

Agenda
Shady Cove Planning Commission Meeting
Thursday, December 22, 2022
6:00 PM

<https://us02web.zoom.us/j/84505810315?pwd=MmtBVXRwUXdkSEZBd0lIdmhwUU5Pd09>

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I. Call to Order

A. Roll call.

B. Announcements by Presiding Officer.

1. This meeting is being digitally recorded.
2. The next regularly scheduled meeting of the Planning Commission will be held on January 12, 2023, at 6:00 PM both in Council Chambers and via Zoom.
3. The meeting date is subject to change.

II. New Business

None

III. Old Business

A. Proposed Amendments to Allow Chickens (pgs 2-19)

B. Proposed Amendments to Allow Animal Husbandry as Conditional Use (pgs 20-49)

C. Land Use Notification Process

IV. Subject of Workshop

A. Update from City Administrator on Planning Fees

V. Department Reports

A. None

VI. Public Comment

VII. Commissioner Comments

VIII. Adjournment

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Department at (541) 878-2225. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).



MEMORANDUM

Date: December 14, 2022

To: Shady Cove Planning Commission

From: James Schireman, Associate Planner

Subject: Proposed Amendments to Allow Chickens in R-1 Z

Upon request from the Planning Commission at a workshop conducted on December 8th, 2022, staff has prepared the appropriate language for review from the Planning Commission regarding the allowance of chickens as a permitted use within R-1 Parcels. Rationale behind the drafting of the amendments included the following:

- The number of chickens was based on the zoning designation of the property in question, and adopted a linear model related to number of allowed chickens versus minimum parcel size.
 - I.E R-1-00 is allowed 2 Adult Chickens while R-1-6 is allowed 4, R-1-10 6, etc.
 - While staff finds this solution concise and easily enforceable, staff recognizes that this methodology doesn't account for the size of the parcel itself. Should the commission wish to factor in parcel size, a stepped model of minimum parcel sizes could be appropriate.
 - Overall the number was more standardized, with each greater zoning standard allowing 2 more mature hens.
- Staff consider calling the use "Backyard Hens" to explicitly convey that all adult chickens should be female and all should be located within a secure backyard, but found the phrase hard to Implement in the regulations themselves.
- Chickens are not considered an act of Animal husbandry so long as they follow §154.039(J) which states that their eggs, the chickens themselves, or other byproducts they produce cannot be sold for profit.

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CHAPTER 154: ZONING

Section

General Provisions

- 154.001 Title
- 154.002 Purpose
- 154.003 Zoning Map title
- 154.004 Conflicts
- 154.005 Uses not listed
- 154.006 Definitions

Zoning Districts and Boundaries

- 154.020 Establishment of zoning districts
- 154.021 Zoning Map
- 154.022 Boundary interpretations
- 154.023 Exemptions

Low Density Residential District, R-1

- 154.035 Purpose
- 154.036 Permitted uses
- 154.037 Conditional uses
- 154.038 Property development requirements

Medium Density Residential District, R-2

- 154.050 Purpose
- 154.051 Permitted uses
- 154.052 Conditional uses
- 154.053 Property development requirements

High Density Residential District, R-3

- 154.065 Purpose
- 154.066 Permitted uses
- 154.067 Conditional uses
- 154.068 Property development requirements

General Commercial District, G-C

- 154.080 Purpose
- 154.081 Permitted uses
- 154.082 Conditional uses
- 154.083 Property development requirements
- 154.084 Off-street parking
- 154.085 Fences, walls, hedges
- 154.086 Standards

Public Uses District, P

- 154.100 Purpose
- 154.101 Permitted uses
- 154.102 Conditional uses
- 154.103 Property development requirements
- 154.104 Off-street parking
- 154.105 Fences, walls, hedges, buffering
- 154.106 Standards

Airpark, Commercial, A-C

- 154.120 Purpose
- 154.121 Permitted uses
- 154.122 Conditional uses

Limited Industrial District, L-I

- 154.135 Purpose
- 154.136 Permitted buildings and uses
- 154.137 Conditional uses
- 154.138 Yard regulations
- 154.139 Building structural height limitations
- 154.140 Lot regulations
- 154.141 Parking requirements
- 154.142 Fences and walls

Wildfire Hazard Area; Wildfire Hazard Mitigation

- 154.155 Purpose
- 154.156 Scope
- 154.157 Wildfire Hazard Zone
- 154.158 Wildfire Hazard Zone requirements

Planned Unit Development

- 154.170 Purpose

- 154.171 Authorization
- 154.172 Application procedures
- 154.173 Size of a planned unit development
- 154.174 Preliminary plan requirements
- 154.175 Final development plan
- 154.176 Approval procedure
- 154.177 Approval criteria
- 154.178 Project density
- 154.179 Permitted uses
- 154.180 General development standards
- 154.181 Landscaping and open space standards
- 154.182 Conditions of approval
- 154.183 Amendments to an approved PUD
- 154.184 Exceptions to subdivision requirements
- 154.185 Time limits on action
- 154.186 Appeal
- 154.187 Revocation

Residential Property Development Requirements

- 154.200 Standards

Manufactured Homes in Residential Zones

- 154.215 Purpose
- 154.216 Application
- 154.217 Site development standards
- 154.218 Home construction standards
- 154.219 Removal of a manufactured home

Manufactured Home Park Development

- 154.230 Purpose
- 154.231 Application
- 154.232 Minimum mobile home standards
- 154.233 Site development plan required
- 154.234 Plan approval process
- 154.235 Uses permitted in mobile home parks
- 154.236 Mobile home park improvement standards

Historic Preservation

- 154.250 Purpose
- 154.251 Definitions
- 154.252 Historic Review Board
- 154.253 Designation of historic buildings or sites
- 154.254 Exterior remodeling of a historic structure

- 154.255 Condemnation and demolition of historic buildings
- 154.256 Other provisions

Nonconforming Uses and Structures

- 154.270 Purpose
- 154.271 Nonconforming lots
- 154.272 Nonconforming uses
- 154.273 Nonconforming structures
- 154.274 Nonconforming construction in progress
- 154.275 Termination of nonconforming use or structure 154.276
- Transitional structures

Home Occupations

- 154.290 Purpose
- 154.291 Application
- 154.292 Standards for operation of a home occupation as a permitted use
- 154.293 Standards for operation of a home occupation as conditional use
- 154.294 Prohibited home occupation uses
- 154.295 Enforcement

Development Review and Site Design Review

- 154.310 Purpose
- 154.311 Applicability
- 154.312 Development review approval criteria
- 154.313 Site design review; application review procedure
- 154.314 Site design review; application submission requirements
- 154.315 Approval criteria
- 154.316 Bonding and assurances
- 154.317 Development in accordance with permit approval
- 154.318 Landscaping

Off-Street Parking and Loading

- 154.330 Purpose
- 154.331 Application
- 154.332 Off-street parking required
- 154.333 Off-street loading facilities
- 154.334 Development standards
- 154.335 Recreational vehicles
- 154.336 Joint use of parking areas
- 154.337 Number of parking spaces required

Sign Regulations

- 154.350 Purpose and intent
- 154.351 Application
- 154.352 Definitions

- 154.353 Conformance
- 154.354 Exemptions from permit requirements
- 154.355 Prohibited signs
- 154.356 Sign measurements
- 154.357 Nonconforming signs
- 154.358 Specific sign development standards
- 154.359 Commercial district sign regulations
- 154.360 Residential district sign regulation
- 154.361 Variations to sign regulations
- 154.362 Violations

Types of Applications and Review Procedures

- 154.375 Purpose
- 154.376 Description of permit procedures
- 154.377 Type I procedure (ministerial)
- 154.378 Type II procedure (administrative)
- 154.379 Type III procedure (quasi-judicial)
- 154.380 Type IV procedure (legislative)
- 154.381 General provisions
- 154.382 Special procedures

Conditional Use Permits

- 154.395 Purpose
- 154.396 Authorization
- 154.397 Approval process
- 154.398 Pre-existing conditional uses
- 154.399 Application procedure
- 154.400 Public hearing required
- 154.401 Criteria, standards and conditions of approval
- 154.402 Effect
- 154.403 Appeal
- 154.404 Violation and revocation of permit

Variances

- 154.415 Purpose
- 154.416 Class A variances
- 154.417 Class B variances
- 154.418 Class C variances
- 154.419 Conditions
- 154.420 Applications and appeals

Plan Amendments and Zone Changes

- 154.435 Purpose
- 154.436 Initiation of action

- 154.437 Application procedure
- 154.438 Major or legislative amendments
- 154.439 Minor amendments
- 154.440 Planned unit development (PUD)
- 154.441 Notification of amendments

Appeal Procedures

- 154.455 Purpose
- 154.456 Filing the appeal
- 154.457 Application procedure
- 154.458 Action on the appeal
- 154.459 Notice of appeal hearings
- 154.460 Appeals to the City Council
- 154.461 Appeals to the Land Use Board
- 154.462 Disclosure

Vacation Rental Dwellings

- 154.475 Conditional use
- 154.476 Standards
- 154.477 Safety requirements
- 154.478 General
- 154.479 Enforcement

- 154.999 Penalty

GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known as the "Zoning Ordinance of the City of Shady Cove".

(Ord. 225, passed 10-20-1994, § 1.1) **§ 154.002 PURPOSE.**

The purpose of this chapter is to classify and regulate land uses, the location and use of buildings and structures, to ensure the most appropriate use of land as determined by the city, to implement the goals, objectives and policies of the comprehensive plan and to promote the public health, safety, convenience and general welfare.

(Ord. 225, passed 10-20-1994, § 1.2)

§ 154.003 ZONING MAP TITLE.

The Zoning Ordinance consists of the text hereof and the map, entitled "Zoning Map of the City of Shady Cove".

(Ord. 225, passed 10-20-1994, § 1.3)

§ 154.004 CONFLICTS.

If any conflicts occur between the text of this chapter and the zoning map, the text shall prevail. If any conflicts occur between the text or the zoning map of this chapter and the comprehensive plan text or map, the comprehensive plan text or map shall prevail. (Ord. 225, passed 10-12-2006, § 1.4)

§ 154.005 USES NOT LISTED.

If any proposed land use is not listed as permitted or condition, the use will not be allowed unless the Planning Commission finds the use to be similar to other uses listed as "permitted" or "conditional" uses.

§ 154.006 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. Within these definitions, the masculine includes the feminine, and the singular includes the plural, unless otherwise specified. No preference or prejudice is intended in defining these terms. The terms "shall", "will" and "must" are mandatory. The terms "may", "should", "could" or "can" are permissive.

ABUTTING. Adjoining with a common boundary line.

ACCESS. The way or means by which pedestrians or vehicles enter and leave property or a building.

ACCESS WAY. The ingress and egress to a property or building; or an unobstructed way which provides vehicular or pedestrian access and circulation within a specific area, such as a subdivision or mobile home park.

ACCESSORY STRUCTURE OR USE. A structure or a use that is incidental and subordinate to the main structure or use of the property and located on the same lot as that main structure or use. (NOTE: It is possible to have an accessory structure, such as a garage or shed, on a lot without the main structure when that main structure has been removed, but the lot is still planned and zoned for that same or similar primary use.)

ADJACENT. "Near" or "close". A business that is on the adjoining lot having a common boundary.

ADJOIN. The same as "abut". (See **ABUTTING.**)

ADULT BUSINESS. Any of a number of businesses that is generally characterized by an emphasis on sexually explicit materials or activities, minors are excluded as a legal or prevailing business practice.

ADVERTISING STRUCTURE. Any notice or advertisement, pictorial or otherwise, and any structure used as, or for the support of, the notice or advertisement, or for the purpose of making anything known about goods, services or activities.

AGRICULTURE. The "agricultural use" of the land shall include farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ~~apiaries and animal and poultry husbandry~~, along with any necessary accessory uses for the processing, storing or distribution of related products. Temporary or short-term activities, such as 4-H projects, are not included in the definition of **AGRICULTURE**.

ALLEY. A public or private way that affords secondary access to properties that are otherwise served by a street.

ALTERATION. Any change, addition or modification to the physical or structural condition of land or structures, or a change in the status of occupancy of land or a structure.

AMENDMENT. A change in the wording, context or substance of any official ordinance or other publication, including related maps, illustrations, concepts, policies or plans.

ANIMAL HOSPITAL OR CLINIC. A place where animals or pets are given medical or surgical treatment and are cared for during the time of the treatment. The use of such a facility for kennel purposes shall be limited to short-time boarding incidental to the hospital or clinic use.

ANIMAL HUSBANDRY. A commercial or utilitarian use in which animals, including insects or fish, are reared or kept. Such animals shall demonstrate the ability to produce harvestable byproducts or provide a useful service that does not provoke a nuisance. Examples of animal husbandry are included but not limited to: Sheep or goats used for weed abatement; Horses used to provide riding lessons; and bees constituting a beehive for the production of honey. This definition does not include keeping of pets in kennels or veterinarian clinics.

APARTMENT. A dwelling unit in a multiple-family structure or building that is typically designed for and utilized as a rental dwelling. A condominium-type dwelling might also be referred to as an **APARTMENT**, regardless of the ownership status, if it is within a multi-family structure.

APARTMENT HOUSE. Any building or portion thereof which contains three or more individual dwelling units, regardless of the ownership arrangement.

ASSEMBLY BUILDING. A building or portion thereof used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining, awaiting transportation or similar activities.

AUTOMOBILE REPAIR, MAJOR. The general repair, rebuilding or reconditioning of engines, transmissions and all other mechanical, chassis and body parts of automobiles, motorboats, motorcycles, recreational vehicles, trucks and other automotive equipment, including body, frame and fender repairs and painting. Tire sales and repairing are included in this category, but not tire manufacturing or recapping.

AUTOMOBILE REPAIR, MINOR. Includes facilities and services that involve automobile, boat, truck, RV and motorcycle upholstery; replacement of minor parts other than rebuilding or major overhauls; tune-ups; routine maintenance services; glass replacement; and other services not specified in "auto repair, major".

AUTOMOBILE SERVICE STATION. A building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale, and where repair services are secondary.

AUTOMOBILE, TRUCK, BOAT OR MOBILE HOME SALES LOT. An open lot used for the display, sale or rental of new or used motor vehicles, boats, trucks, trailers, snowmobiles, mobile home, motor homes, heavy construction or farm equipment or other "mobile" equipment or machinery. The lot may include an area for storage or repairs separate from the "sales" area, if approved for that purpose.

AUTOMOTIVE WRECKING. The dismantling or disassembling of motor vehicles or trailers; or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or vehicle parts.

BED AND BREAKFAST. A single-family dwelling or part thereof where traveler's accommodations and breakfast are provided for a fee on a daily or weekly room rental basis not to exceed 14 consecutive days.

BILLBOARD. Same as **ADVERTISING STRUCTURE.**

BOARDING HOUSE. Any building or portion thereof containing no more than five guest rooms which are occupied, or intended for occupancy, by guests in return for money, goods, labor or otherwise.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING, EXISTING OR PREEXISTING. A building erected prior to the adoption of this chapter or one for which a legal building permit has been issued.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this chapter or his or her duly authorized representative.

BUFFER. A land area or a physical barrier such as a wall, hedge, fence, waterway or other feature that has been established for the purpose of reducing or mitigating the adverse effects of a land use upon another land use.

CALENDAR YEAR. Three hundred and sixty-five consecutive days (including weekends and holidays) beginning on the first day of the year and ending on December 31.

CHANNEL. The bed in which the main stream of a river or other waterway flows and not including flood plain areas.

CHICKENS, BACKYARD: Female chickens 20 weeks or older, or chicks of both sexes under 20 weeks of age.

CHURCH. A building used for public worship and religious training.

CITY. The City of Shady Cove, Oregon.

CITY COUNCIL. The City Council of the City of Shady Cove, Oregon.

CLINIC. A place for group medical services not involving overnight housing of patients.

CLUB. The meeting place of an association of persons for a common objective, not a religious organization.

COMMISSION. The Planning Commission of the city.

CONDOMINIUM. An estate in real property consisting of an undivided interest in common in a parcel of real property together with a separate interest in space in a residential, industrial or commercial building, such as an apartment, office or store.

CONTIGUOUS. Same as **ABUTTING** or **ADJOINING.**

CONVALESCENT HOME. A group quarters for the purpose of short- or long-term individual health care, medical treatment, rehabilitation or recuperation from disability or illness.

COMMON OPEN AREA. An open area within a development, designed and intended for the use or enjoyment of all residents or users of the development, or for the use and enjoyment of the public in general.

COMMUNITY CENTER OR HALL. A specific location or area within the community, or a particular building or portion thereof that is used, or intended for use, by residents or groups in the community for meetings, recreational activities or other special events or social activities.

CONTRACT ANNEXATION. A process whereby the city, county and other involved parties enter into a contract that permits:

- (1) The county to administer city land use regulations for the development of property following an annexation decision while the property remains under county jurisdiction; and
- (2) The city to annex property developed to city standards and uses, with the improvement to appear on the county tax rolls prior to the effective date of annexation, resulting in a greater benefit to the tax base of the community.

COUNTY. Unless otherwise stated, Jackson County, Oregon.

DAY CARE CENTER. Any type of regularly operated group day care program, including nurseries for children of working parents, nursery schools for children under the minimum age for public school education, parent cooperatives, nursery schools, playgrounds for preschool children and programs covering after-school care for school children.

DENSITY. The quotient of the total number of dwelling units divided by the gross site area, commonly expressed as dwelling units per acre.

DISTRICT. A portion of the total area within the boundaries of the city within which specific sections of these regulations apply. For example, the R-1, Single-Family Residential District.

DIVIDE. To separate land into two or more parts for the purpose of transferring a substantial interest in the value and ownership of those parts. The divisions of land can occur as a land partition or subdivision.

DRIVE-IN. All automobile service stations, businesses which dispense gas and oil and an ancillary use, car washes, commercial parking lots, convenience dairies, fast food outlets, banks with drive-up windows and any other establishment or commercial business where products or services are delivered or administered directly to motor vehicles or their occupants.

DRIVEWAY. A road or other access way that is located entirely on the parcel it serves.

DRUG STORE or PHARMACY. A commercial business involved in the preparation, preservation, compounding and dispensing of drugs and medicines. This business can be independent or a part of a larger store and is commonly associated with the sale of other merchandise including cosmetics, notions, stationery supplies or other similar items.

DWELLING, CONVENTIONAL. A "conventional" dwelling or group of the dwellings refers to buildings that are constructed on the site and in conformance with the Uniform Building Code requirements.

DWELLING GROUP. A group of two or more detached buildings used for residential purposes and located on a single tax lot with yard areas shared as common areas for all dwelling group occupants.

DWELLING, MANUFACTURED OR FACTORY-BUILT.

(1) **MANUFACTURED DWELLING** does not mean any building or structure subject to the structural special code adopted pursuant to O.R.S. 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(2) **MANUFACTURED HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(3) **MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between 1-1-1962 and 6-15-1976, and met the construction requirements of state mobile home law in effect at the time of construction.

(4) **RESIDENTIAL TRAILER.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before 11-1962.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, designed or used as a residence by three or more families or households, and containing three or more dwelling units.

DWELLING, SINGLE-FAMILY. A detached building designed or used for residential purposes by not more than one family and containing a single dwelling unit.

DWELLING, TWO-FAMILY (DUPLEX). A building containing two residential dwelling units and commonly referred to as a **DUPLEX**.

DWELLING UNIT (D.U.). Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family.

FLAG LOT. A panhandle lot shaped like a flag and pole with its widest portion set away from the road that serves it, and with the thin "panhandle" or "flagpole" portion providing the access way or driveway.

FLOOR AREA. The area included within the surrounding exterior walls of a building or portion thereof, exclusive of open vent shafts and open courts, but including all levels or floors of the building that provide habitable spaces.

FLOOR AREA RATIO. The mathematical ratio determined by dividing the total floor area of a building or buildings by the area of the lot on which it (or they) is located.

FLOOD INSURANCE. The insurance coverage provided under the Federal Flood Insurance Program.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Maps and the water surface elevation of the base flood.

FLOOD PLAIN, 100-YEAR. The land within the general vicinity of a river or other watercourse that is subject to a 1% chance of flooding in any given year, including the floodway and floodway fringe area.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FOSTER HOME. A home licensed by the state to provide food and shelter to not more than five persons in addition to the primary owner and occupants of the dwelling unit.

FOUR-H (4-H). A program set up by the U.S. Department of Agriculture to instruct young people through projects about modern farm practices and good citizenship.

GARAGE. A building or portion thereof in which a motor vehicle containing flammable liquids or gas in its tank is intended to be stored, repaired or kept.

GRADE. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

GROSS FLOOR AREA. All of the area within the outside dimensions of a buildings walls.

GROUP HOME. A state licensed home maintained and supervised by adults for the purpose of providing care, food and lodging for children under the age of 18 years, unattended by parents or guardians, where the number of unrelated persons living as one household commonly exceeds five.

GUEST, COMMERCIAL. Any person who is temporarily occupying a room or suite of rooms in a hotel, motel, convalescent home or other commercial facility that provides "guest rooms" that are designed and intended to be rented or leased (short term) to persons or families.

GUEST HOUSE. A building or structure, without a kitchen, not more than 800 square feet appurtenant to, a primary single-family dwelling unit, and that is intended for the lodging of guests. A **GUEST HOUSE** shall be utilized solely for the lodging of residential guests and shall not be rented or otherwise managed for income purposes.

GUEST, RESIDENTIAL. Any person who is temporarily occupying a dwelling, guest house, recreational vehicle parking area or any other portion of a dwelling at the invitation of that dwelling's owner or legal occupant and is not paying rent or other type of reimbursement in return for that occupancy privilege.

GUEST ROOM. Any room or rooms within a dwelling unit that is used or intended to be used for the lodging of residential guests, as defined, and not including a separate kitchen area or kitchen facilities in addition to those already available in the primary dwelling unit.

HOME OCCUPATION. Any occupation conducted within a residential zoning district primarily by a member or members of the family residing in that dwelling unit; provided, the business activity is clearly incidental and secondary to the primary residential use of that dwelling unit and property.

HOTEL or **MOTEL.** A building containing two or more rooms, or suites of rooms, designed to be used for the temporary living and sleeping place of its commercial guests, and which customarily provides such services as linen, maid service, furnishings and often recreational facilities.

JUNK YARD. A business that stores, keeps, dismantles, salvages, collects, buys or sells scraps or discarded pieces of metal, paper, rags, tires, bottles and assorted other materials, and also including those items associated with "automotive wrecking", as defined in these regulations.

KENNEL. Any premises that is operated as a business for the temporary care and boarding of three or more dogs, cats or other small animals or any combination thereof, except veterinary hospitals or animal clinics.

LANDSCAPING. Any combination of permanently maintained live trees, lawns, shrubs or other plant materials, including inorganic accessory materials utilized to accent or complement the vegetation. Fountains, ponds, sculpture, lamp posts, fences and other functional or decorative features may be integral components of a landscape plan.

LEASE. Conveyance of real estate by contract for a specified term for a specified rent.

LOT. A parcel of land lawfully created in accordance with the land division, partitioning or subdivision regulations in effect at the time of its creation. (See **TAX LOT**.)

LOT AREA. The total land area, commonly measured in square feet, within the boundaries of a legal lot, exclusive of any street or alley rights-of-way.

LOT, CORNER. A lot abutting at the intersection of two or more streets, or if the interior angle is less than 135 degrees within the lot lines, upon two parts of the same street.

LOT, COVERAGE. The percentage of the total lot area covered by structures, as defined in these regulations.

LOT, DEPTH. The horizontal distance between the front and rear lot lines or, in the case of a corner lot, the depth shall be the length of the longest front lot line.

LOT LINE, FRONT. The property line of a lot that abuts the street right-of-way. On a corner lot, the **FRONT LOT LINE** is the line on which the street address is located.

LOT LINE, REAR. A lot line that is not abutting a public street and which is opposite the front lot line of the lot. In the case of a triangular or otherwise irregularly shaped lot, the **REAR LOT LINE** shall be a line ten feet in length within the lot and parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line that cannot be defined as either a "front" or "rear" lot line.

LOT, THROUGH. One having public street frontage on two separate streets or highways. Each frontage would be considered the "front lot line" and there would be no "rear lot line".

LOT, WIDTH. The average horizontal distance between the side lot lines, measured parallel to the front lot line on a rectangular lot. Lots having irregular shapes shall measure width by street frontage or the average of the maximum and minimum widths, whichever is smaller.

LOUNGE, BAR or TAVERN. An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors and where food service, if any, is secondary to the sale and consumption of alcoholic beverages. Sometimes in combination with musical entertainment and dancing.

MACHINE OR WELDING SHOP. A facility in which material is processed by machining, cutting, grinding, welding or similar processing operations. Such a shop is often a component of a larger industrial or commercial business or a necessary function of an automotive repair facility.

MAINTAIN. To cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to an extent that it remains attractive, safe and presentable and carries out the purpose for which it was originally installed, constructed or required.

MANUFACTURED HOME. (See **DWELLING, MANUFACTURED OR FACTORY-BUILT.**)

MINI STORAGE. A building or group of buildings in a controlled access compound that contains various sizes of individual compartmentalized and controlled-access, stairs or lockers for the dead storage of a customer's goods. No sales, service or repair activities other than the rental of storage units are permitted on the premises.

MOBILE HOME. (See **DWELLING, MOBILE HOME.**)

MOBILE HOME PARK. Any lot on which two or more mobile homes are located and being used for residential purposes, other than an approved "guest house" and where the primary purpose of the property owner is to rent or lease the spaces and related or necessary facilities to the owners or occupants of the mobile homes or to offer same in exchange for trade or services.

MOBILE HOME SPACE. A specific area of ground within a mobile home park that is designed and intended for the accommodation of a single mobile home and that includes all necessary utility hook-ups for that home.

MOTEL. See **HOTEL** or **MOTEL.**

NET SITE AREA. The square footage area within the exterior boundaries of a lot or property. Exclusive of public streets, public walks or land below the water line of the Rogue River.

NONCONFORMING USE. A structure, building or use that was lawfully constructed or established, but no longer conforms to the regulations or requirements of the city's zoning regulations or other codes.

OWNER. The owner of record of a specific tax lot or that owner's authorized representative.

PARCEL. (See **LOT.**)

PARK or PLAYGROUND. A recreational area or facility that is owned and/or operated by a private entity, public agency or school district, and is available to the general public.

PARTITIONS. To divide an area or lot into two or three smaller parcels, as provided for in the Chapter 153 of this code.

PERSON. A 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.

PETS. Those animals, fowl, insects or fish which are normally and reasonably kept as household pets, not including any animals that are considered wild or vicious, or other creatures which, if not contained, would be considered dangerous to the public health or safety.

PLANNED UNIT DEVELOPMENT. A coordinated development that may include a mixture of residential, commercial, industrial and/or public uses, grouped in a manner that would not be permitted under conventional zoning, but that, if permitted, would consist of a variety and diversification of uses, buildings and spaces, more useable open space areas, clustering of dwellings or businesses, and should result in a more beneficial arrangement of uses with less impact on natural features or resources than might be expected under basic zoning requirements.

PLANNING COMMISSION. (See **COMMISSION.**)

PLOT PLAN. A drawing of a lot and the surrounding area showing the use and location of existing and proposed buildings, structures and improvements, and drawn to a scale, detail and description as may be required by city staff, Planning Commission or the specific provisions of the city's zoning regulations or Chapter 153 of this code.

PUBLIC ROAD. A state highway or other road which has been dedicated to the use of the public for road purposes, and not including an alley. May also be referred to as a **PUBLIC STREET** or simply **STREET**.

PUBLIC WAY. A publicly owned thoroughfare, pathway or route, not a street or highway for passage from place to place.

RECREATIONAL VEHICLE (RV). A vacation trailer, camping vehicle, motor home or other vehicle, with or without motive power, which is designed for short-term occupancy for recreational or vacation purposes, but not as a permanent or long-term residence. The vehicle is identified as a **RECREATIONAL VEHICLE** by the manufacturer and licensed as such.

RENT. The amount paid by a tenant or occupant to the owner of a property for the use thereof.

RETAINING WALL. A wall designed to resist the lateral displacement of soil or other materials.

RETIREMENT HOME. A facility that provides living quarters, owned or rented to persons of retirement age. The facility may be a single structure or a group or cluster of structures, designed primarily for residential purposes, but often including, limited medical, recreational, commercial or health services to the residents and their guests.

ROOSTER: A male chicken of 20 weeks or older.

SCHOOL, BUSINESS. A business enterprise, not a public or private school, offering instruction and training in a service or art, such as secretary, barber, commercial artist and the like, but not including commercial trades or crafts.

SCHOOL, COMMERCIAL TO TRADE. A business enterprise other than a public, private or business school, offering instruction and training in a trade such as welding, brick laying, machinery operation or other similar manual trades.

SECOND-HAND STORE. A commercial store (usually retail) that specializes in the sale of second-hand or used items, including furniture, clothing, books and records/tapes or a variety of miscellaneous items.

SERVICE STATION. (See **AUTOMOBILE SERVICE STATION**.)

SETBACK. The distance from a right-of-way, easement boundary of a road or access way or from a lot line to any point of a building. (Minimum setback distances, as required for each zoning district, are sometimes referred to as **YARD AREAS**.)

STREET. (See **PUBLIC ROAD**.)

STRUCTURAL ALTERATION. A change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

STRUCTURE. Anything constructed or built which requires location on the ground or is attached to something having a location on the ground including swimming pools, covered patios, fences and walls; but not including normal plants and landscaping materials, paved outdoor areas, walks, driveways and similar improvements.

SUBDIVIDE. To divide an area or parcel into four or more legal and smaller lots in accordance with the requirements of the Chapter 153 of this code.

TAX LOT. A parcel, lot or other unit of land that is shown on the County Assessor's plat map of the subject area as an individual lot, for the purpose of taxation.

TEMPORARY. Unless otherwise defined or specified, such as in a condition of approval of a particular land use, **TEMPORARY** shall mean 30 days or less within any 12-month period.

TENT. A shelter consisting primarily of a fabric supported by metal or wood poles and ropes, which is designed for temporary short-term occupancy for recreational or emergency purposes. A **TENT** is not intended for permanent habitation.

TOWNHOUSE. A single-family dwelling unit on a separately platted lot, with use and occupancy identical to all other single-family dwelling units, except without the required side yard setbacks. **INDIVIDUAL TOWNHOUSE UNITS** are generally separated by common firewalls and their owners may not share in the ownership of a common area.

TRAILER PARK. (See **MOBILE HOME PARK**.)

UBC STANDARDS. The Uniform Building Code standards promulgated by the International Conference of Building Officials (ICBO), as adopted by the city.

URBAN GROWTH BOUNDARY (UGB). A site specific line on the official plan and zoning maps of Jackson County and the official comprehensive plan map of the city, showing the city's area of urban and urbanizable land.

URBANIZABLE AREA. Those lands that lie between the present city limits and the urban growth boundary are considered to be "urbanizable" during the current time period covered by the city's comprehensive plan.

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

YARD. An open space, other than a court, that is unobstructed from the ground upward, except where specifically provided by the UBC. Required yard areas are those portions of a lot that lie between the exterior property lines and the "building envelope" defined by the setback distances from those property lines.

YARD SALE. Temporary sales of goods from a private residence, limited to three days, four times a year, in a yard, a garage or other structures.

YEAR, CALENDAR. (See **CALENDAR YEAR.**) One year, 365 consecutive days including holidays and weekends, beginning on any date and ending 365 days later.

ZERO LOT LINE. A common line between two lots from which no setbacks are required. (Ord. 225, passed 10-20-1994, § 5)

ZONING DISTRICTS AND BOUNDARIES

§ 154.020 ESTABLISHMENT OF ZONING DISTRICTS.

For the purposes of these regulations the city is divided into districts which may be further divided for greater flexibility of lot sizes, as described in these regulations. (Ord. 225, passed 10-20-1994, § 3.1) **§ 154.021 ZONING MAP.**

(A) The locations and boundaries of the zoning districts are shown on the map entitled "Zoning Map of the City of Shady Cove", which is dated with its effective date, and signed by the Mayor and referred to herein as the "Zoning Map".

(B) A copy of the zoning map shall be maintained on file in the office of the city and is hereby adopted by reference and made a part of this chapter.

(C) Upon approval of any changes to the zoning map, the City Council shall cause the official zoning map to be revised to accurately portray the change.

(D) The City Council may direct the replacement of the official zoning map, or a portion thereof, which includes all lawful changes of zone and city boundaries to date. Any map or portion thereof replaced shall be retained in a separate file by the city. (Ord. 225, passed 10-20-1994, § 3.2)

§ 154.022 BOUNDARY INTERPRETATIONS.

In making a determination as to the location of an uncertain zoning district boundary on the zoning map, the following rules shall apply.

(A) Where district boundaries approximately follow streets, alleys, highways or other rights-of-way, the district boundary is considered to be at the centerline of the rights-of-way.

(B) When a street, alley or other public way is vacated by law, the zoning district adjoining each side of the street, alley or way shall be extended to the center of the former right-of-way and the former right-of-way land area shall be included in the extended districts to each side.

(C) Zoning district boundaries should follow property lines unless not possible and the property lines shall be construed to be the zoning district boundaries.

(Ord. 225, passed 10-20-1994, § 3.3)

§ 154.023 EXEMPTIONS.

The following uses and structures shall be exempt from the requirements and regulations of this chapter:

(A) Pavement, road base, curbs, gutters, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other equipment used for the distribution of telephone or other communications. Electricity, gas, water collection of sewage or storm water runoff; or for public streets, highways, bikeways and sidewalks; provided, the facilities are operated or maintained by a governmental entity or public or underground; and when located in street right-of-way or other public right-of-way or easement for that purpose. Material storage, solid waste disposal sites and electrical substations are not included in this exemption;

(B) Establishment, operation, maintenance, repair or preservation construction of an authorized public facility, including public streets and highways, bridges and culverts, sewer lines, storm sewer lines and drainage ditches, water lines and communication and energy utility facilities; when located in a street right-of-way or other public right-of-way or easement for that purpose. Material storage, solid waste disposal sites and electrical substations are not included in this exception; and

(C) The following may be exempted from the minimum setback requirements or height requirements at the time of site plan review, when the structures are located outside the public right-of-way and are obviously intended to serve the public interest: telephone booths and pedestals; utility equipment; mail boxes; bus shelters; public bicycle racks or shelters; utility and street sign poles; kiosks; and other similar structures or devices.

(Ord. 225, passed 10-20-1994, § 4)

LOW DENSITY RESIDENTIAL DISTRICT, R-1

§ 154.035 PURPOSE.

The purpose of the R-1 District is to provide within the community for the development and enhancement of quiet, family-oriented residential neighborhoods that are characteristic of city's small town semi-rural atmosphere, and which will accommodate primarily single-family dwellings on individual lots.

(Ord. 225, passed 10-20-1994, § 7.1)

§ 154.036 PERMITTED USES.

The following uses are permitted outright in the R-1 District, subject to development standards, or other ordinance requirements:

- (A) Single-family conventional or modular (UBC) home, minimum 1,000 square feet;
- (B) Single-family "manufactured" or "factory-built" (HUD Code) home (see §154.215 through 154.219);
- ~~(C)~~ Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm-related structures;
- ~~(D)~~(C) Guest house, consistent with the definition in §154.006;
- ~~(E)~~(D) Accessory uses; such as carports, garages, sheds, swimming pools and other uses or structures customarily accessory to residential development, subject to interpretation by the Planning Commission if questionable;
- ~~(F)~~(E) Home occupation, consistent with standards in §154.292; and
- (F) Planned unit development, in accordance with §154.170 through 154.187, except in R1-00. (Ord. 225, passed 10-20-1994, § 7.2; Ord. 253, passed 1-21-2010)
- (G) Chickens, consistent with the definition in §154.006 and in accordance with §154.379
- ~~(G)~~(H) Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm related structures

§ 154.037 CONDITIONAL USES.

Except in R1-00, the following uses and accessory uses are permitted in this district only when authorized by the Planning Commission in accordance with the conditional use permit requirements contained in §§ 154.395 through 154.404:

- (A) Home occupations, consistent with the standards in §154.293;
- (B) Rest homes, nursing homes, convalescent homes;
- (C) Day care center and similar facilities for the care of more than five children who are not permanent residents of the subject property;
- (D) Public and parochial schools and similar educational facilities;
- (E) Public and quasi-public utility buildings, but not including, outside storage or repair of equipment and materials, warehouses and similar uses;
- (F) Parks and recreational facilities that are intended to provide for the recreational or park needs of the neighborhood or community; including open parklands, play fields, playgrounds, swimming pools, multi-purpose recreation buildings, passive and picnic areas, bike ways, pedestrian walkways and other facilities that are determined by the Planning Commission to be similar;
- (G) Major recreational facilities, including golf courses, driving ranges, equestrian center and trail systems, organized field sport facilities, gymnasium and similar facilities that are designed to enhance the livability and residential character of the neighborhood or community and that will be compatible, as determined by the Planning Commission, with the existing and proposed surrounding development;
- (H) Developer's project sales office, including a temporary structure or trailer adapted for that purpose, and used during the construction and/or sale of a residential development, and not used for residential purposes;
- (I) 4-H projects; and
- ~~(J)~~(J) Animal Husbandry, in accordance with the definition in §154.006
- ~~(K)~~(K) Vacation rental dwellings; and
- ~~(L)~~(L) Other uses not specified in this or any other district if determined by the Planning Commission to be similar to those listed above and compatible with the purpose of the district.

(Ord. 225, passed 10-20-1994, § 7.3; Ord. 253, passed 1-21-2010; Ord. 275, passed 8-6-2015)

§ 154.038 PROPERTY DEVELOPMENT REQUIREMENTS.

- (A) *Generally.* All development in the R-1 District of the city shall comply with the development requirements in § 154.200.
- (B) *Density.*
 - (1) With the exception of planned unit developments, the density of new residential developments will be determined by the combination of permitted uses and the minimum lot size provisions contained in the development requirements table.
 - (2) Due to the unique and varying characteristics of existing development patterns, landforms and topography, soils, flood plains and other factors, the R-1 District is further divided into the categories shown below, which are applied to appropriate areas on the zoning map.
 - (3) The following square footage requirements pertain to "net site area".

R-1-6	6,000 square feet lots
R-1-10	10,000 square feet lots
R-1-20	20,000 square feet lots
R-1-40	40,000 square feet lots
R-1-00	Existing lot size (cannot be partitioned)

- (C) *Off-street parking.* See §§ 154.330 through 154.337 for number of parking space provided for each residential dwelling unit. These spaces shall not be within a required front yard abutting a public street other than an alley, and in accordance with any other requirement the city's parking standards or other applicable codes.
- (D) *Fences, walls, hedges.* Any fence, wall, hedge or other screen planting shall not exceed a height of three feet above grade within any front yard setback area, nor six feet above grade within any side or rear yard areas. Open mesh deer fencing may exceed the height restrictions noted above.
- (E) *Mobile homes or manufactured homes in residential zones.* See §§ 154.215 through 154.219.
(Ord. 225, passed 10-20-1994, § 7.4; Ord. 253, passed 1-21-2010)

§ 154.039 BACKYARD HEN REQUIREMENTS

- (A) Purpose. The following regulations will govern the keeping of chickens on R-1 parcels and are intended to prevent nuisances and conditions that are unsanitary or unsafe.
- (B) Roosters. Roosters are not allowed within city limits.
- (C) Zoning. Chickens shall only be permitted in R-1 parcels.
- (D) Size of flock. Maximum flock size will correlate to the parcel's zoning designation and the table below. For purposes of this ordinance, a mature hen will be defined as being older than 20 weeks, while a juvenile will be defined as 20 weeks old or younger.

<u>Zoning</u>	<u>Maximum number of mature chickens (female Only)</u>	<u>Maximum number of juvenile chicks (male or female allowed)</u>
<u>R-1-00</u>	<u>2</u>	<u>6</u>
<u>R-1-6</u>	<u>4</u>	<u>12</u>
<u>R-1-10</u>	<u>6</u>	<u>18</u>
<u>R-1-20</u>	<u>8</u>	<u>24</u>
<u>R-1-40</u>	<u>10</u>	<u>30</u>

- (E) Enclosure. Chickens shall be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Chickens shall have access to an outdoor enclosure that is adequately fenced to allow the birds free range on the property and prevent predators from accessing the birds.

(F) *Setbacks.* All facilities intended to support chickens shall be located in the rear yard -and kept at least 5 feet from all adjacent property lines. Fences meant to provide a free-range enclosure may be located within 10 feet of the property line, providing they adhere to §154.085.

(G) *Sanitation.* The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent accumulation of waste.

(H) *Exotic species.* No provision of this ordinance shall enable any person to keep exotic or unusual fowl, including, but not limited to: peafowl, emus, guinea fowl, turkeys, ostriches, or any similar species.

(I) *Existing Backyard Hens.* Homes currently raising hens shall not be deemed in violation of §154.039 provided:

a. Their operation is continual

b. There is no increase in intensity beyond what is allotted by table of §154.039(D)

(J) *Animal Husbandry.* The keeping of the allotted number of backyard hens shall not be deemed an act of animal husbandry so long as eggs, chickens, or other byproducts are not sold.

MEDIUM DENSITY RESIDENTIAL DISTRICT, R-2

§ 154.050 PURPOSE.

(A) The purpose of the R-2 District is to provide suitable areas within the community for the development of residential neighborhoods at a slightly higher density than permitted in the R-1 District, and which also provide opportunities for the development of lower-cost housing alternatives.

(B) In some cases, the application of the R-2 District will promote the transition and redevelopment of older deteriorating areas and also provides for the development of mobile home parks at similar densities.

(Ord. 225, passed 10-20-1994, § 8.1)

§ 154.051 PERMITTED USES.

The following uses are permitted, outright in the R-2 District, subject to site plan review, development standards or other ordinance requirements:

(A) Single-family dwellings;

(B) Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm-related structures;

(C) Mobile home parks, subject to the city's mobile home park development requirements of §§ 154.230 through 154.236 and at a density not to exceed ten dwelling units/acre;

(D) Duplexes or two or more single-family dwellings on the same lot;

(E) Guest house, consistent with the definition in § 154.006;

(F) Accessory uses; such as carports, garages, sheds, swimming pools and other uses or structures customarily accessory to residential development, subject to interpretation by the Planning Commission if questionable;

(G) Home occupations, consistent with standards in § 154.292; and

(H) Planned unit development, in accordance with §§ 154.170 through 154.187.

(Ord. 225, passed 10-20-1994, § 8.2)

§ 154.052 CONDITIONAL USES.

The following uses and their accessory uses are permitted in the R-2 District only when authorized by Planning Commission in accordance with the conditional use permit requirements contained in §§ 154.395 through 154.404.

(A) Home occupations, consistent with the standards in § 154.293;

(B) Rest homes, nursing homes, convalescent homes;

(C) Out-patient medical clinics, counseling and other neighborhood or community public assistance centers; (D) Churches and other religious institutions;

(E) Day care center and similar facilities for the care of more than five children who are not permanent residents of the subject property;

(F) Bed and breakfast inns;

End of Amendment



MEMORANDUM

Date: December 14, 2022

To: Shady Cove Planning Commission

From: James Schireman, Associate Planner

Subject: Proposed Amendments to Allow Animal Husbandry as Conditional Use

Upon request from the Planning Commission at a workshop conducted on December 8th, 2022, staff has prepared the appropriate language for review from the Planning Commission regarding the allowance of animal husbandry as a conditional use in R-1 parcels. Rationale behind the drafting of the amendments included the following:

- While the commission has discussed adjusting the fee schedule to lower the costs of the permitting fees, staff decided to place this use under the conditional use permit process due to its ability to process a wide of land uses with potential objectionable impacts.
 - For example, the criteria of the conditional use permit process allow the planning commission to properly mitigate a vacation rental, outdoor car dealership, or even a golf course.
 - Staff cannot possibly anticipate what sorts of animal husbandry activities citizens will bring forward to the planning commission, and so the flexibility of this process is a vital asset.
- However when it comes to processing fees, staff concurs that \$600 could dissuade citizens from following the legal channels of attaining a permit. In a future session, staff suggests a graduated fee schedule that could appear as the table below:

Conditional Use Permit	Type	Cost
	Animal Husbandry	\$200
	Type II Home Occupation	\$300
	VRBO	\$600
	Outdoor Storage	\$1000

- If the commission views such a schedule impractical, the use could be process by a sort of new permit type, but staff would need to research the rules and regulations to draft the criteria of such a process.
- The definition of Animal Husbandry found in Chapter 90 of the code was amended to align with the land use definition you see in Chapter 154.
- While sections of chapter 154 explicitly list some examples of Animal Husbandry, staff thought it best to leave the definition open ended to not exclude any possibilities.
 - The use of sheep as a source of weed abatement was directly addressed however, as it was a concern raised by citizens.

GENERAL PROVISIONS

§ 90.01 STATE CRIMINAL CODE ADOPTED.

The provisions of O.R.S. Ch. 161, relating to defenses, burdens of proof, general principles of criminal liability, parties to crime or offense and general principles of justification and responsibility apply to nuisances and offenses defined and made punishable by this chapter.

(Ord. 251, passed 7-23-2009)

§ 90.02 DEFINITIONS.

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

ABATEMENT. The process of eliminating a condition that adversely affects the health and safety.

ANIMAL HUSBANDRY. The keeping or raising of ~~farm animals including, but not limited to horses, cattle, sheep, goats and pigs, except for commercial or utilitarian purposes,~~ as approved as a conditional use permit, defined in Chapter 154 of this code.

CAMPING. No person shall camp in or on public property that is not specifically designated for the purpose. **CAMPING** shall include staying for all or part of a night in the open or in temporary lodging, such as cars, tents, campers, trailers or motor homes.

CURFEW. No person under the age of 18 shall idle, wander, stroll or play in or upon the public streets, sidewalks, parks, playgrounds or other unsupervised places, between the hours of 10:00 pm. and 4:00 a.m., unless:

- (1) The person is accompanied by a parent or legal guardian;
- (2) The person is engaged in a lawful activity which requires the person's presence after the hours noted above; and/or
- (3) The person is emancipated pursuant to O.R.S. 419B.550 to 419B.558.

DANGEROUS BUILDINGS. Buildings in a condition to affect public health, safety and/or welfare including, but not limited to:

- (1) A structure that, for lack of proper repairs, or because of age and dilapidated condition, or of poorly installed or defection wiring, plumbing, gas or other utilities, or for any other reason, is liable to cause fire, and which is situated or occupied in a manner that endangers other property or human life;
- (2) A structure containing combustible or explosive material or inflammable substances liable to cause fire or danger to the safety of the building, premises or to human life;
- (3) A structure that is in a filthy or unsanitary condition liable to cause the spread of contagious or infectious disease; and/or
- (4) A structure in a weak, dilapidated or deteriorated condition so that it endangers a person or property because of the probability of partial or entire collapse.

DISCHARGE OF WEAPONS. The firing, discharging or use of a gun, weapon, slingshot, crossbow, bow and arrow, or weapon, by any person other than a peace officer, or person(s) designated by a police officer, that propels a projectile by force of pressurized air or gas or gun powder or other explosive, jet or rocket propulsion with the city.

DOG CONTROL. The owner or keeper of a dog shall not allow the dog to become a public nuisance. A dog is a nuisance if it:

- (1) Is not on the premises of its owner or keeper, if not on a leash;
- (2) Bites, injures or causes injury to a person;
- (3) Chases or threatens vehicles or persons;
- (4) Damages or destroys property other than that of its owner or keeper;
- (5) Scatters garbage;
- (6) Trespasses onto private property;
- (7) Disturbs other persons by frequent or prolonged barking or other noises; (8) Is rabid; and/or
- (9) Obstructs the reasonable use of public or private property.

DRINKING IN PUBLIC PLACES.

- (1) No person shall drink or consume alcoholic liquor in or on a motor vehicle, public sidewalk, street, alley, mall, parking lot or structure, school property or other public place unless the place has been licensed for that purpose by the State Liquor Control Commission.
- (2) This shall not prohibit the consumption of alcoholic liquor in the above listed public places during special events for which the operators(s) have obtained a special permit from the city and have obtained a special permit from the State Liquor Control Commission.

EXOTIC ANIMALS. The keeping or raising of wild or exotic animals including, but not limited to lions, tigers, other big cats, deer, bear, antelope, wolves, snakes, buffalo, alligators, wild reptiles, dangerous animals or insects.

ILLEGAL LODGING. No person shall lodge in, or occupy a car, outbuilding or other place not intended for that purpose.

LODGING IN RECREATIONAL VEHICLES.

- (1) The following regulations pertain to recreational vehicles parked outside of recreational vehicle parks, mobile home or manufactured home parks or other areas that are specifically designated for the vehicles.
- (2) No person shall occupy a recreational vehicle for sleeping or living purposes on a public street or right-of-way.
- (3) No person having ownership, or other responsibility for property in the city, shall occupy or allow the occupancy of any recreational vehicle upon the premises as a permanent living quarters, unless approved for the use by the City Council.
- (4) A recreational vehicle may be parked on private property and used for sleeping and cooking purposes by guests of the residents of the premises for a period not to exceed 30 days within any three-month period of the year; provided, the vehicle has self contained sewage facilities or the vehicle's occupants are utilizing the facilities in their host's residence, unless approved for a longer period in advance, by the City Council.
- (5) Any unoccupied recreational vehicle shall not be stored on any roadway or within any public right-of-way.
- (6) A recreational vehicle shall not occupy a space within an approved mobile home park unless that space has been specifically approved by the city for short-term recreational vehicle use.

NOXIOUS VEGETATION. The presence of vegetation on property or in the right-of-way of a street, alley or sidewalk abutting the property, anytime between May 15 and September 30 of any year, including:

- (1) Weeds or grass more than ten inches high;
- (2) Blackberry bushes that extend into a public thoroughfare or across a property line;
- (3) Poison oak or ivy; and
- (4) Vegetation that is a health hazard, a fire hazard or other hazard because it is near other combustibles, or a traffic hazard because it impairs the view of the public thoroughfare or otherwise makes use of the thoroughfare hazardous for pedestrians and/or vehicles.

NUISANCES AND OFFENSES. Conditions that adversely affect public health, safety or welfare.

PERSON. A natural person, firm, partnership, association or corporation, whether acting as an individual for themselves, or as the clerk, servant, employee or agent of another.

PERSON IN CHARGE OF PROPERTY. An owner, agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The owner or the person in charge of the property.

PET. A non-dangerous animal weighing 100 pounds or less, kept for companionship or enjoyment. No exotic animals as defined in this section shall be considered a pet. Domesticated dog breeds are exempt from the 100-pound weight requirement.

PUBLIC INDECENCY. An act of urination or defecation, except in toilets provided for that purpose.

TEMPORARY SIGNS. Temporary signs include, but are not limited to, election, campaign and yard/garage sale signs.

UNENUMERATED NUISANCES AND OFFENSES. Nuisances and offenses not specifically enumerated in this chapter including a substance or act that is determined to be injurious to public health, safety or welfare.

UNNECESSARY NOISE. Any unreasonably frequent and prolonged noise which interferes with the health and /or public welfare, including, but not limited to:

- (1) The keeping of any bird or animal which, by causing frequent or prolonged continuous noise, shall disturb the comfort and repose of any person in the vicinity;
- (2) The use of a vehicle engine, either stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
- (3) The sounding of a horn or signaling device on a vehicle on a street, or public or private place, except as necessary warning of danger;
- (4) The use of mechanical devices operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;
- (5) The use of a gong or siren upon a vehicle, other than police, fire or other emergency vehicle;
- (6) Noise from construction activities including erection, excavation, demolition, alteration, repair between 10:00 p.m. and 7:00 a.m., except in case of urgent necessity in the interest of the public welfare and safety as determined by the city;
- (7) The owner of a property may conduct the activities on property occupied by the owner between the hours of 7:00 a.m. and 9:00 p.m. providing the activity does not unnecessarily affect the public health, safety and/or welfare;
- (8) The creation of excessive noise on a street adjacent to a school, institution of learning, church or court of justice while same are in use, or adjacent to a hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of the institution, or which unduly disturbs or annoys patients and clients;
- (9) The discharge of the exhaust of a steam engine, internal combustion engine, motorboat or motor vehicle except through a

muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;

- (10) The use or operation of an automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for soundproducing or any sound amplifying device as to disturb person in the vicinity thereof or in a manner as renders the use thereof a nuisance. Upon application to the city, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches or general entertainment as part of a public event, festival or outstanding event of a noncommercial nature. The amplification shall not be audible at a distance of more than 1,000 feet from the source of amplification and, in no event, shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result;
- (11) The conducting, operating or maintaining of a garage within 100 feet of a residential unit in a manner as to cause loud ordisturbing noises between the hours of 9:00 p.m. and 7:00 a.m.; and/or
- (12) The making of a noise by crying, calling or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum,musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or inviting patronage of a person to a business.

(Ord. 251, passed 7-23-2009; Ord. 284, passed 6-1-2017) §

90.03 NUISANCES DECLARED.

(A) The following conditions are declared to be nuisances affecting public health:

- (1) Accumulation of debris, rubbish, manure and other refuse that are not removed within a reasonable time;
- (2) Stagnant water that affords a breeding place for mosquitoes and other insect pests;
- (3) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial waste or other substance placed in ornear the water in a manner that will cause harmful material to pollute the water;
- (4) Decayed or unwholesome food offered for human consumption;
- (5) Liquid waste drained from private premises;
- (6) Mastics, oil, grease or petroleum products allowed to be introduced in the sewer system by a user;
- (7) Animal carcasses on streets or private or public property;
- ~~(8)~~ Animals or birds maintained, kept or housed in a number to create offensive odors or noise; and
- ~~(8)(9)~~ Animals that do not meet the definition of pet as stated in §90.02, except those allowed under Animal Husbandry as a conditional use;
- ~~(9)(10)~~ 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 State Board of Health regulations.

(B) The following conditions are declared to be nuisances affecting public safety:

- (1) Woodpiles, wood, lumber, rocks, bricks, blocks or metal within the streets, alleys or sidewalks for a period of time longer than24 hours of placement of the material without first obtaining a permit from the city;
- (2) A container with a compartment of more than one cubic foot of capacity with a door or lid that locks or fastens automatically when closed that cannot be easily opened from the inside, maintained or left, in a place accessible to children;
- (3) A well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more uncovered, not fenced or without a suitable protective construction;
- (4) Unguarded machinery, equipment or other devices placed or stored in a manner to be appealing, dangerous and accessible to children;
- (5) Lumber, logs or piling placed or stored in a manner to be appealing, dangerous and accessible to children; (6) Noxious vegetation;
- (7) The presence of combustible materials stored in a manner as to constitute a fire hazard;
- (8) Dumping on public or private property 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 likely injure a person, animal or vehicle traveling on a public way;
- (9) Trees, bushes or shrubs on property abutting a street, alley or sidewalk that interfere with vehicle or pedestrian traffic. The person in charge of the property shall keep all trees, bushes or shrubs on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk, and at least 12 feet above the roadway, public right-of-way or parking area; and
- (10) Snow, ice or rain water which adversely affects the safety of users and which falls from the building or structure onto a street or public walkway or right-of-way or is allowed to remain thereon. The person in charge of the property shall install and maintain in a

Amendment
continued in
chapter 154

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CHAPTER 154: ZONING

Section

General Provisions

- 154.001 Title
- 154.002 Purpose
- 154.003 Zoning Map title
- 154.004 Conflicts
- 154.005 Uses not listed
- 154.006 Definitions

Zoning Districts and Boundaries

- 154.020 Establishment of zoning districts
- 154.021 Zoning Map
- 154.022 Boundary interpretations
- 154.023 Exemptions

Low Density Residential District, R-1

- 154.035 Purpose
- 154.036 Permitted uses
- 154.037 Conditional uses
- 154.038 Property development requirements

Medium Density Residential District, R-2

- 154.050 Purpose
- 154.051 Permitted uses
- 154.052 Conditional uses
- 154.053 Property development requirements

High Density Residential District, R-3

- 154.065 Purpose
- 154.066 Permitted uses
- 154.067 Conditional uses
- 154.068 Property development requirements

General Commercial District, G-C

- 154.080 Purpose
- 154.081 Permitted uses
- 154.082 Conditional uses
- 154.083 Property development requirements
- 154.084 Off-street parking
- 154.085 Fences, walls, hedges
- 154.086 Standards

Public Uses District, P

- 154.100 Purpose
- 154.101 Permitted uses
- 154.102 Conditional uses
- 154.103 Property development requirements
- 154.104 Off-street parking
- 154.105 Fences, walls, hedges, buffering
- 154.106 Standards

Airpark, Commercial, A-C

- 154.120 Purpose
- 154.121 Permitted uses
- 154.122 Conditional uses

Limited Industrial District, L-I

- 154.135 Purpose
- 154.136 Permitted buildings and uses
- 154.137 Conditional uses
- 154.138 Yard regulations
- 154.139 Building structural height limitations
- 154.140 Lot regulations
- 154.141 Parking requirements
- 154.142 Fences and walls

Wildfire Hazard Area; Wildfire Hazard Mitigation

- 154.155 Purpose
- 154.156 Scope
- 154.157 Wildfire Hazard Zone
- 154.158 Wildfire Hazard Zone requirements

Planned Unit Development

- 154.170 Purpose

- 154.171 Authorization
- 154.172 Application procedures
- 154.173 Size of a planned unit development
- 154.174 Preliminary plan requirements
- 154.175 Final development plan
- 154.176 Approval procedure
- 154.177 Approval criteria
- 154.178 Project density
- 154.179 Permitted uses
- 154.180 General development standards
- 154.181 Landscaping and open space standards
- 154.182 Conditions of approval
- 154.183 Amendments to an approved PUD
- 154.184 Exceptions to subdivision requirements
- 154.185 Time limits on action
- 154.186 Appeal
- 154.187 Revocation

Residential Property Development Requirements

- 154.200 Standards

Manufactured Homes in Residential Zones

- 154.215 Purpose
- 154.216 Application
- 154.217 Site development standards
- 154.218 Home construction standards
- 154.219 Removal of a manufactured home

Manufactured Home Park Development

- 154.230 Purpose
- 154.231 Application
- 154.232 Minimum mobile home standards
- 154.233 Site development plan required
- 154.234 Plan approval process
- 154.235 Uses permitted in mobile home parks
- 154.236 Mobile home park improvement standards

Historic Preservation

- 154.250 Purpose
- 154.251 Definitions
- 154.252 Historic Review Board
- 154.253 Designation of historic buildings or sites
- 154.254 Exterior remodeling of a historic structure

- 154.255 Condemnation and demolition of historic buildings
- 154.256 Other provisions

Nonconforming Uses and Structures

- 154.270 Purpose
- 154.271 Nonconforming lots
- 154.272 Nonconforming uses
- 154.273 Nonconforming structures
- 154.274 Nonconforming construction in progress
- 154.275 Termination of nonconforming use or structure 154.276
- Transitional structures

Home Occupations

- 154.290 Purpose
- 154.291 Application
- 154.292 Standards for operation of a home occupation as a permitted use
- 154.293 Standards for operation of a home occupation as conditional use
- 154.294 Prohibited home occupation uses
- 154.295 Enforcement

Development Review and Site Design Review

- 154.310 Purpose
- 154.311 Applicability
- 154.312 Development review approval criteria
- 154.313 Site design review; application review procedure
- 154.314 Site design review; application submission requirements
- 154.315 Approval criteria
- 154.316 Bonding and assurances
- 154.317 Development in accordance with permit approval
- 154.318 Landscaping

Off-Street Parking and Loading

- 154.330 Purpose
- 154.331 Application
- 154.332 Off-street parking required
- 154.333 Off-street loading facilities
- 154.334 Development standards
- 154.335 Recreational vehicles
- 154.336 Joint use of parking areas
- 154.337 Number of parking spaces required

Sign Regulations

- 154.350 Purpose and intent
- 154.351 Application
- 154.352 Definitions

- 154.353 Conformance
- 154.354 Exemptions from permit requirements
- 154.355 Prohibited signs
- 154.356 Sign measurements
- 154.357 Nonconforming signs
- 154.358 Specific sign development standards
- 154.359 Commercial district sign regulations
- 154.360 Residential district sign regulation
- 154.361 Variations to sign regulations
- 154.362 Violations

Types of Applications and Review Procedures

- 154.375 Purpose
- 154.376 Description of permit procedures
- 154.377 Type I procedure (ministerial)
- 154.378 Type II procedure (administrative)
- 154.379 Type III procedure (quasi-judicial)
- 154.380 Type IV procedure (legislative)
- 154.381 General provisions
- 154.382 Special procedures

Conditional Use Permits

- 154.395 Purpose
- 154.396 Authorization
- 154.397 Approval process
- 154.398 Pre-existing conditional uses
- 154.399 Application procedure
- 154.400 Public hearing required
- 154.401 Criteria, standards and conditions of approval
- 154.402 Effect
- 154.403 Appeal
- 154.404 Violation and revocation of permit

Variances

- 154.415 Purpose
- 154.416 Class A variances
- 154.417 Class B variances
- 154.418 Class C variances
- 154.419 Conditions
- 154.420 Applications and appeals

Plan Amendments and Zone Changes

- 154.435 Purpose
- 154.436 Initiation of action

- 154.437 Application procedure
- 154.438 Major or legislative amendments
- 154.439 Minor amendments
- 154.440 Planned unit development (PUD)
- 154.441 Notification of amendments

Appeal Procedures

- 154.455 Purpose
- 154.456 Filing the appeal
- 154.457 Application procedure
- 154.458 Action on the appeal
- 154.459 Notice of appeal hearings
- 154.460 Appeals to the City Council
- 154.461 Appeals to the Land Use Board
- 154.462 Disclosure

Vacation Rental Dwellings

- 154.475 Conditional use
- 154.476 Standards
- 154.477 Safety requirements
- 154.478 General
- 154.479 Enforcement

- 154.999 Penalty

GENERAL PROVISIONS

§ 154.001 TITLE.

This chapter shall be known as the "Zoning Ordinance of the City of Shady Cove".

(Ord. 225, passed 10-20-1994, § 1.1) **§ 154.002 PURPOSE.**

The purpose of this chapter is to classify and regulate land uses, the location and use of buildings and structures, to ensure the most appropriate use of land as determined by the city, to implement the goals, objectives and policies of the comprehensive plan and to promote the public health, safety, convenience and general welfare.

(Ord. 225, passed 10-20-1994, § 1.2)

§ 154.003 ZONING MAP TITLE.

The Zoning Ordinance consists of the text hereof and the map, entitled "Zoning Map of the City of Shady Cove".

(Ord. 225, passed 10-20-1994, § 1.3)

§ 154.004 CONFLICTS.

If any conflicts occur between the text of this chapter and the zoning map, the text shall prevail. If any conflicts occur between the text or the zoning map of this chapter and the comprehensive plan text or map, the comprehensive plan text or map shall prevail. (Ord. 225, passed 10-12-2006, § 1.4)

§ 154.005 USES NOT LISTED.

If any proposed land use is not listed as permitted or condition, the use will not be allowed unless the Planning Commission finds the use to be similar to other uses listed as "permitted" or "conditional" uses.

§ 154.006 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. Within these definitions, the masculine includes the feminine, and the singular includes the plural, unless otherwise specified. No preference or prejudice is intended in defining these terms. The terms "shall", "will" and "must" are mandatory. The terms "may", "should", "could" or "can" are permissive.

ABUTTING. Adjoining with a common boundary line.

ACCESS. The way or means by which pedestrians or vehicles enter and leave property or a building.

ACCESS WAY. The ingress and egress to a property or building; or an unobstructed way which provides vehicular or pedestrian access and circulation within a specific area, such as a subdivision or mobile home park.

ACCESSORY STRUCTURE OR USE. A structure or a use that is incidental and subordinate to the main structure or use of the property and located on the same lot as that main structure or use. (NOTE: It is possible to have an accessory structure, such as a garage or shed, on a lot without the main structure when that main structure has been removed, but the lot is still planned and zoned for that same or similar primary use.)

ADJACENT. "Near" or "close". A business that is on the adjoining lot having a common boundary.

ADJOIN. The same as "abut". (See **ABUTTING.**)

ADULT BUSINESS. Any of a number of businesses that is generally characterized by an emphasis on sexually explicit materials or activities, minors are excluded as a legal or prevailing business practice.

ADVERTISING STRUCTURE. Any notice or advertisement, pictorial or otherwise, and any structure used as, or for the support of, the notice or advertisement, or for the purpose of making anything known about goods, services or activities.

AGRICULTURE. The "agricultural use" of the land shall include farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, ~~apiaries and animal and poultry husbandry~~, along with any necessary accessory uses for the processing, storing or distribution of related products. Temporary or short-term activities, such as 4-H projects, are not included in the definition of **AGRICULTURE**.

ALLEY. A public or private way that affords secondary access to properties that are otherwise served by a street.

ALTERATION. Any change, addition or modification to the physical or structural condition of land or structures, or a change in the status of occupancy of land or a structure.

AMENDMENT. A change in the wording, context or substance of any official ordinance or other publication, including related maps, illustrations, concepts, policies or plans.

ANIMAL HOSPITAL OR CLINIC. A place where animals or pets are given medical or surgical treatment and are cared for during the time of the treatment. The use of such a facility for kennel purposes shall be limited to short-time boarding incidental to the hospital or clinic use.

ANIMAL HUSBANDRY. A commercial or utilitarian use in which animals, including insects or fish, are reared or kept. Such animals shall demonstrate the ability to produce harvestable byproducts or provide a useful service that does not provoke a nuisance. Examples of animal husbandry are included but not limited to: Sheep or goats used for weed abatement; Horses used to provide riding lessons; and bees constituting a beehive for the production of honey. This definition does not include keeping of pets in kennels or veterinarian clinics.

APARTMENT. A dwelling unit in a multiple-family structure or building that is typically designed for and utilized as a rental dwelling. A condominium-type dwelling might also be referred to as an **APARTMENT**, regardless of the ownership status, if it is within a multi-family structure.

APARTMENT HOUSE. Any building or portion thereof which contains three or more individual dwelling units, regardless of the ownership arrangement.

ASSEMBLY BUILDING. A building or portion thereof used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking or dining, awaiting transportation or similar activities.

AUTOMOBILE REPAIR, MAJOR. The general repair, rebuilding or reconditioning of engines, transmissions and all other mechanical, chassis and body parts of automobiles, motorboats, motorcycles, recreational vehicles, trucks and other automotive equipment, including body, frame and fender repairs and painting. Tire sales and repairing are included in this category, but not tire manufacturing or recapping.

AUTOMOBILE REPAIR, MINOR. Includes facilities and services that involve automobile, boat, truck, RV and motorcycle upholstery; replacement of minor parts other than rebuilding or major overhauls; tune-ups; routine maintenance services; glass replacement; and other services not specified in "auto repair, major".

AUTOMOBILE SERVICE STATION. A building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale, and where repair services are secondary.

AUTOMOBILE, TRUCK, BOAT OR MOBILE HOME SALES LOT. An open lot used for the display, sale or rental of new or used motor vehicles, boats, trucks, trailers, snowmobiles, mobile home, motor homes, heavy construction or farm equipment or other "mobile" equipment or machinery. The lot may include an area for storage or repairs separate from the "sales" area, if approved for that purpose.

AUTOMOTIVE WRECKING. The dismantling or disassembling of motor vehicles or trailers; or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or vehicle parts.

BED AND BREAKFAST. A single-family dwelling or part thereof where traveler's accommodations and breakfast are provided for a fee on a daily or weekly room rental basis not to exceed 14 consecutive days.

BILLBOARD. Same as **ADVERTISING STRUCTURE.**

BOARDING HOUSE. Any building or portion thereof containing no more than five guest rooms which are occupied, or intended for occupancy, by guests in return for money, goods, labor or otherwise.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING, EXISTING OR PREEXISTING. A building erected prior to the adoption of this chapter or one for which a legal building permit has been issued.

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this chapter or his or her duly authorized representative.

BUFFER. A land area or a physical barrier such as a wall, hedge, fence, waterway or other feature that has been established for the purpose of reducing or mitigating the adverse effects of a land use upon another land use.

CALENDAR YEAR. Three hundred and sixty-five consecutive days (including weekends and holidays) beginning on the first day of the year and ending on December 31.

CHANNEL. The bed in which the main stream of a river or other waterway flows and not including flood plain areas.

CHICKENS, BACKYARD: Female chickens 20 weeks or older, or chicks of both sexes under 20 weeks of age.

CHURCH. A building used for public worship and religious training.

CITY. The City of Shady Cove, Oregon.

CITY COUNCIL. The City Council of the City of Shady Cove, Oregon.

CLINIC. A place for group medical services not involving overnight housing of patients.

CLUB. The meeting place of an association of persons for a common objective, not a religious organization.

COMMISSION. The Planning Commission of the city.

CONDOMINIUM. An estate in real property consisting of an undivided interest in common in a parcel of real property together with a separate interest in space in a residential, industrial or commercial building, such as an apartment, office or store.

CONTIGUOUS. Same as **ABUTTING** or **ADJOINING.**

CONVALESCENT HOME. A group quarters for the purpose of short- or long-term individual health care, medical treatment, rehabilitation or recuperation from disability or illness.

COMMON OPEN AREA. An open area within a development, designed and intended for the use or enjoyment of all residents or users of the development, or for the use and enjoyment of the public in general.

COMMUNITY CENTER OR HALL. A specific location or area within the community, or a particular building or portion thereof that is used, or intended for use, by residents or groups in the community for meetings, recreational activities or other special events or social activities.

CONTRACT ANNEXATION. A process whereby the city, county and other involved parties enter into a contract that permits:

- (1) The county to administer city land use regulations for the development of property following an annexation decision while the property remains under county jurisdiction; and
- (2) The city to annex property developed to city standards and uses, with the improvement to appear on the county tax rolls prior to the effective date of annexation, resulting in a greater benefit to the tax base of the community.

COUNTY. Unless otherwise stated, Jackson County, Oregon.

DAY CARE CENTER. Any type of regularly operated group day care program, including nurseries for children of working parents, nursery schools for children under the minimum age for public school education, parent cooperatives, nursery schools, playgrounds for preschool children and programs covering after-school care for school children.

DENSITY. The quotient of the total number of dwelling units divided by the gross site area, commonly expressed as dwelling units per acre.

DISTRICT. A portion of the total area within the boundaries of the city within which specific sections of these regulations apply. For example, the R-1, Single-Family Residential District.

DIVIDE. To separate land into two or more parts for the purpose of transferring a substantial interest in the value and ownership of those parts. The divisions of land can occur as a land partition or subdivision.

DRIVE-IN. All automobile service stations, businesses which dispense gas and oil and an ancillary use, car washes, commercial parking lots, convenience dairies, fast food outlets, banks with drive-up windows and any other establishment or commercial business where products or services are delivered or administered directly to motor vehicles or their occupants.

DRIVEWAY. A road or other access way that is located entirely on the parcel it serves.

DRUG STORE or PHARMACY. A commercial business involved in the preparation, preservation, compounding and dispensing of drugs and medicines. This business can be independent or a part of a larger store and is commonly associated with the sale of other merchandise including cosmetics, notions, stationery supplies or other similar items.

DWELLING, CONVENTIONAL. A "conventional" dwelling or group of the dwellings refers to buildings that are constructed on the site and in conformance with the Uniform Building Code requirements.

DWELLING GROUP. A group of two or more detached buildings used for residential purposes and located on a single tax lot with yard areas shared as common areas for all dwelling group occupants.

DWELLING, MANUFACTURED OR FACTORY-BUILT.

(1) **MANUFACTURED DWELLING** does not mean any building or structure subject to the structural special code adopted pursuant to O.R.S. 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(2) **MANUFACTURED HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

(3) **MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between 1-1-1962 and 6-15-1976, and met the construction requirements of state mobile home law in effect at the time of construction.

(4) **RESIDENTIAL TRAILER.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before 11-1962.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, designed or used as a residence by three or more families or households, and containing three or more dwelling units.

DWELLING, SINGLE-FAMILY. A detached building designed or used for residential purposes by not more than one family and containing a single dwelling unit.

DWELLING, TWO-FAMILY (DUPLEX). A building containing two residential dwelling units and commonly referred to as a **DUPLEX**.

DWELLING UNIT (D.U.). Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and sanitation for not more than one family.

FLAG LOT. A panhandle lot shaped like a flag and pole with its widest portion set away from the road that serves it, and with the thin "panhandle" or "flagpole" portion providing the access way or driveway.

FLOOR AREA. The area included within the surrounding exterior walls of a building or portion thereof, exclusive of open vent shafts and open courts, but including all levels or floors of the building that provide habitable spaces.

FLOOR AREA RATIO. The mathematical ratio determined by dividing the total floor area of a building or buildings by the area of the lot on which it (or they) is located.

FLOOD INSURANCE. The insurance coverage provided under the Federal Flood Insurance Program.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Maps and the water surface elevation of the base flood.

FLOOD PLAIN, 100-YEAR. The land within the general vicinity of a river or other watercourse that is subject to a 1% chance of flooding in any given year, including the floodway and floodway fringe area.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FOSTER HOME. A home licensed by the state to provide food and shelter to not more than five persons in addition to the primary owner and occupants of the dwelling unit.

FOUR-H (4-H). A program set up by the U.S. Department of Agriculture to instruct young people through projects about modern farm practices and good citizenship.

GARAGE. A building or portion thereof in which a motor vehicle containing flammable liquids or gas in its tank is intended to be stored, repaired or kept.

GRADE. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

GROSS FLOOR AREA. All of the area within the outside dimensions of a buildings walls.

GROUP HOME. A state licensed home maintained and supervised by adults for the purpose of providing care, food and lodging for children under the age of 18 years, unattended by parents or guardians, where the number of unrelated persons living as one household commonly exceeds five.

GUEST, COMMERCIAL. Any person who is temporarily occupying a room or suite of rooms in a hotel, motel, convalescent home or other commercial facility that provides "guest rooms" that are designed and intended to be rented or leased (short term) to persons or families.

GUEST HOUSE. A building or structure, without a kitchen, not more than 800 square feet appurtenant to, a primary single-family dwelling unit, and that is intended for the lodging of guests. A **GUEST HOUSE** shall be utilized solely for the lodging of residential guests and shall not be rented or otherwise managed for income purposes.

GUEST, RESIDENTIAL. Any person who is temporarily occupying a dwelling, guest house, recreational vehicle parking area or any other portion of a dwelling at the invitation of that dwelling's owner or legal occupant and is not paying rent or other type of reimbursement in return for that occupancy privilege.

GUEST ROOM. Any room or rooms within a dwelling unit that is used or intended to be used for the lodging of residential guests, as defined, and not including a separate kitchen area or kitchen facilities in addition to those already available in the primary dwelling unit.

HOME OCCUPATION. Any occupation conducted within a residential zoning district primarily by a member or members of the family residing in that dwelling unit; provided, the business activity is clearly incidental and secondary to the primary residential use of that dwelling unit and property.

HOTEL or **MOTEL.** A building containing two or more rooms, or suites of rooms, designed to be used for the temporary living and sleeping place of its commercial guests, and which customarily provides such services as linen, maid service, furnishings and often recreational facilities.

JUNK YARD. A business that stores, keeps, dismantles, salvages, collects, buys or sells scraps or discarded pieces of metal, paper, rags, tires, bottles and assorted other materials, and also including those items associated with "automotive wrecking", as defined in these regulations.

KENNEL. Any premises that is operated as a business for the temporary care and boarding of three or more dogs, cats or other small animals or any combination thereof, except veterinary hospitals or animal clinics.

LANDSCAPING. Any combination of permanently maintained live trees, lawns, shrubs or other plant materials, including inorganic accessory materials utilized to accent or complement the vegetation. Fountains, ponds, sculpture, lamp posts, fences and other functional or decorative features may be integral components of a landscape plan.

LEASE. Conveyance of real estate by contract for a specified term for a specified rent.

LOT. A parcel of land lawfully created in accordance with the land division, partitioning or subdivision regulations in effect at the time of its creation. (See **TAX LOT**.)

LOT AREA. The total land area, commonly measured in square feet, within the boundaries of a legal lot, exclusive of any street or alley rights-of-way.

LOT, CORNER. A lot abutting at the intersection of two or more streets, or if the interior angle is less than 135 degrees within the lot lines, upon two parts of the same street.

LOT, COVERAGE. The percentage of the total lot area covered by structures, as defined in these regulations.

LOT, DEPTH. The horizontal distance between the front and rear lot lines or, in the case of a corner lot, the depth shall be the length of the longest front lot line.

LOT LINE, FRONT. The property line of a lot that abuts the street right-of-way. On a corner lot, the **FRONT LOT LINE** is the line on which the street address is located.

LOT LINE, REAR. A lot line that is not abutting a public street and which is opposite the front lot line of the lot. In the case of a triangular or otherwise irregularly shaped lot, the **REAR LOT LINE** shall be a line ten feet in length within the lot and parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line that cannot be defined as either a "front" or "rear" lot line.

LOT, THROUGH. One having public street frontage on two separate streets or highways. Each frontage would be considered the "front lot line" and there would be no "rear lot line".

LOT, WIDTH. The average horizontal distance between the side lot lines, measured parallel to the front lot line on a rectangular lot. Lots having irregular shapes shall measure width by street frontage or the average of the maximum and minimum widths, whichever is smaller.

LOUNGE, BAR or TAVERN. An establishment, the primary activity of which is the sale and consumption on the premises of beer, wine or other liquors and where food service, if any, is secondary to the sale and consumption of alcoholic beverages. Sometimes in combination with musical entertainment and dancing.

MACHINE OR WELDING SHOP. A facility in which material is processed by machining, cutting, grinding, welding or similar processing operations. Such a shop is often a component of a larger industrial or commercial business or a necessary function of an automotive repair facility.

MAINTAIN. To cause or allow to continue in existence. When the context indicates, the word shall mean to preserve and care for a structure, improvement, condition or area to an extent that it remains attractive, safe and presentable and carries out the purpose for which it was originally installed, constructed or required.

MANUFACTURED HOME. (See **DWELLING, MANUFACTURED OR FACTORY-BUILT.**)

MINI STORAGE. A building or group of buildings in a controlled access compound that contains various sizes of individual compartmentalized and controlled-access, stairs or lockers for the dead storage of a customer's goods. No sales, service or repair activities other than the rental of storage units are permitted on the premises.

MOBILE HOME. (See **DWELLING, MOBILE HOME.**)

MOBILE HOME PARK. Any lot on which two or more mobile homes are located and being used for residential purposes, other than an approved "guest house" and where the primary purpose of the property owner is to rent or lease the spaces and related or necessary facilities to the owners or occupants of the mobile homes or to offer same in exchange for trade or services.

MOBILE HOME SPACE. A specific area of ground within a mobile home park that is designed and intended for the accommodation of a single mobile home and that includes all necessary utility hook-ups for that home.

MOTEL. See **HOTEL** or **MOTEL.**

NET SITE AREA. The square footage area within the exterior boundaries of a lot or property. Exclusive of public streets, public walks or land below the water line of the Rogue River.

NONCONFORMING USE. A structure, building or use that was lawfully constructed or established, but no longer conforms to the regulations or requirements of the city's zoning regulations or other codes.

OWNER. The owner of record of a specific tax lot or that owner's authorized representative.

PARCEL. (See **LOT.**)

PARK or PLAYGROUND. A recreational area or facility that is owned and/or operated by a private entity, public agency or school district, and is available to the general public.

PARTITIONS. To divide an area or lot into two or three smaller parcels, as provided for in the Chapter 153 of this code.

PERSON. A 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.

PETS. Those animals, fowl, insects or fish which are normally and reasonably kept as household pets, not including any animals that are considered wild or vicious, or other creatures which, if not contained, would be considered dangerous to the public health or safety.

PLANNED UNIT DEVELOPMENT. A coordinated development that may include a mixture of residential, commercial, industrial and/or public uses, grouped in a manner that would not be permitted under conventional zoning, but that, if permitted, would consist of a variety and diversification of uses, buildings and spaces, more useable open space areas, clustering of dwellings or businesses, and should result in a more beneficial arrangement of uses with less impact on natural features or resources than might be expected under basic zoning requirements.

PLANNING COMMISSION. (See **COMMISSION.**)

PLOT PLAN. A drawing of a lot and the surrounding area showing the use and location of existing and proposed buildings, structures and improvements, and drawn to a scale, detail and description as may be required by city staff, Planning Commission or the specific provisions of the city's zoning regulations or Chapter 153 of this code.

PUBLIC ROAD. A state highway or other road which has been dedicated to the use of the public for road purposes, and not including an alley. May also be referred to as a **PUBLIC STREET** or simply **STREET**.

PUBLIC WAY. A publicly owned thoroughfare, pathway or route, not a street or highway for passage from place to place.

RECREATIONAL VEHICLE (RV). A vacation trailer, camping vehicle, motor home or other vehicle, with or without motive power, which is designed for short-term occupancy for recreational or vacation purposes, but not as a permanent or long-term residence. The vehicle is identified as a **RECREATIONAL VEHICLE** by the manufacturer and licensed as such.

RENT. The amount paid by a tenant or occupant to the owner of a property for the use thereof.

RETAINING WALL. A wall designed to resist the lateral displacement of soil or other materials.

RETIREMENT HOME. A facility that provides living quarters, owned or rented to persons of retirement age. The facility may be a single structure or a group or cluster of structures, designed primarily for residential purposes, but often including, limited medical, recreational, commercial or health services to the residents and their guests.

ROOSTER: A male chicken of 20 weeks or older.

SCHOOL, BUSINESS. A business enterprise, not a public or private school, offering instruction and training in a service or art, such as secretary, barber, commercial artist and the like, but not including commercial trades or crafts.

SCHOOL, COMMERCIAL TO TRADE. A business enterprise other than a public, private or business school, offering instruction and training in a trade such as welding, brick laying, machinery operation or other similar manual trades.

SECOND-HAND STORE. A commercial store (usually retail) that specializes in the sale of second-hand or used items, including furniture, clothing, books and records/tapes or a variety of miscellaneous items.

SERVICE STATION. (See **AUTOMOBILE SERVICE STATION**.)

SETBACK. The distance from a right-of-way, easement boundary of a road or access way or from a lot line to any point of a building. (Minimum setback distances, as required for each zoning district, are sometimes referred to as **YARD AREAS**.)

STREET. (See **PUBLIC ROAD**.)

STRUCTURAL ALTERATION. A change to the supporting members of a structure, including foundations, bearing walls or partitions, columns, beams, girders or any structural change in the roof or in the exterior walls.

STRUCTURE. Anything constructed or built which requires location on the ground or is attached to something having a location on the ground including swimming pools, covered patios, fences and walls; but not including normal plants and landscaping materials, paved outdoor areas, walks, driveways and similar improvements.

SUBDIVIDE. To divide an area or parcel into four or more legal and smaller lots in accordance with the requirements of the Chapter 153 of this code.

TAX LOT. A parcel, lot or other unit of land that is shown on the County Assessor's plat map of the subject area as an individual lot, for the purpose of taxation.

TEMPORARY. Unless otherwise defined or specified, such as in a condition of approval of a particular land use, **TEMPORARY** shall mean 30 days or less within any 12-month period.

TENT. A shelter consisting primarily of a fabric supported by metal or wood poles and ropes, which is designed for temporary short-term occupancy for recreational or emergency purposes. A **TENT** is not intended for permanent habitation.

TOWNHOUSE. A single-family dwelling unit on a separately platted lot, with use and occupancy identical to all other single-family dwelling units, except without the required side yard setbacks. **INDIVIDUAL TOWNHOUSE UNITS** are generally separated by common firewalls and their owners may not share in the ownership of a common area.

TRAILER PARK. (See **MOBILE HOME PARK**.)

UBC STANDARDS. The Uniform Building Code standards promulgated by the International Conference of Building Officials (ICBO), as adopted by the city.

URBAN GROWTH BOUNDARY (UGB). A site specific line on the official plan and zoning maps of Jackson County and the official comprehensive plan map of the city, showing the city's area of urban and urbanizable land.

URBANIZABLE AREA. Those lands that lie between the present city limits and the urban growth boundary are considered to be "urbanizable" during the current time period covered by the city's comprehensive plan.

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

YARD. An open space, other than a court, that is unobstructed from the ground upward, except where specifically provided by the UBC. Required yard areas are those portions of a lot that lie between the exterior property lines and the "building envelope" defined by the setback distances from those property lines.

YARD SALE. Temporary sales of goods from a private residence, limited to three days, four times a year, in a yard, a garage or other structures.

YEAR, CALENDAR. (See **CALENDAR YEAR.**) One year, 365 consecutive days including holidays and weekends, beginning on any date and ending 365 days later.

ZERO LOT LINE. A common line between two lots from which no setbacks are required. (Ord. 225, passed 10-20-1994, § 5)

ZONING DISTRICTS AND BOUNDARIES

§ 154.020 ESTABLISHMENT OF ZONING DISTRICTS.

For the purposes of these regulations the city is divided into districts which may be further divided for greater flexibility of lot sizes, as described in these regulations. (Ord. 225, passed 10-20-1994, § 3.1) **§ 154.021 ZONING MAP.**

(A) The locations and boundaries of the zoning districts are shown on the map entitled "Zoning Map of the City of Shady Cove", which is dated with its effective date, and signed by the Mayor and referred to herein as the "Zoning Map".

(B) A copy of the zoning map shall be maintained on file in the office of the city and is hereby adopted by reference and made a part of this chapter.

(C) Upon approval of any changes to the zoning map, the City Council shall cause the official zoning map to be revised to accurately portray the change.

(D) The City Council may direct the replacement of the official zoning map, or a portion thereof, which includes all lawful changes of zone and city boundaries to date. Any map or portion thereof replaced shall be retained in a separate file by the city. (Ord. 225, passed 10-20-1994, § 3.2)

§ 154.022 BOUNDARY INTERPRETATIONS.

In making a determination as to the location of an uncertain zoning district boundary on the zoning map, the following rules shall apply.

(A) Where district boundaries approximately follow streets, alleys, highways or other rights-of-way, the district boundary is considered to be at the centerline of the rights-of-way.

(B) When a street, alley or other public way is vacated by law, the zoning district adjoining each side of the street, alley or way shall be extended to the center of the former right-of-way and the former right-of-way land area shall be included in the extended districts to each side.

(C) Zoning district boundaries should follow property lines unless not possible and the property lines shall be construed to be the zoning district boundaries.

(Ord. 225, passed 10-20-1994, § 3.3)

§ 154.023 EXEMPTIONS.

The following uses and structures shall be exempt from the requirements and regulations of this chapter:

(A) Pavement, road base, curbs, gutters, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other equipment used for the distribution of telephone or other communications. Electricity, gas, water collection of sewage or storm water runoff; or for public streets, highways, bikeways and sidewalks; provided, the facilities are operated or maintained by a governmental entity or public or underground; and when located in street right-of-way or other public right-of-way or easement for that purpose. Material storage, solid waste disposal sites and electrical substations are not included in this exemption;

(B) Establishment, operation, maintenance, repair or preservation construction of an authorized public facility, including public streets and highways, bridges and culverts, sewer lines, storm sewer lines and drainage ditches, water lines and communication and energy utility facilities; when located in a street right-of-way or other public right-of-way or easement for that purpose. Material storage, solid waste disposal sites and electrical substations are not included in this exception; and

(C) The following may be exempted from the minimum setback requirements or height requirements at the time of site plan review, when the structures are located outside the public right-of-way and are obviously intended to serve the public interest: telephone booths and pedestals; utility equipment; mail boxes; bus shelters; public bicycle racks or shelters; utility and street sign poles; kiosks; and other similar structures or devices.

(Ord. 225, passed 10-20-1994, § 4)

LOW DENSITY RESIDENTIAL DISTRICT, R-1

§ 154.035 PURPOSE.

The purpose of the R-1 District is to provide within the community for the development and enhancement of quiet, family-oriented residential neighborhoods that are characteristic of city's small town semi-rural atmosphere, and which will accommodate primarily single-family dwellings on individual lots.

(Ord. 225, passed 10-20-1994, § 7.1)

§ 154.036 PERMITTED USES.

The following uses are permitted outright in the R-1 District, subject to development standards, or other ordinance requirements:

- (A) Single-family conventional or modular (UBC) home, minimum 1,000 square feet;
- (B) Single-family "manufactured" or "factory-built" (HUD Code) home (see §154.215 through 154.219);
- ~~(C)~~ Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm-related structures;
- ~~(D)~~(C) Guest house, consistent with the definition in §154.006;
- ~~(E)~~(D) Accessory uses; such as carports, garages, sheds, swimming pools and other uses or structures customarily accessory to residential development, subject to interpretation by the Planning Commission if questionable;
- ~~(F)~~(E) Home occupation, consistent with standards in §154.292; and
- (F) Planned unit development, in accordance with §154.170 through 154.187, except in R1-00. (Ord. 225, passed 10-20-1994, § 7.2; Ord. 253, passed 1-21-2010)
- (G) Chickens, consistent with the definition in §154.006 and in accordance with §154.379
- ~~(G)~~(H) Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm related structures

§ 154.037 CONDITIONAL USES.

Except in R1-00, the following uses and accessory uses are permitted in this district only when authorized by the Planning Commission in accordance with the conditional use permit requirements contained in §§ 154.395 through 154.404:

- (A) Home occupations, consistent with the standards in §154.293;
- (B) Rest homes, nursing homes, convalescent homes;
- (C) Day care center and similar facilities for the care of more than five children who are not permanent residents of the subject property;
- (D) Public and parochial schools and similar educational facilities;
- (E) Public and quasi-public utility buildings, but not including, outside storage or repair of equipment and materials, warehouses and similar uses;
- (F) Parks and recreational facilities that are intended to provide for the recreational or park needs of the neighborhood or community; including open parklands, play fields, playgrounds, swimming pools, multi-purpose recreation buildings, passive and picnic areas, bike ways, pedestrian walkways and other facilities that are determined by the Planning Commission to be similar;
- (G) Major recreational facilities, including golf courses, driving ranges, equestrian center and trail systems, organized field sport facilities, gymnasium and similar facilities that are designed to enhance the livability and residential character of the neighborhood or community and that will be compatible, as determined by the Planning Commission, with the existing and proposed surrounding development;
- (H) Developer's project sales office, including a temporary structure or trailer adapted for that purpose, and used during the construction and/or sale of a residential development, and not used for residential purposes;
- (I) 4-H projects; and
- ~~(J)~~(J) Animal Husbandry, in accordance with the definition in §154.006
- ~~(K)~~(K) Vacation rental dwellings; and
- ~~(L)~~(L) Other uses not specified in this or any other district if determined by the Planning Commission to be similar to those listed above and compatible with the purpose of the district.

(Ord. 225, passed 10-20-1994, § 7.3; Ord. 253, passed 1-21-2010; Ord. 275, passed 8-6-2015)

§ 154.038 PROPERTY DEVELOPMENT REQUIREMENTS.

- (A) *Generally.* All development in the R-1 District of the city shall comply with the development requirements in § 154.200.
- (B) *Density.*
 - (1) With the exception of planned unit developments, the density of new residential developments will be determined by the combination of permitted uses and the minimum lot size provisions contained in the development requirements table.
 - (2) Due to the unique and varying characteristics of existing development patterns, landforms and topography, soils, flood plains and other factors, the R-1 District is further divided into the categories shown below, which are applied to appropriate areas on the zoning map.
 - (3) The following square footage requirements pertain to "net site area".

R-1-6	6,000 square feet lots
R-1-10	10,000 square feet lots
R-1-20	20,000 square feet lots
R-1-40	40,000 square feet lots
R-1-00	Existing lot size (cannot be partitioned)

- (C) *Off-street parking.* See §§ 154.330 through 154.337 for number of parking space provided for each residential dwelling unit. These spaces shall not be within a required front yard abutting a public street other than an alley, and in accordance with any other requirement the city's parking standards or other applicable codes.
- (D) *Fences, walls, hedges.* Any fence, wall, hedge or other screen planting shall not exceed a height of three feet above grade within any front yard setback area, nor six feet above grade within any side or rear yard areas. Open mesh deer fencing may exceed the height restrictions noted above.
- (E) *Mobile homes or manufactured homes in residential zones.* See §§ 154.215 through 154.219.
(Ord. 225, passed 10-20-1994, § 7.4; Ord. 253, passed 1-21-2010)

§ 154.039 BACKYARD HEN REQUIREMENTS

- (A) Purpose. The following regulations will govern the keeping of chickens on R-1 parcels and are intended to prevent nuisances and conditions that are unsanitary or unsafe.
- (B) Roosters. Roosters are not allowed within city limits.
- (C) Zoning. Chickens shall only be permitted in R-1 parcels.
- (D) Size of flock. Maximum flock size will correlate to the parcel's zoning designation and the table below. For purposes of this ordinance, a mature hen will be defined as being older than 20 weeks, while a juvenile will be defined as 20 weeks old or younger.

<u>Zoning</u>	<u>Maximum number of mature chickens (female Only)</u>	<u>Maximum number of juvenile chicks (male or female allowed)</u>
<u>R-1-00</u>	<u>2</u>	<u>6</u>
<u>R-1-6</u>	<u>4</u>	<u>12</u>
<u>R-1-10</u>	<u>6</u>	<u>18</u>
<u>R-1-20</u>	<u>8</u>	<u>24</u>
<u>R-1-40</u>	<u>10</u>	<u>30</u>

- (E) Enclosure. Chickens shall be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Chickens shall have access to an outdoor enclosure that is adequately fenced to allow the birds free range on the property and prevent predators from accessing the birds.

(F) *Setbacks.* All facilities intended to support chickens shall be located in the rear yard -and kept at least 5 feet from all adjacent property lines. Fences meant to provide a free-range enclosure may be located within 10 feet of the property line, providing they adhere to §154.085.

(G) *Sanitation.* The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent accumulation of waste.

(H) *Exotic species.* No provision of this ordinance shall enable any person to keep exotic or unusual fowl, including, but not limited to: peafowl, emus, guinea fowl, turkeys, ostriches, or any similar species.

(I) *Existing Backyard Hens.* Homes currently raising hens shall not be deemed in violation of §154.039 provided:

a. Their operation is continual

b. There is no increase in intensity beyond what is allotted by table of §154.039(D)

(J) *Animal Husbandry.* The keeping of the allotted number of backyard hens shall not be deemed an act of animal husbandry so long as eggs, chickens, or other byproducts are not sold.

MEDIUM DENSITY RESIDENTIAL DISTRICT, R-2

§ 154.050 PURPOSE.

(A) The purpose of the R-2 District is to provide suitable areas within the community for the development of residential neighborhoods at a slightly higher density than permitted in the R-1 District, and which also provide opportunities for the development of lower-cost housing alternatives.

(B) In some cases, the application of the R-2 District will promote the transition and redevelopment of older deteriorating areas and also provides for the development of mobile home parks at similar densities.

(Ord. 225, passed 10-20-1994, § 8.1)

§ 154.051 PERMITTED USES.

The following uses are permitted, outright in the R-2 District, subject to site plan review, development standards or other ordinance requirements:

(A) Single-family dwellings;

(B) Existing agricultural uses with no increase in intensity of operation or addition or expansion of farm-related structures;

(C) Mobile home parks, subject to the city's mobile home park development requirements of §§ 154.230 through 154.236 and at a density not to exceed ten dwelling units/acre;

(D) Duplexes or two or more single-family dwellings on the same lot;

(E) Guest house, consistent with the definition in § 154.006;

(F) Accessory uses; such as carports, garages, sheds, swimming pools and other uses or structures customarily accessory to residential development, subject to interpretation by the Planning Commission if questionable;

(G) Home occupations, consistent with standards in § 154.292; and

(H) Planned unit development, in accordance with §§ 154.170 through 154.187.

(Ord. 225, passed 10-20-1994, § 8.2)

§ 154.052 CONDITIONAL USES.

The following uses and their accessory uses are permitted in the R-2 District only when authorized by Planning Commission in accordance with the conditional use permit requirements contained in §§ 154.395 through 154.404.

(A) Home occupations, consistent with the standards in § 154.293;

(B) Rest homes, nursing homes, convalescent homes;

(C) Out-patient medical clinics, counseling and other neighborhood or community public assistance centers; (D) Churches and other religious institutions;

(E) Day care center and similar facilities for the care of more than five children who are not permanent residents of the subject property;

(F) Bed and breakfast inns;

End of Amendment



ROGUE VALLEY
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MEMORANDUM

Date: December 14, 2022

To: Shady Cove Planning Commission

From: James Schireman, Associate Planner

Subject: Proposed Amendments to Allow Animal Husbandry as Conditional Use

Upon request from the Planning Commission at a workshop conducted on December 8th, 2022, staff has prepared the appropriate language for review from the Planning Commission regarding a formal definition for what animals should be allowed as pets within the city. Rationale behind the drafting of the amendments included the following:

- Upon review staff found their original caveat of animal being able to enter and sleep within a home convoluted. Instead, staff included a one hundred pound weight limit in the definition section to outright eliminate large animals as pets. However this requirement doesn't include dogs that could easily surpass this weight limit.
 - One possible oversight in this definition is that some residents may view a horse as a pet. Staff believes that these animals should be provided adequate stables and area to maneuver, and finds the conditional use permit process an adequate tool to ensuring proper care of horses.
- Ultimately, because this definition lies within the nuisance section of the code, violations for having illegal pets will ultimately be complain driven. Someone in Shady Cove could very well have a pig that weighs more than 100 pounds, but so long as it doesn't create a complaint, code enforcement officer will not be actively searching for potential violators.

GENERAL PROVISIONS

§ 90.01 STATE CRIMINAL CODE ADOPTED.

The provisions of O.R.S. Ch. 161, relating to defenses, burdens of proof, general principles of criminal liability, parties to crime or offense and general principles of justification and responsibility apply to nuisances and offenses defined and made punishable by this chapter.

(Ord. 251, passed 7-23-2009)

§ 90.02 DEFINITIONS.

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

ABATEMENT. The process of eliminating a condition that adversely affects the health and safety.

ANIMAL HUSBANDRY. The keeping or raising of ~~farm animals including, but not limited to horses, cattle, sheep, goats and pigs, except for commercial or utilitarian purposes,~~ as approved as a conditional use permit, defined in Chapter 154 of this code.

CAMPING. No person shall camp in or on public property that is not specifically designated for the purpose. **CAMPING** shall include staying for all or part of a night in the open or in temporary lodging, such as cars, tents, campers, trailers or motor homes.

CURFEW. No person under the age of 18 shall idle, wander, stroll or play in or upon the public streets, sidewalks, parks, playgrounds or other unsupervised places, between the hours of 10:00 pm. and 4:00 a.m., unless:

- (1) The person is accompanied by a parent or legal guardian;
- (2) The person is engaged in a lawful activity which requires the person's presence after the hours noted above; and/or
- (3) The person is emancipated pursuant to O.R.S. 419B.550 to 419B.558.

DANGEROUS BUILDINGS. Buildings in a condition to affect public health, safety and/or welfare including, but not limited to:

- (1) A structure that, for lack of proper repairs, or because of age and dilapidated condition, or of poorly installed or defection wiring, plumbing, gas or other utilities, or for any other reason, is liable to cause fire, and which is situated or occupied in a manner that endangers other property or human life;
- (2) A structure containing combustible or explosive material or inflammable substances liable to cause fire or danger to the safety of the building, premises or to human life;
- (3) A structure that is in a filthy or unsanitary condition liable to cause the spread of contagious or infectious disease; and/or
- (4) A structure in a weak, dilapidated or deteriorated condition so that it endangers a person or property because of the probability of partial or entire collapse.

DISCHARGE OF WEAPONS. The firing, discharging or use of a gun, weapon, slingshot, crossbow, bow and arrow, or weapon, by any person other than a peace officer, or person(s) designated by a police officer, that propels a projectile by force of pressurized air or gas or gun powder or other explosive, jet or rocket propulsion with the city.

DOG CONTROL. The owner or keeper of a dog shall not allow the dog to become a public nuisance. A dog is a nuisance if it:

- (1) Is not on the premises of its owner or keeper, if not on a leash;
- (2) Bites, injures or causes injury to a person;
- (3) Chases or threatens vehicles or persons;
- (4) Damages or destroys property other than that of its owner or keeper;
- (5) Scatters garbage;
- (6) Trespasses onto private property;
- (7) Disturbs other persons by frequent or prolonged barking or other noises; (8) Is rabid; and/or
- (9) Obstructs the reasonable use of public or private property.

DRINKING IN PUBLIC PLACES.

- (1) No person shall drink or consume alcoholic liquor in or on a motor vehicle, public sidewalk, street, alley, mall, parking lot or structure, school property or other public place unless the place has been licensed for that purpose by the State Liquor Control Commission.
- (2) This shall not prohibit the consumption of alcoholic liquor in the above listed public places during special events for which the operators(s) have obtained a special permit from the city and have obtained a special permit from the State Liquor Control Commission.

EXOTIC ANIMALS. The keeping or raising of wild or exotic animals including, but not limited to lions, tigers, other big cats, deer, bear, antelope, wolves, snakes, buffalo, alligators, wild reptiles, dangerous animals or insects.

ILLEGAL LODGING. No person shall lodge in, or occupy a car, outbuilding or other place not intended for that purpose.

LODGING IN RECREATIONAL VEHICLES.

- (1) The following regulations pertain to recreational vehicles parked outside of recreational vehicle parks, mobile home or manufactured home parks or other areas that are specifically designated for the vehicles.
- (2) No person shall occupy a recreational vehicle for sleeping or living purposes on a public street or right-of-way.
- (3) No person having ownership, or other responsibility for property in the city, shall occupy or allow the occupancy of any recreational vehicle upon the premises as a permanent living quarters, unless approved for the use by the City Council.
- (4) A recreational vehicle may be parked on private property and used for sleeping and cooking purposes by guests of the residents of the premises for a period not to exceed 30 days within any three-month period of the year; provided, the vehicle has self contained sewage facilities or the vehicle's occupants are utilizing the facilities in their host's residence, unless approved for a longer period in advance, by the City Council.
- (5) Any unoccupied recreational vehicle shall not be stored on any roadway or within any public right-of-way.
- (6) A recreational vehicle shall not occupy a space within an approved mobile home park unless that space has been specifically approved by the city for short-term recreational vehicle use.

NOXIOUS VEGETATION. The presence of vegetation on property or in the right-of-way of a street, alley or sidewalk abutting the property, anytime between May 15 and September 30 of any year, including:

- (1) Weeds or grass more than ten inches high;
- (2) Blackberry bushes that extend into a public thoroughfare or across a property line;
- (3) Poison oak or ivy; and
- (4) Vegetation that is a health hazard, a fire hazard or other hazard because it is near other combustibles, or a traffic hazard because it impairs the view of the public thoroughfare or otherwise makes use of the thoroughfare hazardous for pedestrians and/or vehicles.

NUISANCES AND OFFENSES. Conditions that adversely affect public health, safety or welfare.

PERSON. A natural person, firm, partnership, association or corporation, whether acting as an individual for themselves, or as the clerk, servant, employee or agent of another.

PERSON IN CHARGE OF PROPERTY. An owner, agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The owner or the person in charge of the property.

PET. A non-dangerous animal weighing 100 pounds or less, kept for companionship or enjoyment. No exotic animals as defined in this section shall be considered a pet. Domesticated dog breeds are exempt from the 100-pound weight requirement.

PUBLIC INDECENCY. An act of urination or defecation, except in toilets provided for that purpose.

TEMPORARY SIGNS. Temporary signs include, but are not limited to, election, campaign and yard/garage sale signs.

UNENUMERATED NUISANCES AND OFFENSES. Nuisances and offenses not specifically enumerated in this chapter including a substance or act that is determined to be injurious to public health, safety or welfare.

UNNECESSARY NOISE. Any unreasonably frequent and prolonged noise which interferes with the health and /or public welfare, including, but not limited to:

- (1) The keeping of any bird or animal which, by causing frequent or prolonged continuous noise, shall disturb the comfort and repose of any person in the vicinity;
- (2) The use of a vehicle engine, either stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
- (3) The sounding of a horn or signaling device on a vehicle on a street, or public or private place, except as necessary warning of danger;
- (4) The use of mechanical devices operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;
- (5) The use of a gong or siren upon a vehicle, other than police, fire or other emergency vehicle;
- (6) Noise from construction activities including erection, excavation, demolition, alteration, repair between 10:00 p.m. and 7:00 a.m., except in case of urgent necessity in the interest of the public welfare and safety as determined by the city;
- (7) The owner of a property may conduct the activities on property occupied by the owner between the hours of 7:00 a.m. and 9:00 p.m. providing the activity does not unnecessarily affect the public health, safety and/or welfare;
- (8) The creation of excessive noise on a street adjacent to a school, institution of learning, church or court of justice while same are in use, or adjacent to a hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of the institution, or which unduly disturbs or annoys patients and clients;
- (9) The discharge of the exhaust of a steam engine, internal combustion engine, motorboat or motor vehicle except through a

muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;

- (10) The use or operation of an automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for soundproducing or any sound amplifying device as to disturb person in the vicinity thereof or in a manner as renders the use thereof a nuisance. Upon application to the city, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches or general entertainment as part of a public event, festival or outstanding event of a noncommercial nature. The amplification shall not be audible at a distance of more than 1,000 feet from the source of amplification and, in no event, shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result;
- (11) The conducting, operating or maintaining of a garage within 100 feet of a residential unit in a manner as to cause loud ordisturbing noises between the hours of 9:00 p.m. and 7:00 a.m.; and/or
- (12) The making of a noise by crying, calling or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum,musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or inviting patronage of a person to a business.

(Ord. 251, passed 7-23-2009; Ord. 284, passed 6-1-2017) §

90.03 NUISANCES DECLARED.

(A) The following conditions are declared to be nuisances affecting public health:

- (1) Accumulation of debris, rubbish, manure and other refuse that are not removed within a reasonable time;
- (2) Stagnant water that affords a breeding place for mosquitoes and other insect pests;
- (3) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial waste or other substance placed in or near the water in a manner that will cause harmful material to pollute the water;
- (4) Decayed or unwholesome food offered for human consumption;
- (5) Liquid waste drained from private premises;
- (6) Mastics, oil, grease or petroleum products allowed to be introduced in the sewer system by a user;
- (7) Animal carcasses on streets or private or public property;
- ~~(8)~~ Animals or birds maintained, kept or housed in a number to create offensive odors or noise; and
- ~~(8)(9)~~ Animals that do not meet the definition of pet as stated in §90.02, except those allowed under Animal Husbandry as a conditional use;
- ~~(9)(10)~~ 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 State Board of Health regulations.

(B) The following conditions are declared to be nuisances affecting public safety:

- (1) Woodpiles, wood, lumber, rocks, bricks, blocks or metal within the streets, alleys or sidewalks for a period of time longer than 24 hours of placement of the material without first obtaining a permit from the city;
- (2) A container with a compartment of more than one cubic foot of capacity with a door or lid that locks or fastens automatically when closed that cannot be easily opened from the inside, maintained or left, in a place accessible to children;
- (3) A well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more uncovered, not fenced or without a suitable protective construction;
- (4) Unguarded machinery, equipment or other devices placed or stored in a manner to be appealing, dangerous and accessible to children;
- (5) Lumber, logs or piling placed or stored in a manner to be appealing, dangerous and accessible to children; (6) Noxious vegetation;
- (7) The presence of combustible materials stored in a manner as to constitute a fire hazard;
- (8) Dumping on public or private property 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 likely injure a person, animal or vehicle traveling on a public way;
- (9) Trees, bushes or shrubs on property abutting a street, alley or sidewalk that interfere with vehicle or pedestrian traffic. The person in charge of the property shall keep all trees, bushes or shrubs on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk, and at least 12 feet above the roadway, public right-of-way or parking area; and
- (10) Snow, ice or rain water which adversely affects the safety of users and which falls from the building or structure onto a street or public walkway or right-of-way or is allowed to remain thereon. The person in charge of the property shall install and maintain in a

proper state of repair, adequate drainpipes or drainage systems so that the overflow water accumulating on the roof or about the building is not carried across or on the sidewalk or other property.

(C) The following conditions are declared to be nuisances affecting public welfare:

- (1) Operation of an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design; and
- (2) Accumulation of any old or scrap copper, brass, pipe, rope, wire, rags, batteries, paper, plastic, trash, rubber, debris, waste or junked, dismantled, wrecked, scrapped or ruined appliances, motor vehicles or other vehicles or appliances, motor vehicle or other vehicles parts, iron, steel or other old or scrap ferrous or nonferrous material, metal or nonmetal materials on private property within the sight of the public.
- (3) Offensive exterior lighting. No person shall knowingly allow or direct an exterior lighting fixture to shine light that unreasonably interferes with another person's use or enjoyment of property or shine direct rays of light into a significant natural resource area, vegetated corridor, water quality sensitive area, or preserved habitat benefit area. Direct rays from lighting sources shall not be visible past the property boundaries and shall not shine into the night sky, accomplished by orienting lighting fixtures towards the ground or by utilizing shields, hoods or full cut-off design lighting fixtures.
- (4) Dangerous trees. If a property owner fails or refuses to abate a nuisance, the city shall have the right to remove any dead or diseased trees growing in any public place or on private property when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.

(D) Unnecessary noise is declared to be a nuisance which affects public health, safety and/or welfare.

(Ord. 251, passed 7-23-2009; Am. Ord. 258, passed 1-20-2011; Ord. 273, passed 5-21-2015) Penalty, see § 90.99

§ 90.04 NUISANCES AND OFFENSES PROHIBITED.

No person, person in charge of, or person responsible for a parcel of real property shall allow or permit a nuisance or offense to occur on that parcel, as defined in this chapter.

(Ord. 251, passed 7-23-2009) Penalty, see § 90.99

§ 90.05 COMPLAINT.

Any person who believes a violation of this chapter exists may file a complaint with the city. The Police Department will investigate and make a determination for complaints of violation, including complaints involving fire hazards and noxious vegetation. A citizen may sign a citation if that individual is willing to testify and present evidence to nuisances and offenses which are not witnessed by an individual with police powers.

(Ord. 251, passed 7-23-2009)

§ 90.06 ABATEMENT NOTICE.

(A) When a nuisance or offense is determined to exist, the city will place a notice on the premises in question directing the offending party to abate the nuisance or offense. If the occupant is not the property owner or person in charge of the property, a copy of the notice will be provided to the individual as well as to the property owner, either in person or by certified mail, at the property owner's last known address.

(B) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person or failure of the owner to pick up his or her mail will not make the notice void and, in that case, the posted notice will be sufficient. The abatement notice will include:

- (1) The address or other description of the real property involved;
- (2) A description of the nuisance or offense;
- (3) A demand that the nuisance or offense be abated within 14 days or other period of time as any enforcement officer the Chief of Police may determine to be appropriate;
- (4) Notice that failure to comply may result in the city abating the nuisance or offense at the offending party's expense; and
- (5) Notice that the offending party has ten days to file an appeal of the abatement notice, in writing, with the city. (Ord. 251, passed 7-23-2009)

§ 90.07 ABATEMENT BY OWNER.

The owner, or person in charge of the property, will remove the nuisance or offense in accordance with the abatement notice or show that no nuisance or offense exists.

(Ord. 251, passed 7-23-2009)

§ 90.08 ABATEMENT BY CITY.

(A) If the nuisance or offense is not abated within the time allowed, the city may authorize abatement by whatever means are appropriate. This action may be enforced by a law enforcement officer. Necessary personnel will have the right, at reasonable times, to enter into or upon the involved property.

(B) The city will keep an accurate record of the expenses incurred by the city for abatement costs and will add, separately noted, a charge of 25% of the expenses for administrative overhead.

(Ord. 251, passed 7-23-2009)

§ 90.09 SUMMARY ABATEMENT.

Where an immediate threat to life or property exists, any law enforcement officer or his or her agent may cause the nuisance or offense to be abated without written notice.

(Ord. 251, passed 7-23-2009)

§ 90.10 ASSESSMENT OF COSTS.

The city will send to the responsible party and involved property owner a notice showing the total cost of abatement, including administrative overhead. The notice will also state that the total amount of the assessment is due to the city within 30 days. If the assessment is not paid on time, it will become a lien on the property and that unpaid assessments will incur interest at the rate of 1.5% per month.

(Ord. 251, passed 7-23-2009)

§ 90.11 APPEAL.

(A) The owner, or person in charge protesting that no nuisance or offense exists, shall file with the city, a written statement which will specify the basis for the protest. The statement will be referred to the City Council or Municipal Court Judge, as appropriate, as part of the next scheduled meeting or court date. At the time set for consideration of the abatement, the owner or other person may appear and be heard and the Council or Municipal Court Judge, as appropriate will thereupon determine whether or not a nuisance or offense, in fact, exists. If it is determined that it does exist, the owner, or other person shall, within ten days of that determination complete the abatement.

(B) If the owner, or person in charge of the property, objects to the assessment for abatement, a written objection may be heard by the City Council in the manner described in division (A) above.

(Ord. 251, passed 7-23-2009)

End of Amendment