

**SECTION 100
GENERAL PROVISIONS & ENFORCEMENT**

GENERAL PROVISIONS

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GENERAL PROVISIONS

100.010 Title. The official name of this document is the Wood Village Zoning and Development Code. It may be referred to as the "Zoning Code" or "this Code".

100.020 Purpose. The Zoning Code is intended to set forth and coordinate City regulations regarding the use and development of land. It is further intended to:

- A. serve as the principle means to implement the Wood Village Comprehensive Plan.
- B. protect and promote the health, safety and general welfare of the citizens of Wood Village.
- C. provide for appropriate and prompt review of development and use proposals.
- D. satisfy relevant federal law, state law, goals and administrative rules and regional government law, provided however, except where case law prohibits, when state law specifically authorizes uses that may be in conflict with federal law, the state provisions shall be acknowledged.

100.030 Scope and Compliance. Any building, structure or land shall hereafter be used, possessed or occupied and any building, structure or part thereof shall hereafter be constructed, erected, reconstructed, moved or altered only in accordance with the provisions of this Code and other applicable City ordinances and regulations. The requirements of this Code apply to the property owner(s), the person(s) undertaking a development, the user(s) of a building, structure or development, and to their successors in interest.

100.040 Consistency with Plan and Law. Actions initiated under this Code shall be consistent with the adopted Comprehensive Plan of the City of Wood Village, with applicable law, and the regulations of the Federal, State and Regional governments as these plans, laws or regulations may now or hereafter provide or require, provided however, except where case law prohibits, when state law specifically authorizes uses that may be in conflict with federal law, the state provisions shall be acknowledged.

Since the Wood Village Comprehensive Plan has been acknowledged by the State of Oregon as being in compliance with the Statewide Goals, any action taken in conformance with this Code shall be deemed also in compliance with Statewide Goals and the Comprehensive Plan. Unless otherwise stated in this Code, specific findings demonstrating compliance with the Comprehensive Plan are not required for land use or development application approval. This provision does not however, relieve the applicant or proponent of a use or development of the burden of responding to allegations that the action requested does not conform to one or

more Comprehensive Plan policies.

100.050 Severability. The provisions of this Code are severable. If any section, sentence, clause or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be considered severed. The decision shall in no way affect the validity of the remainder of the Zoning Code.

100.060 Interpretation. The rules of this section apply to this Title and any conditions of a land use approval granted under this Title.

A. **Reading and Applying the Code.** Literal readings of the code language will be used. Regulations are no more or less strict than as stated. Applications of the regulations that are consistent with the rules of this section are non-discretionary actions of the City Administrator to implement the code. The action of the City Administrator is final.

B. **Ambiguous or Unclear Language.** Where the language is ambiguous or unclear, the Planning Commission may issue a statement of clarification processed through a Type III procedure, or initiate an amendment to this code.

C. **Situations Where the Code is Silent.** Proposals for uses where the code is silent or where the rules of this section do not provide a basis for concluding that the use is allowed are prohibited. The Planning Commission may initiate an amendment to this Code to add a new use category.

D. **Terms.**

(1) **Defining Words.** Words used in the zoning code have their dictionary meaning unless they are listed in Section 720.030 - Definitions. Words listed in that section have the specific meaning stated, unless the context clearly indicates another meaning.

(2) **Tenses and Usage.**

(a) Words used in the singular include the plural. The reverse is also true.

(b) Words used in the present tense include the future tense. The reverse is also true.

(c) The words 'must', 'will', and 'may not' are mandatory.

(d) 'May' is permissive.

(e) 'Prohibited' means that an adjustment, conditional use, or

other land use review may not be requested in order to allow an exception to the regulation in question. This does not preclude requests for zone changes or Comprehensive Plan map amendments.

- (3) **Conjunctions.** Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
 - (a) "And" indicates that all connected items or provisions apply;
 - (b) "Or" indicates that the connected items or provisions may apply singly or in combination;
 - (c) "Either...or" indicates that the connected items or provisions apply singly, but not in combination.
- (4) **Lists.** Lists of items that state "including the following," "such as," or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

E. Hierarchy of Regulations.

- (1) **Different Levels of Regulations.** In general, an area with base zoning and overlay zoning, is subject to all of the regulations of each. When the regulations conflict, unless specifically indicated otherwise, the regulations in an overlay zone supersede regulations in base zones.
- (2) **Regulations at the Same Level.** When regulations at the same level conflict, those that are more specific to the situation apply. When the regulations are equally specific or when it is unclear which regulation to apply, the most restrictive applies. Regulations at the same level include such situations as two different standards in a base zone or regulations from separate sections of the Additional Regulations sections.
- (3) **Figures, Tables, and Maps.** Where there are differences of meaning between code text and figures or tables, the code text controls. Where there are differences between code text and maps, the maps control.

- F. Applying the Code to Specific Situations.** Generally, where the code cannot list every situation or be totally definitive, it provides guidance through the use of descriptions and examples. In situations where the code provides this guidance, the descriptions and examples are used to

determine the applicable regulations for the situation. If the code regulations, descriptions, and examples do not provide adequate guidance to clearly address a specific situation, the stated intent of the regulation and its relationship to other regulations and situations are considered.

- G. **Determining whether a land use request is quasi-judicial or legislative.** Quasi-judicial and legislative are terms describing two different types of land use actions. In general, legislative actions involve the adoption of law or policy applicable Citywide or to a broad geographical area of the City. Quasi-judicial actions involve the application of existing law or policy to a small area or a specific factual situation. There are different legal requirements for the processing of these two types of actions. In general, quasi-judicial actions require greater notice and procedural protections than do legislative actions. If there are questions as to whether a specific request for a land use review is quasi-judicial or legislative, the decision will be made by the City Attorney. The decision will be based on current law and legal precedent. Requests for decisions on this issue must be in writing and must be filed with the City Administrator who will forward the request to the City Attorney.

100.070 When Land Use Application Permits Are Not Required. Activities and development listed below are excluded from the requirement for a land use application, but are, nevertheless, subject to the provisions of the Code where applicable:

- A. Detached single family dwelling, except manufactured homes.
- B. Residential accessory structures and additions to residential structures.
- C. Landscaping and routine property maintenance.
- D. A change internal to a building or other structure or usage of land that does not constitute a change of use.
- E. A change in use to another use category allowed in the zone.
- F. An emergency measure necessary for the safety or protection of property when authorized by the City Administrator and Mayor with written notice to the City Council.
- G. Any temporary use of land of up to a 14-day duration (such as a promotional event, festival, carnival, or outdoor sale) which conforms with all other requirements of this Code and other applicable city regulations and public health and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- H. The establishment, construction, alteration, or maintenance of a public

facility authorized by the Director of Public Works including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than a six month duration, but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.

- I. Excavation and fill for foundations and all other excavations or filling of land involving 50 cubic yards or less which does not adversely affect drainage patterns and is not located within a floodplain or slope area.
- J. The following transportation facilities, services and improvements need not be subject to land use regulations except as necessary to implement the Wood Village Transportation System Plan (TSP) and, under ordinary circumstances do not have a significant impact on land use:
 - (1) Operation, maintenance and repair of existing transportation facilities identified in the TSP, such as roads, bicycle, pedestrian, airport and rail facilities, and major regional pipelines and terminals;
 - (2) Dedication of right-of-way, authorization of construction and the construction of facilities and improvements, where the improvements are consistent with clear and objective dimensional standards;
 - (3) Uses permitted outright under ORS 215.213 (1)(m) through (p) and 215.283 (1)(k) through (n), consistent with the provision of OAR 660-12-065; and
 - (4) Changes in the frequency of transit, rail and airport services.

100.075 When Land Use Applications Are Required.

- A. Except as excluded by 100.070 no person shall engage in or cause to occur a development for which a land use application has not been approved.
- B. Whenever this Code requires a land use application, no other permit issued by the City shall be approved until the land use application has first been approved by the City Administrator or Planning Commission.
- C. Land use applications shall be approved by the City Administrator, the Planning Commission, or the City Council pursuant to the provisions of this Code.
- D. No action may be taken in reliance upon a decision approving a land use

application until all applicable appeal periods have expired or while an appeal to City Council is pending. However the action allowed by the decision may be initiated if:

- (1) There were no objections to the decision or if all objections were resolved at a hearing or in writing prior to the hearing; and
- (2) The applicant has executed a release and indemnity agreement in a form satisfactory to the City Attorney which protects the City from all claims of the applicant resulting from the approval of the land use application or issuance of a building permit.

E. All land use approvals shall expire one year from the date of issuance unless:

- (1) Substantial construction or operation of the development has begun within that time and has continued toward final completion; or
- (2) Development proceeds in accordance with an approved phasing plan; or
- (3) An extension has been granted by the Planning Commission upon request of the applicant.
- (4) Stated otherwise in a specific section of this Code.

F. Requests for extension must be filed with the City Administrator prior to the expiration date of the original approval or subsequent extension. No single extension of time shall exceed a one (1) year period. Extension of time shall not be approved where the effect of doing so would violate any provisions of this Code including any amendments made following the effective expiration date. In no instance shall the extension(s) of time exceed a total of 36 months from the effective date of project approval.

100.080 Building Permit Required. Building permits shall be required within the boundaries of the area affected by this Code for the erection or the alteration of all structures or land uses.

100.090 Design Review Required. All new development and changes to existing development, except detached single family dwellings in LR zones, are subject to Design Review as described in Section 630.

100.100 Land Use Review Required. All new development and uses and changes to existing uses which do not comply with all applicable use and development standards are subject to a land use review as described in Sections 500 and 600.

100.110 Fees. The City Council shall establish application and review fees and fee

policies by separate resolution for the performance of the actions and reviews required by this Code.

100.120 Validity of Prior Approval.

- A. The following actions initiated prior to the adoption of this Code, or prior to the adoption of any amendment which would otherwise restrict the activity, may be continued and completed according to prior approvals granted by the City and in accordance with requirements in effect at the time approval was granted:
- (1) Completion of any construction activity for which a building permit has been issued provided that such work continues to be in conformance with the requirements under which it was issued. Such work shall progress in a timely manner and not be discontinued for a period of more than one year after which time a new land use application shall be required.
 - (2) Completion of final subdivision plat, final manufactured home park plan, and final PUD plan for which preliminary or interim approval has been granted, provided such plats and plans are submitted within one year of previous approval or are submitted in accordance with a previously approved phasing plan under which construction has begun and has progressed in a timely manner on at least one phase.
 - (3) Construction of any subdivision, PUD, or manufactured home park, which: i) has received final approval (provided that such work is commenced within one year of final approval and is completed within two years of final approval); or ii) wherein substantial construction activity has not been discontinued for more than 24 consecutive months.
 - (4) Construction of any structure or facility for which a Conditional Use Permit, Variance, or Design Review approval has been granted provided such work is begun within one year of approval and is completed within two years of approval.
- B. Extension of time under Sections (1)-(4) above may be granted by the Planning Commission for up to two additional years provided there are no requirements in effect which would otherwise restrict project development and provided further that no extensions shall be granted which extend beyond 36 months from the effective date of project approval.

100.130 Official Action. All officials, departments, and employees of the City vested with authority to issue permits, certificates, or licenses shall adhere to and require

conformance with the zoning regulations.

100.140 Certificate of Occupancy. It shall be unlawful to use or occupy any new building or premises until a certificate of occupancy has been issued by the designated building official stating that the proposed use of the building or land conforms to the requirements of the Uniform Building Code, this Code, and any other City conditions attached to the development or use of the building or land.

ENFORCEMENT

100.200 General. It shall be the duty of the City Administrator to enforce the provisions of this Code. The term “this Code”, means not only the provisions expressed herein but also the conditions or terms of any permit, certificate, license or approval granted pursuant to this Code. The City Administrator may use the resources of any City department to assist in carrying out the City’s responsibilities under this section.

100.210 Official Action. All officials, departments and employees of the City vested with authority to issue permits, certificates, licenses, or grant approvals, shall adhere to and require conformance with this Code and shall issue no permit, certificate, license or grant approval for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this Code. Any permit, certificate, license or approval issued or granted in conflict with the provisions of this Code, intentionally or otherwise, shall be void.

100.220 Inspection and Right of Entry. Whenever they shall have reasonable cause to suspect a violation of any provision of this Code, or when necessary to investigate an application for or revocation of any approval under any of the procedures prescribed in this Code, officials responsible for enforcement or administration of this Code, or their duly authorized representatives, may enter on any site or structure for the purpose of investigation, provided they shall do so in a reasonable manner. No premises shall be entered without first attempting to obtain the consent of the owner or occupant. If consent cannot be obtained, the responsible official shall secure a search warrant from the court of competent jurisdiction before further attempts to gain entry and shall have recourse to every other remedy provided by law to secure entry.

100.230 Abatement. Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to this Code shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as provided in Wood Village Municipal Code Section 8.18.120-8.18.160.

100.240 Injunctive Relief. Upon request of the City Council, the City Attorney may institute a suit in equity in the Circuit Court of the State of Oregon to enjoin the maintenance of any use, occupation, building or structure or any activity being

conducted or proposed to be conducted in violation of any provision of this Code.

100.250 Penalties. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, or causing the violation of any provision of this Code or of any permit or approval issued pursuant to this Code, commits a civil infraction subject to enforcement pursuant to Chapter 1.06 of the Code. (Ord. 4-2006 § 24)

100.260 Evidence. Proof of a violation of this Code shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the unlawful activity, use, condition, or structure exists. Prosecution or lack thereof of the owner of the property, the occupant, or other person in possession or control of property shall not be deemed to relieve any other responsible person.

100.270 Cumulative Remedies. The right, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the City under any other ordinance or law.