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

8. Rodent-proof. Any building, structure or part there of is “rodent-proof” when it is constructed of concrete, metal or some equally impermeable material and in a manner that excludes rats and mice there from.
9. Vegetation. Plant life, including, but not limited to, trees, shrubs, flowers, weeds and grass.
10. Building. For the purposes of this Ordinance, the terms “building” and “structure” shall be synonymous. See “Structure”.
11. Boarded. Secured by means other than those intended in the original design.
12. Unoccupied. Not being used for lawful occupancy.
13. Unsecured. Lacking secure means of ingress and egress, thus allowing for occupancy or use by unauthorized persons.
14. Structure. An edifice or building or any piece of work or portion thereof which is used or designed or intended to be used for human occupancy, or for storage, which is artificially constructed or composed of parts joined together in some manner and which requires location on or in the ground. This definition shall include, for the purposes of this Ordinance, a manufactured home, modular home or mobile home, and accessories thereto.

Animals

SECTION 15.003. Removal of Carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

SECTION 15.004. Scope. Where, in any specific case, there is a conflict between this Ordinance 202 and Oregon Revised Statutes, the state statutes shall govern.

SECTION 15.011. Nuisances Affecting Public Health. No person shall cause or permit, on property owned or controlled by him, a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this ordinance:

1. Privies. An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations.
2. Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.

3. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
4. Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
5. Food. Decayed or unwholesome food which is offered for human consumption.
6. Odor. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.
7. Surface Drainage. Drainage of liquid wastes from private premises.
8. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.
9. Slaughterhouse, etc. A slaughterhouse, tannery or pigsty.
10. Rodent Habitat. Any condition which attracts or is likely to attract, feed or harbor rats or mice; this applies to, but is not limited in application to, any building or other structure or part thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

Nuisances Affecting Public Safety

SECTION 15.016. Attractive Nuisances.

1. No owner or person in charge of property shall permit thereon:
 - a. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.
 - b. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
 - c. An open pit, quarry, pond, cistern, swimming pool, hot tub, spa or other excavation without providing appropriate safeguards to prevent such places from being used by unsupervised children. Such safeguards shall be in accordance with the Uniform Building Code, as adopted by the City of Winston.

- d. An open, vacant, unoccupied or unsecured building or structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.
2. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

SECTION 15.017. Obstruction of a Public Way

1. Discharges and Deposits. No person shall cause any intentional or unintentional discharge, deposit or obstruction which renders the use of the public way or public property hazardous or unreasonably prevents its free and unobstructed use unless the discharge, deposit or obstruction is first authorized by the City Administrator. Tracking or depositing earth, soil, mud or dirt onto an asphalt or concrete public way is deemed to unreasonably prevent the free and unobstructed use of the public way.
2. Noxious Vegetation. No person responsible shall allow any vegetation on public or private property to be a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision. The hazards include, but are not limited to:
 - a. Vegetation that encroaches upon or overhangs a pedestrian way or adjacent strip lower than eight feet or encroaches upon or overhangs a street lower than ten feet.
 - b. Vegetation which obstructs motorist or pedestrian view of traffic, traffic signs and signals, street lights and street signs or any other safety fixtures or markings placed in the public way.
 - c. Vegetation which is an obstruction of access to, and use of, any public facilities placed with the public way.
 - d. Vegetation which is an obstruction of drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins and culverts.
 - e. Vegetation roots which have entered a sewer, lateral sewer or house connection and are stopping, restricting or retarding the flow of sewage therein.
 - f. Any vegetation, structure, mounding of earth or other physical obstruction which is in violation of the clear vision requirements as set forth in the City's Zoning Ordinance.
3. Interfering with Pedestrian or Vehicular Travel. No person responsible shall place, cause to be placed, or permit to remain on a street or sidewalk anything that interferes with the normal flow of pedestrian or vehicular

traffic on a street or sidewalk. The provisions of this Section do not apply to:

- a. Merchandise in the course of receipt of delivery, provided the merchandise does not remain upon a street or sidewalk for a period longer than one hour.
 - b. Activities conducted pursuant to a permit obtained from the City Administrator.
4. Sidewalk Accumulation. No person responsible shall cause or allow an accumulation of leaves, snow, ice, rubbish and other litter or any obstruction upon a sidewalk.

SECTION 15.018. Noxious Vegetation. No owner or person in charge of real property shall cause or allow to remain standing on property weeds, grass, legumes or other noxious vegetation above a height of twelve inches at any time; except that the provisions of this section shall not apply to a person who grows and uses said grasses and legumes for food or agricultural purposes.

SECTION 15.019. Scattering Rubbish. No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way.

SECTION 15.020. Trees.

1. No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

SECTION 15.021. Fences.

1. No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet six inches high.
2. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.
3. No owner or person in charge of property shall allow a fence to deteriorate in such a manner creating a hazard affecting the public or persons or property on or near the property.

SECTION 15.022. Surface Waters, Drainage.

1. No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk, or flow across the sidewalk or onto adjacent property.
2. The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk or onto adjacent property.

SECTION 15.023. Odors and Burning

1. No person responsible shall cause or allow any condition which causes an offensive odor or is unsanitary. No person responsible shall burn in wood stoves or fireplaces any household waste, garbage, plastic, styrofoam or other noxious material.
2. Unless exempted by this Section, no person responsible shall cause or allow outdoor burning without a permit issued pursuant to this Section.
 - a. Outdoor Burning Restricted. No person shall start or maintain any outdoor fire (except for outdoor cooking) for the purpose of burning any combustible material, except as allowed by this Section. Nor shall any person responsible cause or knowingly allow any such fire to be started or maintained, including but not limited to barrel burning, burning of household waste, burning of garbage, plastic, styrofoam or other noxious materials.
 - b. Period When Outdoor Burning is Restricted. The restriction on outdoor burning shall be in effect for the entire year. The Fire Chief may issue burn permits authorizing the burning of residential yard waste during the months of May and November. However, the Fire Chief may modify the burn period when the Fire Chief determines that health, safety, fire risk or climatic factors justify modifying the burn period established by this Section.
 - c. Exempt Outdoor Burning. The following types of outdoor burning may be allowed by the Fire Chief by permit on any day of the year:
 - (i) Burning of a structure or other use of the fire for training purposes by the Winston-Dillard Fire District.
 - (ii) Fire hazard reduction burning.
 - (iii) Any burning which has written approval of the Department of Environmental Quality.

- (iv) Field burning in agricultural areas and certain other burning when, because of topography, there is no other feasible way to remove debris; however, the Fire Chief may deny a permit for an outdoor burn allowed under this Subsection if the Fire Chief determines that the debris proposed for burning has a high moisture content and would burn better after a period of aging.
 - (v) Outdoor burns to control agricultural diseases, such as blight, that must be destroyed immediately by fire to prevent the spread of disease.
 - (vi) Burning bee hives and bee-keeping paraphernalia to prevent the spread of disease.
 - (vii) Fires incidental to a special event.
- d. Burn Permits Required. A burn permit shall be obtained from the Fire Chief for all outdoor burning, including the exempted fires of Subsection C of this Section, and shall be subject to the permitting standards of the Winston-Dillard Fire District.

SECTION 15.024. Posting of Signs

- 1. No person shall paint, post, place, plant or attach in any way a sign on a parking strip, sidewalk or curb, utility pole, wall, hydrant, bridge or tree in the public right-of-way or on any building structure or property owned by the City without first obtaining permission from the City Administrator.

SECTION 15.025. Inoperative, Wrecked, Dismantled or Abandoned Vehicles

- 1. Storage. No person shall cause or allow a neglected or discarded vehicle to remain upon public or private property outside of a permitted, enclosed building for more than fourteen (14) days unless the vehicle owner has applied for a storage permit from the City to store the vehicle, or unless it is stored by a licensed business enterprise dealing in junked vehicles lawfully conducted within the City. “Neglected or discarded vehicle” means a vehicle that is, or appears to be, inoperative, wrecked, dismantled or partially dismantled. “Inoperative” means a vehicle that cannot be driven on a public right-of-way, is unlicensed, and/ or uninsured. It also means unassembled or partially assembled vehicle parts, including, but not limited to, tires, batteries, engines, transmissions, vehicle bodies and frames. “Dismantled” means inoperative without the addition or application of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs. A vehicle that remains upon public or private property in violation of this subsection may be abated by the Enforcement Officer using the procedures provided in this Ordinance as amended or at the option of the Enforcement Officer may be abated or

dealt with using the same procedures as are provided in State law applicable to abandoned vehicles.

2. The above mentioned storage permit for the specifically identified vehicle may be issued by the City to the vehicle owner for a period of one year beginning January 1 to December 31 of each year. The fee for said storage permit will be set by resolution and may be prorated. Upon removal of the inoperative vehicle from the subject property prior to the end of the storage permit term, the applicant may request a reimbursement of a portion of said storage permit fee. Upon expiration of an approved storage permit, the permit holder may reapply for an additional two year period with no limit to the number of times the permit holder may reapply for the same permit. No more than one (1) vehicle will be allowed under a single storage permit. Only one (1) storage permit will be issued to a single physical address in the City. The following criteria must exist in order for a storage permit to be approved:
 - a. The vehicle must be stored in the side or rear yard of the subject property.
 - b. The property upon which the vehicle is stored shall be kept in a neat and orderly manner, complying with this Ordinance as amended
 - c. Site-obscuring fencing of no less than six (6) feet in height must buffer the storage area from adjacent properties as well as the street right-of-way.
 - d. During the storage permit period, the subject property must comply with all City ordinances.

Inspection of the subject property will be required prior to the issuance of a storage permit to verify compliance with this Ordinance as amended.

3. Abandoned Vehicles. No person shall cause or allow any vehicle to be abandoned upon public or private property within the City. This subsection shall not apply to a vehicle that has been abandoned as defined by State law nor to a vehicle that constitutes a hazard as defined by State law. A vehicle that is abandoned or that constitutes a hazard shall be dealt with pursuant to the provisions of State law.
4. Abatement of Neglected or Discarded Vehicles on Private Property. In addition to the notice to the person responsible provided in Section 46, if it is determined that the person responsible and owner of the vehicle constituting the nuisance are not the same person and if any indication of vehicle ownership is reasonably available, the notice described in Section 46 shall also be sent to the owner of the vehicle.

SECTION 15.026. Dangerous Buildings. No person responsible shall cause or allow a dangerous building to exist on property. Any building or structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life, is hereby declared to constitute a dangerous building. Any use of a building or structure constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment constitutes an unsafe use and shall render the building a dangerous building for purposes of this Ordinance. Any appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified by the building official are dangerous building appendages. Examples of the foregoing dangerous buildings, structures or appendages include, but are in no way intended to be limited to the following conditions:

1. Any door which is unsecured or any door, aisle, passageway, stairway or other means of exit not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Any walking surface of any aisle, passageway, stairway or other means of exit which is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Any stress in any materials, member or portion thereof, due to all dead and live loads, which is more than one and one half (1 1/2) times the working stress or stresses allowed in the state building code for new buildings of similar structure, purpose or location.
4. Any damage by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the state building code for new buildings of similar structure, purpose or location.
5. Any portion, member or appurtenance which is likely to fail, become detached or dislodged, or collapse and thereby injure persons or cause damage to property.
6. Any portion, member, appurtenance or ornamentation on the exterior which is not of sufficient strength or stability, or which is not anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the state building code for new buildings of similar structure, purpose or location without exceeding the work stresses permitted in the state building code for such buildings.
7. Any portion which has wrecked, 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.
8. Any portion which is likely to partially or completely collapse because of any of the following conditions:

- a. Dilapidation, deterioration or decay;
 - b. Faulty construction;
 - c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - d. The deterioration, decay or inadequacy of its foundation; or
 - e. Any other cause.
9. Anything that is manifestly unsafe for the purpose for which it is being used.
 10. Any exterior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle or third of the structure or portion thereof.
 11. Any portion, exclusive of the foundation, which shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
 12. Any damage by fire, wind, earthquake or flood, or such dilapidation or deterioration, which causes the structure to become an attractive nuisance to children, a harbor for trespassers or criminals, or available for use by persons for the purpose of committing unlawful acts.
 13. Anything which has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure set forth by the building regulations of the City, as specified in the state building code or housing code, or of any law or ordinance of this state or the City relating to the condition, location or structure of buildings.
 14. Anything which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than fifty percent, or in any supporting part, member or portion less than sixty-six percent of the strength or fire-resisting and weather-resisting qualities and characteristics which are required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
 15. Inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or any other condition, which has been determined by a health officer to be unsanitary,

to cause the subject building to be unfit for human habitation or in such a condition as is likely to cause sickness or disease.

16. Any obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus, or other cause, which is determined by the Fire Marshall to be a fire hazard.
17. Any combustible or explosive material, wood, paper, trash, rubbish, rags, waste, oils, gasoline or flammable substance of any kind especially liable to cause fire or damage to the premises or human life, and which is not maintained in accordance with law.
18. Any condition which constitutes a public nuisance known to the common law or in equity jurisprudence.
19. Any portion of a building or structure which remains after demolition or destruction of the building or structure or any building or structure which is abandoned for a period in excess of six months and constitutes an attractive nuisance or hazard to the public.

SECTION 15.027. Derelict Buildings. No person responsible shall cause or allow a derelict building to exist. For purposes of this Ordinance, a derelict building shall be defined as any building which is unoccupied and boarded or which is unoccupied and unsecured. For purposes of this code, a derelict building shall also be defined as any building or structure which has faulty weather protection, which shall include but not be limited to the following: Deteriorating, crumbling or loose plaster; deteriorating or ineffective water-proofing or exterior walls, roof, foundations or floors, and including broken windows or doors; defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering; or broken, rotten, split or buckled exterior wall-covering or roof-covering. If the person(s) responsible fail to correct the conditions which cause a building to be a derelict building within the time frames set forth in this Ordinance, the derelict building shall be declared a nuisance.

Nuisances Affecting Public Peace

SECTION 15.031. Radio and Television Interference.

1. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver or good engineering design.
2. This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

SECTION 15.032. Junk.

1. No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.
2. The term "junk," as used in this section, includes old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.
3. This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking house.

SECTION 15.045. Unenumerated Nuisances.

1. The acts, conditions or objects specifically enumerated and defined in Sections 2 to 44 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 46 to 50 of this ordinance.
2. In addition to the nuisances specifically enumerated within this ordinance, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance and may be abated as provided in this ordinance.

Abatement Procedure

SECTION 15.046. Notice.

1. Between April 20 and May 20 of each year, the Code Enforcement Official shall cause a notice to be published at least three times in a newspaper of general circulation in the City for the purpose of acquainting the public with their duty to keep their property free of any nuisance described in this Ordinance. The notice shall state the City's intent to abate all known nuisances and to charge the cost of doing so on any particular parcel of property to the owner thereof, the person in charge thereof or the property itself, including the administrative fee established in Section 49. The notice shall also state that the City will inspect all property in the City periodically during the year to determine compliance.
2. The same notice shall be posted in five public places within the City during the period from April 20 to May 20 of each year.
3. Upon determination by the Enforcement Officer that a nuisance exists, the Enforcement Officer shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

4. At the time of posting, the Enforcement Officer shall cause a copy of the notice to be forwarded by certified mail, postage prepaid, or hand-delivered to the person responsible at his last known address with the following information.
 - a. A description of the real property, by street address or otherwise, on which the nuisance exists.
 - b. A direction to abate the nuisance within 10 days from the date of the notice.
 - c. A description of the nuisance.
 - d. A statement that, unless the nuisance is removed, the City may abate the nuisance, and the cost of abatement will be charged to the person responsible.
 - e. A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence.
 - f. A statement that the person responsible may appeal the order to abate by filing a written statement to the City Recorder and paying a \$100 appeal fee within 10 days from the date of the notice.
6. Upon completion of the posting and mailing or hand-delivery, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.
7. An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

SECTION 15.047. Abatement by the Person Responsible.

1. Within 10 days after the posting and mailing of such notice, as provided in Section 46, the person responsible shall remove the nuisance or show that no nuisance exists.
2. A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for so protesting and a \$100 appeal fee.
3. The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council; the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases

where a written statement along with a \$100 appeal fee has been filed as *required*.

4. If the Council determines that a nuisance does in fact exist, the person responsible shall, within 10 days after the Council determination, abate the nuisance.

SECTION 15.048. Joint Responsibility. If more than one person is person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the City in abating the nuisance.

SECTION 15.049. Abatement by the City.

1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
2. The Enforcement Officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance after obtaining a warrant from Municipal Court.
3. The City Recorder shall keep an accurate record of the expenses incurred by the City in physically abating the nuisance, and shall include therein a charge of 5% of the total cost of the abatement or \$150, whichever is greater, for administrative overhead.

SECTION 15.050. Assessment of Costs.

1. The City Recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:
 - a. The total cost of abatement, including the administrative overhead.
 - b. That the cost as indicated will be assessed to and become a lien against the property, unless paid within 30 days from the date of the notice.
 - c. That if the person responsible objects to the cost of the abatement as file a notice of objection with the City Recorder not more than 10 days from the date of the notice.
2. Upon the expiration of 10 days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.
3. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the

Docket of City Liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

4. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of 7 percent per annum. The interest shall commence to run from the date of the entry of the lien in the Lien Docket.
5. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

SECTION 15.050.5 Abatement of Dangerous Buildings and Registration of Derelict Buildings.

1. Whenever the Building Official or Enforcement Officer believes that a building or structure is a dangerous or derelict building, the Building Official or Enforcement Officer shall cause an inspection to be done to determine if it complies with this Ordinance and all other applicable health, housing, building and safety codes.
2. In the event the Building Official or Enforcement Officer determines from the inspection that a building or structure is either a dangerous or a derelict building, notice of that determination shall be given by the Building Official or Enforcement Officer posting a notice at the site and by personal service or by registered or certified mail on the person(s) responsible. Upon completion of the posting and serving or mailing, the Enforcement Officer shall execute and file certificates stating the date and place of the posting and serving or mailing respectively. An error in the name or address of the person(s) responsible shall not make the notice void, and in such case, the notice shall be sufficient.
 - a. If the Building Official or Enforcement Officer has determined that a building is a dangerous building, the Building Official's or Enforcement Officer's notice shall include:
 - (i) The building's address and tax lot number or legal description of the property.
 - (ii) A description of the dangerous condition;
 - (iii) A direction to abate the nuisance within ten days from the date of the notice;
 - (iv) A statement that if the person(s) responsible decide to repair an unoccupied dangerous building by boarding the building it shall constitute a derelict building and shall be subject to registration and all other derelict building

procedures and requirements as prescribed in this Ordinance;

- (v) A statement that unless the nuisance is removed, the City may abate the nuisance and the cost of such abatement plus a penalty of five percent (5%) of the cost of abatement or one hundred fifty dollars (\$150.00), whichever is greater, for administrative overhead, shall be charged to the person(s) responsible and assessed against the property;
 - (vi) A statement that failure to abate the nuisance may result in a court prosecution; and
 - (vii) A statement that the person(s) responsible may appeal the order to abate by giving notice of the person's desire to appeal to the City Administrator within ten (10) days from the date of the notice.
- b. If the Building Official or Enforcement Officer has determined that a building is a derelict building, the Building Official's or Enforcement Officer's notice shall include:
- (i) The building's address and tax lot number or legal description of the property;
 - (ii) A description of the derelict condition;
 - (iii) A direction to correct the conditions causing the building to be a derelict building within the time frame prescribed by this Section;
 - (iv) A statement that a derelict building must be registered with the City and fees paid as provided in this Section;
 - (v) A statement that failure to correct the conditions causing the building to be a derelict building or to comply with the registration requirements may result in late payment penalties and assessments against the property and the building being declared a nuisance; and
 - (vi) A statement that failure to correct the conditions causing the building to be a derelict building may result in a court prosecution, or the abatement of the nuisance with the costs thereof becoming a lien against the property, or both.
- c. The Building Official shall cause a derelict building notice to be recorded and made a permanent part of the deed records.

3. Within ten (10) days after the posting and serving or mailing of the notice required by this Section, person(s) responsible shall remove the nuisance or show that no nuisance exists.
4. The person(s) responsible, if protesting that no nuisance exists, shall file with the City Administrator a written statement specifying the basis for protesting and shall pay an appeal fee set by Council resolution. No protest shall be heard unless the appeal fee is paid. If the Council or its designee determines that no nuisance exists, the appeal fee shall be refunded to the person who paid it.
5. The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Administrator deems appropriate. If the City Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply. The appellant shall have the burden of proving error in the Building Official's or Enforcement Officer's determination.
6. The City Council shall issue a written decision. The decision of the Council shall be final.
7. If the Council determines that a nuisance exists, the person(s) responsible shall, within ten (10) days after such determination, or within a time set by Council, abate the nuisance.
8. If within the time allowed the nuisance has not been abated, the City Administrator may cause the nuisance to be abated and the costs thereof imposed as a lien as provided in this Ordinance.
9. Except when allowed by this Section, no person(s) responsible shall maintain a derelict building or allow such building to exist.
10. Registration of a derelict building under the terms of this Section shall be completed on an application form to be provided by the Building Official or Enforcement Officer and shall be accompanied by a non-refundable derelict building registration application fee as set by Council resolution. The application shall include information relating to the location and ownership of the building, the expected period of its vacancy or until its repair, a plan for regular maintenance and securing of the building during the period of vacancy or until repair, and a plan for re-occupancy and use, marketing or demolition. All of the information required under this Subsection shall be reviewed and approved by the Building Official or Enforcement Officer. The Building Official or Enforcement Officer shall maintain a list of all registered derelict buildings within the City and shall provide a copy of said list to the City Administrator for monthly fee billing purposes.

11. The following standards shall be followed by the Building Official or Enforcement Officer with respect to the repair, marketing or demolition of any derelict building.
 - a. Any building declared to be a derelict building under this Ordinance shall, within one (1) year from the date of notice provided by the Building Official or Enforcement Officer under this Section, be made to comply with one of the following:
 - (i) The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - (ii) The building shall be demolished.
 - b. If within the initial one-year time period and extension period, if any, the derelict building is not repaired or demolished by the person(s) responsible, the City Administrator may declare the ongoing derelict building to be a nuisance which must be abated in accordance with the provisions of this Section. Notwithstanding any other provision of this Section, if the person(s) responsible has not properly registered the derelict building, the City Administrator may declare a derelict building to be a nuisance upon the expiration of ninety (90) days from the notification date.
 - c. The Building Official or Enforcement Officer may extend the derelict building repair, marketing or demolition period of one year for an additional period of time required by, and consistent with, approved plans of the person(s) responsible to repair, market or demolish the building. The following criteria shall be evaluated by the Building Official or Enforcement Officer when considering the granting of such an extension.
 - (i) Whether all delinquent fees and penalties have been paid in full;
 - (ii) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s) responsible and approved by the Building Official or Enforcement Officer;
 - (iii) The value of the building;
 - (iv) Whether all appropriate permits have been obtained for the repair or demolition of the structure;
 - (v) Whether the person(s) responsible will complete, or is the process of completing, the repairs or demolition of the structure in a timely fashion.

12. Upon approval of the application for derelict building registration, the person(s) responsible shall immediately submit payment of the first monthly derelict building registration as set by Council resolution and thereafter be responsible for the following payment terms:
 - a. The person(s) responsible of a registered derelict building shall be responsible for paying the monthly derelict building registration fee as set by Council resolution in advance by the 10th day of each month for each month, or portion thereof, during which the building remains registered as a derelict building. Any payment of the fee that is more than thirty days past due may be considered delinquent and subject to a penalty in an amount set by Council resolution for every delinquent monthly payment.
 - b. In the event that the fees due under the terms of this Section become delinquent for more than ninety days, the Building Official or Enforcement Officer shall file a statement of the amount due with the City Administrator. The City Administrator shall thereafter mail a notice of the City's intent to assess the subject property for the delinquent amount plus applicable penalty and an additional ten percent (10%). In the event the amount set forth in the notice is not paid in full within thirty days of the date of the notice, it shall become a lien against the property and thereupon be entered in the City's lien docket. The lien shall be enforced as outlined in Section 50.
 - c. In addition to the lien described above, the person(s) responsible for the derelict building receiving notice under this Ordinance shall be personally liable for the amount of the lien including all interest, civil penalties and other charges.
 - d. All fees imposed under the terms of this Section are to be paid prior to any purported or actual transfer of an ownership interest in a derelict building as well as prior to the issuance of any permit required for the demolition, alteration or repair of a derelict building subject to the terms of this Section.
 - e. The Building Official or Enforcement Officer may waive fees imposed under this Section. The following criteria shall be evaluated by the Building Official or Enforcement Officer when considering waiver of such fees:
 - (i) Whether all delinquent fees and penalties have been paid in full;
 - (ii) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s)

responsible and approved by the Building Official or Enforcement Officer;

- (iii) The value of the building;
 - (iv) Whether all appropriate permits have been obtained for the repair or demolition of the structure;
 - (v) Whether the person(s) responsible will complete, or is in the process of completing, the repairs or demolition of the structure in a timely fashion.
13. Any change in the information provided pursuant to this subsection shall be given to the Building Official or Enforcement Officer within thirty days, except where changes in an approval plan are contemplated, in which case, approval of the Building Official is required prior to their effectiveness.
14. When all violations have been corrected the person(s) responsible shall contact the Building Official or Enforcement Officer and request an inspection to determine compliance and removal of the dangerous or derelict building designation.

General

SECTION 15.051. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances; and the Chief of the Fire Department, the Chief of Police or any other City official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

SECTION 15.052. Penalties.

- 1. A person responsible for violating a provision of this ordinance or an order issued under authority of this ordinance shall, upon conviction, be punished by a fine not to exceed \$250 for each offense and for each day any violation continues. In addition to a fine, the Municipal Court Judge may direct the City to immediately abate the nuisance with no further notification to person responsible.
- 2. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.

SECTION 15.053. Separate Violations.

- 1. Each day's violation of a provision of this ordinance constitutes a separate offense.

2. The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, the abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under Section 52 of this ordinance.

SECTION 15.054. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

SECTION 15.055. Repeal. Ordinance No. 289 and all amendment thereto hereby repealed.

SECTION 15.056. Saving Clause. Notwithstanding Section 55, Ordinances No. 70 and 176 shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of this ordinance.

Passed by the Council and approved by the Mayor August 15, 2005 to take effect in 30 days.