

CHAPTER 153: LAND DEVELOPMENT

Hearing Draft Housekeeping Edits 2014

Section: History: ~~Previous~~ Full update on 03/24/1998 (Ord. 1057), Amended 12/09/1998 (Ord. 1063) adding Industrial Park zone, Amended 11/28/2006 (Ord. 1137) procedures update, Amended 02/26/2008 (Ord. 1150) general housekeeping changes, Amended 01/27/2009 (Ord. 1156) Big Box Design Review, Amended 12/08/2009 (Ord. 1166) changes to extension procedures. Full update 06/14/2011 (Ord. 1180), Amended 12/13/2011 (Ord. 1186) Towing yards in C2, Amended 09/25/2012 (Ord. 1196) Remainder lot, Amended(Ord.....) housekeeping changes.

Purpose: Update the quick reference history at the beginning of the Land Use Code.

Section “Table of Contents”, shall be amended to reflect the following changes by section.
General Provisions

...

153.017 Permit Processing: Outright, Type I & II.

Supplementary Provisions

...

~~**153.097 COMPLIANCE WITH STATE/FEDERAL RULES**~~

Conditional Uses

...

~~**153.138 — Permit processing: type I and II**~~

153.1389 Time limit on permit

Purpose: Currently only the process for Type I & II conditional uses is provided under the conditional use section of the code. This edit would move 153.138 to general provisions where it is more appropriate and create a new section 153.017 that includes outright permits. 153.097 under supplementary provisions will be deleted and combined with 153.009 in general provisions to eliminate redundant language and place the criteria in a more logical place.

Section 153.004 Definitions shall be amended as follows:

...

Public Facilities or Services. A facility or service including irrigation provided by a public, governmental or non-profit organization or district.

...

Purpose: Public facilities and services are mentioned in the use tables as outright with no specific definition. The “Public Use” definition and “Utility Facility” definitions are not adequate. This was brought up by the irrigation district in reference to maintaining their infrastructure. This would also apply to Parks and City facilities.

Section 153.009 shall be deleted and 153.097 moved to 153.009 and amended as follows:

~~153.009 COMPLIANCE WITH OTHER REGULATIONS.~~

~~No permit or approval required or authorized by this chapter shall be issued or given final approval unless it is found that the use will be in compliance with all local, county, state and/or federal air, water, solid waste and noise pollution regulations and with other regulations such as access control, signs and the like applicable thereto.~~

153.009~~97~~ Compliance with ~~State/Federal Rules~~ other Rules and Regulations.

(A) Approval of any use or development proposal pursuant to the provisions of this chapter shall require compliance with and consideration of all applicable city, county, state and federal ~~agency~~ rules and regulations.

(B) The compliance shall be evident prior to the final approval of any affected land use or development proposal; for example, the compliance may be set forth as a condition of final approval.

(C) Specific city, county, state and federal rules and regulations that may affect a specific land use or development for which compliance therewith is required if applicable include, but are not necessarily limited to the following.

(1) Air quality standards administered by the State Department of Environmental Quality (DEQ) and/or the Federal Environmental Protection Agency (EPA).

(2) Noise pollution standards administered by DEQ and/or EPA.

(3) Water quality standards administered by DEQ, state Water Resources Department (WRD) and/or EPA.

(4) Sewage disposal regulations administered by DEQ, County Environmental Health and/or EPA.

(5) Solid waste disposal regulations administered by DEQ and/or EPA, including those applicable to hazardous wastes.

(6) Uniform Building Code administered by the City-County Building Department and State Building Codes Agency.

(7) Surface and ground water withdrawals regulated by WRD.

(8) Scenic area rules administered by the State Highway Division (OSHD), state parks and/or other state or federal agencies.

(9) Access control and management regulations administered by OSHD and/or the County Road Department.

(10) Surface mining regulations administered by the State Department of Geology and Mineral Industries (DOGAMI), DEQ and other state or federal agencies.

(11) Wild and scenic river regulations administered by the State Parks and Recreation Department (OPRD), the U.S. Bureau of Land Management (BLM) or other state and federal agencies.

(12) Cut and fill, and wetland regulations administered by the Division of State Lands (DSL).

(13) Fish and wildlife habitat protection rules administered by the State Department of Fish and Wildlife (ODFW) and/or the U.S. Fish and Wildlife Department (USFW).

(14) Applicable City and/or County ordinances, resolutions, agreements, regulating master plans or other land use decisions.

Purpose: 153.009 and 153.097 actually work together for the same end. The way 153.009 is currently written it requires the City to know all possible regulations from the Federal agencies to local ordinances prior to approval. This is something we try to do through our development review process but ultimately cannot be sure we meet. Section 153.097 works in tandem giving some relief to state and federal rules by allowing us to simply condition that a developer follow them. This change would eliminate some redundant language and place it in a more logical place within the code. It will also add item (14) to specifically call out local decisions.

Section 153.014 (H) General Criteria, shall be amended as follows:

(H) Owners of Boats, trailers, travel trailers, pick-up campers, recreational vehicles, motor homes and similar recreational vehicles and equipment that is licensed as required and operational may be stored on a lot owned by the same person or family member, but shall not be used for permanent occupancy other than that permitted in 153.095 (D)(E)(F).

Purpose: The original intent of this section was to allow people with vacant property to utilize that property in a reasonable manner. The way it is currently written is misleading and contradictory to our nuisance ordinances for junk and rubbish and use limitations of our zones.

Section 153.015(C) Authorization of Similar Uses, shall be amended as follows:

(A) The city may authorize a use that is not specifically listed in a specific zone if the use is of the same general type as other uses permitted in the subject zone, unless the city finds the following.

- (1) The proposed use is specifically permitted in another zone; or
- (2) The proposed use is more similar to uses provided for in another zone; and
- (3) That the permitting of the proposed use in the zone requested would be detrimental to the intent and purpose of the zone and this chapter in general. The City shall consider the following factors.
 - (a) Size, scale, configuration, bulk, and other characteristics of the requested use.
 - (b) Physical and operational similarity of the use to uses now allowed in the zone.
 - (c) Potential on-site and off-site impacts of allowing the use (traffic, noise, odors, etc.) as compared to uses now allowed in the zone.

(B) The application for and processing procedure for a similar use approval shall be as required by the use it is similar too.

(C) Similar uses that do not violate the Nonconforming use criteria 153.115 of this chapter and are of equal or lessor impact with regard to water, sewer and traffic as determined by the Planning Director and City Engineer, do not require a planning application. Sign off on a Certificate of Occupancy from the Building Department or a City

Business License may be required. See section 153.135 for transferability of a conditional use.

Purpose: To state current practice. Currently the City allows similar uses to move around without a planning approval, such as retail to retail, office to office. Conditional uses may also be transferred as determined by the Planning Director, generally based on whether the new owner can meet the conditions of approval from the previous use. Nonconforming uses such as a home in a commercial zone are also allowed to transfer.

Section: 153.016(C) Municipal Sewer and Water Required, shall be amended as follows:

(A) Commercial and Industrial development within the City limits requiring water and sewer service shall connect to the municipal water and sewer systems.

(B) Existing structures within the City limits shall connect to the municipal water and sewer services when made necessary by well and/or septic failure that is not recoverable and within the distance described by the State or the City's sewer and water ordinances. A Land division shall also require connection when the size of a lot is reduced to a point where well and septic are not feasible or allowed by law.

(C) Existing residences, replacement residences or single family home construction on existing lots may use existing wells and septic fields. New wells and septic systems may be ~~or constructed new ones~~ if services are not within the distance described by State or the City's sewer and water ordinances.

(D) Approval of subdivisions and land partitions shall require municipal sewer and water service to each lot in accordance with the City's Standards and Specifications unless specifically allowed by another section in this chapter.

Purpose: Clarification and addition of replacement homes.

Section 153.138 shall be moved to a newly created 153.017 and amended as follows:

153.138-017 Permit Processing: Outright, Type I and II.

~~Conditional~~ Uses set forth by this chapter may be classified as either an Outright use or a type I or II conditional use. If the classification is not set forth and the use is not classified as a similar use by the Planning Director, all such uses shall be processed in accordance with the type II processing requirements set forth hereinafter. Per section 153.245.020 any land use action may be referred to the Planning Commission by the Planning Director.

(A) Outright. Uses marked by an "O" in the City's use tables. Outright uses are processed in 4 different ways as follows:

(1) Similar use. Outright uses that comply with similar use criteria in 153.015.

(2) Counter review and sign off. The Planning Director has discretion on how to process outright uses that are considered inconsequential. The Director may choose to provide an over the counter review and sign off on a building permit with no application. A planning number shall be assigned with plans attached. A sign off worksheet may be developed for implementation. Developments considered inconsequential include, but are not limited to the following:

(a) Small structures such as breeze ways, architectural projections, solar panels or covered patios and similar structures well within setback and lot coverage standards.

(b) Small structures considered insignificant to the use as a whole, such as small storage or utility buildings on a large manufacturing sites.

(3) Application without notice. As defined in 153.250.020 the following uses when identified as outright in a zone are considered development actions and, therefore; not subject to the notice requirements: Sign permits, single family homes, duplexes, residential additions and accessory structures, boundary line adjustments, lot consolidations and similar applications.

(4) Application with notice. The City Planning Official shall, within 5 working days of the receipt of a completed application for an outright use, provide individual written notice of the application in accordance with the administrative notice requirements of 153.255.

(BA) Type I conditional use. Uses marked by a "T1" in the City's use tables. The City Planning Official shall, within ~~five~~ 5 working days of the receipt of a completed application for a type I conditional use provide individual written notice of the application in accordance with the administrative notice requirements of 153.255. ~~to the owners of property within 100 feet of the exterior boundaries of the subject property, excluding public streets and ways, other identifiable potentially affected persons or parties including agencies, special districts, City and/or County Planning Commission and any persons or parties specifically requesting the notice. The notice shall provide for a minimum of 10 days for all such persons, parties, agencies, districts and owners to respond relative to the subject proposal.~~ If no objection is received within the response period the Planning Official may take action on the subject proposal for approval, approval with amendments, modifications and/or conditions for denial or may refer the subject application to the Planning Commission for public hearing. If one or more objections are received within the response period, the subject application shall be referred to the Commission for public hearing. The applicant shall be required to pay any additional hearing fees prior to scheduling the public hearing.

(BC) Type II conditional use. Uses marked by a "T2" in the City's use tables. An application for a type II conditional use shall be subject to review by the Planning Commission in accordance with the public hearing requirements of 153.255.

Statutory reference: Application for permit or zone change, see O.R.S. 227.175

Purpose: Currently only the process for Type I & II conditional uses is provided under the conditional use section of the code. This edit would move 153.138 to general provisions where it is more appropriate and create a new section 153.017 that includes the outright permitting process.

Section 153.020(E)(1) Design Review, shall be amended as follows:

(E) Design review authority. The authority for design review is set forth as follows.

(1) For those uses subject to design review and classified as outright or type I conditional uses, the City Planning Official and/or the City Manager, and the City Superintendents of Streets and Public Works, the City Fire Chief and the City Police Chief

shall be responsible for the design review thereof. As deemed necessary, the county's Environmental Health Officer, as well as other agency and/or organizational representatives, may be requested to participate in the design review of specific use and/or development proposals. Any outright or type I conditional use may be referred to the City Planning Commission based on neighbor concerns, or potential significant impact on the community as determined by the Planning Director in accordance with section 153.017-138 ~~Conditional Use Permit Processing, or potential significant impact on the community as determined by the Planning Director.~~

Purpose: To reference the appropriate section and Director's ability to move a decision to the Commission.

Section 153.035 Residential Use Table, shall be amended as follows:

Residential/Accessory Use

...

Private garages and accessory structure buildings commonly associated with residential uses	0	0	0	0	0	<u>see definition</u>
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...

Definition: ACCESSORY USE OR STRUCTURE. A use or structure, or a portion of a structure, the use of which is incidental and subordinate to the main use of the property or structure and located on the same premises as the main or primary use and/or structure.

Purpose: Wording is misleading, makes it sound like an accessory structure can be built on a residential lot without a residence.

Section 153.038 Commercial & Industrial Dimensional Standards shall be amended as follows:

...

Clear Vision (ft.): *See 153.081 for more details.*

<u>Street intersection (measured from curb)</u> Commercial & Industrial	20^D25^D	21²⁵	20^D25^D	<u>20²⁵</u>	<u>20²⁵</u>	<u>30²⁵</u>	<u>30²⁵</u>	<u>30²⁵</u>
<u>Alley or ped/ path (measured from curb or edge)</u> Residential Use	20¹⁵	20¹⁵	20¹⁵	<u>20¹⁵</u>	<u>20¹⁵</u>	<u>15</u>	<u>15</u>	<u>15</u>

Section 153.040 Airport Dimensional Standards shall be amended as follows:

...

Clear Vision (ft.): ^c *See 153.081 for more details.*

All Uses	20²⁵	20²⁵	20²⁵	20²⁵
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...

Purpose: The previous code update, changed the clear vision standards in 153.081. These changes were made to the residential dimensional table but not the commercial or airport tables. The above changes will simply correct the error.

Section 153.062 Industrial Park IP Zone, shall be amended as follows:

In an IP M-3 Zone, the following regulations shall apply.

...

(K) Landscaping.

(1) A minimum of ~~10~~¹⁵% of the developed site shall be landscaped, except for sites located adjacent to an arterial or major collector, 25% of the area within 100 feet of the street shall be landscaped and shall, at a minimum, include a minimum five foot landscaped buffer along the street.

...

Purpose: Two errors were made in the previous code update. First, a reference to the M3 zone was not changed to "IP". Second, the minimum % landscaping was purposely changed in the commercial dimensional standards table but not in the zone language.

Section 153.096 (A)(3) & (B) Livestock, shall be amended as follows:

(3) The number of colonies of bees allowed on a lot shall be limited to one colony for each 5,000, square feet of lot area. Colonies shall be setback a minimum of ~~25~~ feet of any property line. Hives shall be placed on property so the general flight pattern of bees does not unduly impact neighboring properties or their inhabitants. A flyway barrier at least 5 feet in height consisting of a solid wall, solid fencing material, dense vegetation or a combination is required to encourage bees to fly at an elevation of at least 5 feet above ground level over property lines in the vicinity of the colony. In any instance in which a colony exhibits aggressive ~~or swarming~~ behavior, the beekeeper must ensure that the colony is re-queened. Every beekeeper shall maintain an adequate supply of water for the bees located close to each hive.

(B) Animal runs or barns, chicken or fowl pens ~~and colonies of bees shall not be located within front yards and~~ reasonably screened from public streets and neighboring properties, on the rear half of the property but no closer than 50 feet from the front property line nor closer than 50 feet from any residence not owned by the owner of the subject livestock.

Purpose: The changes to bee keeping were a specific request from concerned citizens that our code was too restrictive. The proposed amendment was previously reviewed by the Planning Commission and the Commission instructed staff to move forward with an amendment. The change to section (B) was an observation made while updating the bee keeping section. Section (B) is also unrealistic and restrictive.

Section 153.115(C)(D)(F) Nonconforming Uses, shall be amended as follows:

...

(C) The lawful use of any building, structure or land in existence at the time of enactment or amendment of this chapter may continue in the same use and form until substantial modification as determined by the Planning Director, occurs or is requested. A change of ownership or occupancy shall be permitted. When any modification occurs whether deemed substantial or not, section (D) of this subsection shall apply.

(D) The modification of existing buildings is permitted through administrative review if such changes result in greater conformance with the specifications of this Chapter, including site improvements not associated with the structure. This also includes expansion necessary to comply with any lawful requirement mandated by local, state or federal regulation for continuation of the subject use.

(F) An expansion or modification of any nonconforming use may be approved by the Planning Commission if found to be reasonably necessary to continue the use and if found to be no more detrimental than the present use.

...

Purpose: Clarify process to modify a nonconforming use and define more clearly what is included in “greater conformance”.

Section 153.161 Lot Consolidations, shall be amended as follows:

All lot consolidations shall follow the same planning process as a boundary line adjustment and final plat map requirements ~~as with a~~ of a partition or subdivision as applicable.

...

Purpose: “Process” is only referring to the final map. The intent of this section has always been to approve such application as we would approve a BLA.

Section 153.251.050 Time computation, shall be amended as follows:

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the City is not open for business pursuant to a City or county ordinance, in which case it shall also be excluded.

Purpose: Include “City” in reference to ordinances.

Section 153.254.010 Effect of determinations made outside of established processes, shall be amended as follows:

Any informal interpretation or determination, or any statement describing the uses to which a property may be put, made outside the declaratory ruling process (City of Prineville Land Development Ordinance, Section 153.260) or outside the process for approval or denial of a land use permit (153.254 – 153.256) shall be deemed to be a supposition only. Such informal interpretations, determinations, or statements shall not be deemed to constitute final City ~~County~~ action effecting a change in the status of a person's property or conferring any rights, including any reliance rights, on any person.
153.254.020. Action on land use action applications.

...

Purpose: Change reference “County” to “City”

Section 153.254.070(D) Modification of application, shall be amended as follows:

(D) Up until the day a hearing is opened for receipt of oral testimony, the Planning Director shall have sole authority to determine whether an applicant's submittal constitutes a modification. After such time, the Planning Commission shall make such determinations. The Planning Director or Planning Commission determination on whether a submittal constitutes a modification shall be appealable only to LUBA and shall be appealable only after a final decision is entered by the City ~~County~~ on an application.

Purpose: Change reference “County” to “City”

Section 153.255.030(B) Notice of hearing or administrative action, shall be amended as follows:

(B) Published Notice. In addition to notice by mail and posting, notice of an initial hearing shall be published in a newspaper of general circulation in the City ~~County~~ at least 10 days prior to the hearing.

Purpose: Change reference “County” to “City”

Section 153.255.040(A)(8) Contents of notice, shall be amended as follows:

(8) State the name of a city ~~county~~-representative to contact and the telephone number where additional information may be obtained.

Purpose: Change reference “County” to “City”

The following changes are in response to the 2013 update of the City’s TSP. Collector and arterial streets were split into major and minor designations. Previously designated collector streets became “major collectors” designated local routes became “minor collectors”. There are several references to “collectors” and “local streets” throughout the land use code that need to be updated to maintain the intent of the code.

Section 153.004 Definitions (Road or Street), shall be amended as follows:

...

Arterial. A street referring to “major” and “minor” classifications unless specifically stated, of considerable continuity which is primarily a traffic artery for transportation among large areas, and so designated by the ~~Comprehensive Plan~~ Transportation Systems Plan as may be amended.

...

Collector. A street referring to “major” and “minor” classifications unless specifically stated, supplementary to the arterial street system and a means of transportation between this system and small areas; used to some extent for through traffic and to some extent for access to abutting properties and so designated by the ~~Comprehensive Plan~~ Transportation Systems Plan as may be amended.

...

Section 153.038 Commercial & Industrial Dimensional standards table, shall be amended as follows:

...

^G Minimum 5 foot buffer along any adjoining public right-of-way of a major collector or arterial street.

^H 25% of the area within 100ft. of an arterial or major collector street, 5 foot min along street.

...

Section 153.049 (A)(2) High Density Residential R-5 Zone, shall be amended as follows:

...

2) The site must have frontage along a street designated as a major collector or arterial or directly access a ~~local street~~minor collector that intersects with the nearest major collector or arterial at a signalized intersection;

...
Section 153.062(M)(1)& (Q) Industrial Park IP Zone, shall be amended as follows:

...
(1) Outdoor storage of materials or products is limited and may only be permitted if fully enclosed and screened from an adjoining street, especially an arterial or major collector.

...
(Q) On-site equipment and utilities. Except as approved otherwise by the city, all on-site utility lines shall be placed underground. All roof-mounted fixtures, utility cabinets or similar equipment installed above ground shall be visually screened from public view from arterial and major collector streets.

...
Section 153.063(I)(7)(a) Mixed Use (MU) Zone shall be amended as follows:

...
(a) Streets and access ways of any one development or sites shall interconnect with those of adjacent developments or sites. Internal street or circulation patterns that isolate a development from all adjacent developments, and only allow access to fronting arterial or major collector streets, shall be prohibited. Exception – the Planning Commission may determine that topography and/or existence of natural features or street patterns on adjacent properties would be better accommodated with an alternative circulation pattern;

...
Section 153.075(E)(2) & (M)(4) Open Space-Park Reserve PR Zone, shall be amended as follows:

...
(2) The minimum building setback between a structure and the right-of-way line of an arterial or major collector road or street shall be 50 feet except as otherwise approved by the reviewing authority.

...
(4) All parking demand created by any use permitted in this zone shall be accommodated entirely on-premises or off-street on another area or adjoining area. In no case shall the location of the off-premises area require pedestrian crossing of an arterial or major collector street or highway to obtain access to the subject use except as otherwise approved by the city.

...
Section 153.083(H)(1) & (J)(12) & (J)(22)(a) & (R)(5) & (S)(2) & (S)(3) & (T)(1) Standards for Specific Uses, shall be amended as follows:

(H)...(1) All such complexes with more than 20 dwelling units shall be so located as to have direct access onto an improved arterial or major collector street unless approved otherwise by the city.

(J)...(12) Each recreation park shall have direct access to either an arterial or major collector street. Each access road intersecting a public street or highway shall have a surface width of not less than 30 feet, and driveways within the park shall be at 20 feet in width or if parking is permitted thereon, 30 feet in width. All roads and driveways shall be well-drained and hard-surfaced as approved by the city and the City Superintendent of Streets.

(J)(22)...(a) RV parks within the R-2 zone shall only be allowed on properties with direct frontage on an arterial street as identified by the City of Prineville transportation systems plan (TSP). In no case shall a local street or minor collector be used for ingress or egress from the site. If a site has access to both a major collector and an arterial, access shall be determined by the City Engineer.

(R)...(5) Adequacy of accesses to and from principal streets; relative thereto, access must be to either a designated major collector or arterial street.

(S)...(2) Have frontage on an existing designated or future planned arterial and/or major collector street.

(S)...(3) Access to and from the proposed use is not required solely to pass through a residentially zoned and developed area on a ~~local~~ minor collector or lower classified street.

(T)...(1) Structures shall not be located on a major collector or arterial streets unless;

Section 153.085 (D)(4) & (5) Off-Street Parking And Loading Provisions And Requirements, shall be amended as follows:

(4) C-2, C-3, C-4 and C-5 Zones. All parking demand created by any use permitted in this zone shall be accommodated entirely on-site or off-street on another area or adjoining site within a reasonable walking distance of not more than 1,200 feet that is available for the subject use in compliance with the standards set forth herein. The location of any off-site parking area that requires pedestrians to cross an arterial or major collector street or highway to obtain access to the subject use is prohibited.

(5) M-1, M-2 and IP Zones. All parking demand created by any use permitted in this zone shall be accommodated entirely on-site or off-street on another area or adjoining site shared by one or more uses permitted in this zone. The location of any off-site parking area that requires pedestrians to cross an arterial or major collector street or highway to obtain access to the subject use is prohibited.

Section 153.191(A)(3) Lots and Blocks, shall be amended as follows:

...

(3) A block shall have sufficient width to provide for 2 tiers of building sites unless topography or the location of adjoining streets justifies an exception; a standard exception is a block in which the building lots have rear yards fronting on an arterial or major collector street.

...

Section 153.194(W)(2) Streets and other Public Facilities, shall be amended as follows:

...

(2) Collector streets. Bike lanes are required on both sides of major collector streets, and may be required on minor collector streets, and shall not be less than 6 feet in width.

...

Section 153.195(B)(1)(a) & (B)(2)(d) & (C)(1) Access Management, shall be amended as follows:

...

(B)(1)...(a) Restricting spacing between access points based on the type of development and the speed along the serving major collector or arterial.

...

(B)(2)...(d) Installing side barriers to the property along the serving arterial or major collector to restrict access width to a minimum.

...

(C)...(1) Minimum spacing between driveways and/or streets:

Major arterial	500 feet
Minor arterial	300 feet
<u>Major Collector</u>	50 feet
<u>Minor Collector</u>	<u>access to each lot</u>
Local streets	access to each lot

...