

CITY OF WINLOCK, WASHINGTON
ORDINANCE NO. 1146

AN ORDINANCE OF THE CITY OF WINLOCK, WASHINGTON, AMENDING SECTIONS 15.25.040 AND 18.25.010 OF THE WINLOCK MUNICIPAL CODE CONCERNING THE WINLOCK SHORELINE MASTER PROGRAM; AMENDING ORDINANCE NOS. 933, 512, AND 663 AS NECESSARY; REPEALING ORDINANCE NO. 908 AS CODIFIED IN CHAPTER 18.20 OF THE WINLOCK MUNICIPAL CODE; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winlock, Washington (the “City“) is a Code City under the laws of the State of Washington; and

WHEREAS, pursuant to RCW 35A.11.020, the City may adopt and enforce ordinances of all kinds relating to and regulating the City’s local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, all references herein to “WMC“ shall mean the “Winlock Municipal Code,” and

WHEREAS, the City adopted a Shoreline Master Program in 2017 that was approved by the Washington State Department of Ecology (Ecology); and

WHEREAS, Ecology adopted Shoreline Master Program guidelines (WAC 173-26), which require that all local jurisdictions review and update their Shoreline Master Programs; and

WHEREAS, Ordinance No. 908, as codified at Chapter 18.20 of the Winlock Municipal Code, is entitled “Shoreline Management” and was enacted in 2006; and

WHEREAS, Ordinance No. 933, as codified at Chapter 18.25 of the Winlock Municipal Code, is entitled “Hearing Examiner” and was enacted in 2008; and

WHEREAS, Chapter 15.25 WMC is entitled “FLOOD DAMAGE PREVENTION”; and

WHEREAS, Ordinance No. 512, as codified at WMC 15.25.040, was enacted in 1979 and was later amended by Ordinance No. 663 in 1989; and

WHEREAS, local governments are required to prepare and adopt a Shoreline Master Program (SMP) based on the SMA and Shoreline Master Program Guidelines (WAC 173-26); and

WHEREAS, Ecology is required to review and adopt those local Shoreline Master Programs which meet the guidelines; and

WHEREAS, the City is required to plan under Chapter 36.70A RCW, the Growth Management Act; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, this Ordinance is consistent with the City's Comprehensive Plan; and

WHEREAS, a Determination of Nonsignificance was issued on March 18, 2021 for Resolution No. 2021-04, in accordance with the State Environmental Policy Act (SEPA) (Chapter 43.21C RCW) and in compliance with Section 4.020 of the Winlock Development Code; and

WHEREAS, the City adopted Resolution 2021-04, amending the City's Shoreline Master Program; and

WHEREAS, in accordance with RCW 90.58.090, the City is required to submit the adopted locally initiated SMP amendments to Ecology for review and formal action before the amendments can become effective; and

WHEREAS, the proposal package was sent to the Department of Commerce on March 17th, 2021 for Resolution No. 2021-04, in accordance with RCW 36.70A.106; and

WHEREAS, the Winlock Planning Commission held a public hearing on the Shoreline Master Program periodic review update package amendments on May 18, 2021 as part of Resolution No. 2021-04, and considered all testimony and evidence before making a recommendation to the City Council; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended acceptance of the proposed Shoreline Master Program periodic review update package amendments to the City Council; and

WHEREAS, the City Council discussed the proposed Shoreline Master Program periodic review update package amendments in a work session on June 14, 2021; and

WHEREAS, the City Council approved Resolution No. 2021-04 accepting the Shoreline Master Program periodic review update package amendments at a public meeting on June 28, 2021; and

WHEREAS, the City Council, after considering all of the testimony and evidence, finds that the Shoreline Master Program periodic review update package amendments and related Winlock Municipal Code amendments support the health, safety, and welfare and are in the best interests of the residents of the City of Winlock; and

WHEREAS, the Winlock City Council has determined that amending the Winlock City Code is necessary to protect the public health, safety, and welfare, and protect the public interest; and

WHEREAS, the Council desires to amend and repeal sections of the Winlock Municipal Code as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINLOCK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 15.25.040 – Administration. Section 15.25.040 WMC, as last amended by Ordinance No. 663, is hereby amended to read as follows:

15.25.040 Administration.

- A. Establishment of Development Permit. A development permit entitled flood hazard zone permit shall be obtained before construction or development begins within any area of special flood hazard established in WMC 15.25.030(B). The permit shall be for all structures including manufactured homes as set forth in WMC 15.25.020, Definitions, and for all other development including fill and other activities, also as set forth in WMC 15.25.020, Definitions. Application for a development permit shall be made on forms furnished by the building official and shall include (but not be limited to) site plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information is required:
 - 1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
 - 2. Elevation in relation to mean sea level to which any structure has been floodproofed;
 - 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in WMC 15.25.060(B);
 - 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 - 5. The applicant shall indicate the exact location of the proposed structures or development upon a copy of the flood hazard map and shall certify in writing that the location shown is correct. Applicant may also make such certification upon an accurate site plan showing location of readily identifiable physical features.
- B. Shoreline Management Permit. A shoreline management substantial development permit issued pursuant to Chapter 90.58 RCW (Shoreline Management Act of 1971) and the City of Winlock shoreline management master program may serve as the flood hazard zone permit for those developments and structures that are within both a flood hazard zone and an area under jurisdiction of the Shoreline Management Act.
- C. Designation of the Local Administrator. The building official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The building official is authorized to adopt such rules as are necessary and appropriate to implement this chapter.

D. Duties and Responsibilities of the Building Official. Duties of the building official shall include, but are not limited to:

1. Permit Review.
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - b. Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of WMC 15.25.060(C)(1) are met.
 - d. Provide a copy of the permit application and site plan to the planning department for review and comment.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with WMC 15.25.030(B), Basis for Establishing the Areas of Special Flood Hazard, the building official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer WMC 15.25.060(B)(2), Specific Standards, Residential Construction; 15.25.060(B)(3), Specific Standards, Nonresidential Construction; and 15.25.060(C), Floodways.
3. Information to Be Obtained and Maintained.
 - a. Where base flood elevation is provided through the Flood Insurance Study or required as in subsection (D)(2) of this section, the developer shall provide to the building official the actual elevation, certified by a licensed land surveyor (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. The building official shall record this elevation.
 - b. For all new or substantially improved floodproofed structures:
 - i. The developer shall provide to the building official the actual elevation, certified by a licensed land surveyor. The building official shall record this elevation.
 - ii. The building official shall maintain the floodproofing certifications required in subsection (A)(3) of this section.
 - iii. The building official shall maintain for public inspection all records pertaining to the provisions of this chapter.
4. Alteration of Watercourses.

- a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in WMC 15.25.050.

Section 2. Section 18.25.010-Definitions. Section 18.25.010 WMC, as last amended by Ordinance No. 933, is hereby amended to read as follows:

18.25.010 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, words shall be given the meaning attributed to them by this section. The term “shall” is always mandatory and the word “may” indicate a use of discretion in making a decision.

“City” means the city of Winlock.

“Closed record appeal” means an administrative appeal on the record, following an open record evidentiary hearing on a matter, with the appeal being on the record with no or limited new evidence or information allowed to be submitted and only appeal argument being allowed.

“Department” means the City departments of public works, community development or building department.

“Examiner” shall mean the hearing examiner for the City or a deputy thereof.

“Land use decision” shall include matters involving application for a master project permit or other city approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding:

1. Applications for permits or approvals to use, vacate or transfer streets, parks and similar types of public property;
2. Applications for legislative approvals such as area wide rezones and annexations;
3. Ministerial issuance of permits, approvals and exemptions;
4. Applications for business licenses.

“Master project application,” for purposes of this chapter, shall include any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline variances and conditional use permits, site plan review, permits or approvals required by critical area ordinance sections, site-specific rezones authorized by a

comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as specified by statute.

“Open record hearing” means a hearing, conducted by the examiner, that creates the official administrative record through testimony and submission of evidence and information, under procedures prescribed by the examiner and this chapter. An open record hearing may be held prior to a decision on a project permit, to be known as an “open record predecision hearing.” An open record hearing may be held on an appeal, to be known as an “open record appeal hearing,” if no open record hearing nor predecision hearing has been held.

“Party of record” shall mean for each application or appeal:

1. The applicant/appellant;
2. All persons who testified at the public hearing;
3. All persons who individually submitted written comments concerning the specific matter to the responsible city department or hearing body prior to the close of the hearing (excluding persons who have only signed petitions and opinion letters, or mechanically produced form letters); and
4. All persons who specifically request notice of a decision by personally entering their name and mailing address on a register provided for such purpose at the public hearing; provided, that a person who becomes a party of record shall remain such through subsequent city proceedings involving the same application or appeal, except that the city may cease mailing notice and other materials to any party of record whose mail is returned by the postal service as undeliverable or no longer subject to automatic forwarding.

“Project permit” or “project permit application” means any land use or environmental permit or license required from the city for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline variances and conditional use permits, site plan review, permits or approvals required by critical area and resource lands ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations, except as otherwise specified within this chapter.

Section 3. Repealer. Ordinance No. 908, as codified at Chapter 18.20 WMC, enacted on December 14, 2006, is hereby repealed in its entirety.

All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 5. Effective Date. This ordinance shall take effect five days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

Section 6. Corrections. Upon approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

PASSED by the Council of the City of Winlock, Washington, and **APPROVED** by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof, this 9th day of October, 2023.




Brandon Svenson, Mayor

Attest:


Penny Jo Haney, City Clerk

Approved as to form:


Marissa Y. Jay, WSBA # 55591
City Attorney

Approved Reading: 10/9 /2023
Publication Date: 10/12 /2023
Effective Date: 10/17 /2023