

**CITY OF WINLOCK, WASHINGTON**  
**ORDINANCE NO. 1170**

**AN ORDINANCE OF THE CITY OF WINLOCK, WASHINGTON,  
AMENDING AND CREATING NEW SECTIONS OF THE WINLOCK  
DEVELOPMENT CODE; AMENDING ORDINANCE NO. 1081 AS  
NECESSARY; 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, Ordinance No. 1081 adopted the “Winlock Development Code” or “WDC”, was enacted on November 25, 2019; and

WHEREAS, the WDC contains conflicting provisions with the City’s Hearing Examiner Ordinance, codified in chapter 18.25 WMC; and

WHEREAS, the City adopted its initial Winlock Development Code on January 13, 2009; and

WHEREAS, the City has periodically made changes to its Development Code including, but not limited to, Ordinance Nos. 955 (2009), 1034 (2015) and 1081 (2019); and

WHEREAS, although the City has periodically made changes, it has failed to ensure that the Municipal Code, Ordinances, and Development Code be consistent; and

WHEREAS, the Council desires to amend portions of the Winlock Development Code as set forth herein.

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

**Section 1.** A new Section 1.030.105 of the Winlock Development Code is hereby created to state:

**1.030.105 Modified Type III Procedure**

- A. Hearing. An application subject to a modified Type III process will be considered at one or more public hearings before a city hearing examiner and then the City Council. The city clerk shall schedule a public hearing before the Hearing Examiner for an application within 78 calendar days after the date the city found the application was technically complete.
- B. Notice of Hearing. At least 15 calendar days before the date of the hearing before the Hearing Examiner, the city clerk shall mail public notice of the hearing as provided in Section 1.030.120 WDC. At least 10 days before the date of the hearing, the city clerk shall cause notice of the hearing to be published and posted as provided in Section 1.030.120 WDC.
- C. Staff Report. At least seven (7) calendar days before the date of the hearing, the Planning Director shall issue a written staff report regarding the application(s). The staff report shall set out the relevant facts and applicable standards for the application and a summary of whether the application complies with those standards based on the facts and evidence, including any conditions of approval. The city clerk shall mail a copy of the staff report to the hearings examiner, the applicant, and the applicant's representative(s) and other parties who request it. Copies of the staff report also shall be available at City Hall seven days prior to the hearing and at the public hearing.
- D. Public Hearings. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing examiner, except to the extent waived by the hearing examiner. A public hearing shall be recorded electronically:
  - 1. At the beginning of the hearing, the hearing examiner shall:
    - a. State that testimony will be received only if it is relevant to the applicable standards and is not unduly repetitious;
    - b. Identify the applicable standards;
    - c. State that a witness may request that the hearings be continued or that the record be kept open for a period of time;
    - d. State that the hearings examiner must be impartial and whether the hearings examiner has had any ex-parte contact or has any personal or business interest that could affect his impartiality regarding an application. The hearings examiner shall allow witnesses to challenge his or her impartiality;
    - e. State whether the hearings examiner has visited the site;
    - f. State that persons who want to receive notice of the decision may sign a list for that purpose at the hearing and indicate where it is kept; and



bearing the date it is mailed, and notice of the Council meeting, to each person who is a party of record.

5. Reconsideration Period. Any party of record may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner's decision. The request shall explicitly set forth alleged errors of procedure or fact. The Hearing Examiner shall act within 14 days after the filing of the request for an appeal by denying the request, issuing a revised decision, or calling for an additional public hearing.

F. City Council Decision.

1. The Planning Director shall transmit to the City Council a copy of the department file on the application including all written comments received prior to the City Council meeting and information reviewed by or relied upon by the Hearing Examiner. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of public hearing, and notice of SEPA determination) have been met.
2. The City Council shall, at the public hearing, consider and take final action on each Type IV application.
3. The City Council shall conduct a closed record public hearing. The City Council shall not accept new information, written or oral, on the application, but shall consider the following in deciding upon an application:
  - a. The complete record developed before the Hearing Examiner; and
  - b. The recommendation of the Hearing Examiner.
4. The City Council shall, based on findings of fact and conclusions derived from those facts which support the decision of the Council, either:
  - a. Approve the application; or
  - b. Approve the application with modifications; or
  - c. Remand the application to the Hearing Examiner for an additional review limited to specific issues identified by the Council; or
  - d. Deny the application.

G. Decision.

1. Conditions. The City Council may, based on the record, include conditions in any decision approving or approving with modifications an application in order to ensure conformance with the approval criteria specified in the code or process under which the application was made.
2. Findings of Fact. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions,

in the decision approving or approving with modifications the application. The City Council may, by reference, adopt some or all of the findings and conclusions of the Hearing Examiner.

- H. Notice of Decision. Within seven (7) calendar days of the date of the decision, the city clerk shall mail a notice of decision as provided in Section 1.030.120 WDC.
- I. Appeal and Post-Decision Review. A final decision regarding an application subject to a modified Type III process can be appealed pursuant to Section 1.030.130 WDC and can be amended by post-decision changes pursuant to Section 1.030.150 WDC.

**Section 2.** Section 1.030.150 of the Winlock Development Code is amended to state:

**1.030.150 Post-decision review**

- A. Generally. Post-decision review may change decisions and conditions of approval without necessarily subjecting the change to the same procedures as the original decision. Such changes may be warranted by ambiguities or conflicts in a decision and by new or more detailed information, permits or laws. Post-decision review cannot substantially change the nature of the development approved pursuant to a given decision and can only be conducted regarding a decision that approves or conditionally approves an application. An application that is denied is not eligible for post-decision review.
- B. Eligibility and Contents. An applicant or successor in interest may, at any time, file an application for post-decision review of a Type I, II or III decision, describing the nature of and the basis for the proposed change to the decision, including the applicable facts and law, together with the fee prescribed for that application by the city council.
- C. Relationship to an Appeal. An application for post-decision review does not extend the deadline for filing an appeal of the decision being reviewed and does not stay appeal proceedings.
- D. Preliminary Processes.
  - 1. An application for post-decision review is not subject to pre-application review.
  - 2. An application for post-decision review is subject to technical completeness review, Section 1.030.050 WDC; provided, the review authority shall not require an application for post-decision review to contain information that is not relevant and necessary to address the requested change or the facts and law on which it is based. As part of the technical completeness review, the Planning Director shall:
    - a. Determine whether the proposed change can be reviewed as a post-decision review or should be subject to a new application on the merits of the request;
    - b. Classify an application for post-decision review as a Type I, II or III process based on the circumstances of the original decision and the guidelines in subsection (5) of this section.

3. Notify the applicant in writing of the determination and classification.
  - a. The classification of the application is subject to appeal as part of the decision on the merits of the post-decision review.
  - b. A decision denying post-decision review and requiring a new application may be appealed to the hearing's examiner.

E. Post-Decision Review Guidelines.

1. An application for post-decision review of a Type I decision shall be subject to a Type I process.
2. An application for post-decision review of a Type II decision shall be subject to a Type I process if the Director finds the requested change:
  - a. Does not increase the potential adverse impact of the development authorized by the decision or SEPA determination;
  - b. Is consistent with the applicable law or variations permitted by law, including permits to which the development is subject;
  - c. Does not involve an issue of broad public interest, based on the record of the decision; and
  - d. Does not require further SEPA review.
3. An application for post-decision review of a Type II decision shall be subject to a Type II process if it does not qualify for a Type I process.
4. An application for post-decision review of a Type III decision shall be subject to a Type I review process if the Director finds the requested change:
  - a. Reduces the potential adverse impact of the development authorized by the decision;
  - b. Is consistent with the applicable law or variations permitted by law, including permits to which the development is subject; and
  - c. Does not involve an issue of broad public interest, based on the record of the decision.
5. An application for post-decision review of a Type III decision shall be subject to a Type II review process if Director finds the requested change:
  - a. Does not increase the potential adverse impact of the development authorized by the decision or SEPA determination;
  - b. Is needed to address a minor change in the facts or the law, including permits to which the development is subject; and
  - c. Does not involve an issue of broad public interest, based on the record of the decision.

6. An application for post-decision review of a Type III decision shall be subject to a Type III review process if it is not subject to Type I or II review.
7. An application for post-decision review of a modified Type III decision shall be subject to a modified Type III review process.
8. Modifications to a decision other than by a timely appeal or post-decision review shall be by new application.

**Section 3.** Section 3.210.020 of the Winlock Development Code is amended to state:

**3.210.020 Review processes for subdivisions**

- A. Technically complete review of a plat application is subject to a Type I process per Section 1.030.080 WDC.
- B. After a preliminary subdivision application is deemed to be technically complete the review of the application for a preliminary plat approval is subject to a modified Type III process. See Section 1.030.105 WDC.
- C. Review of a technically complete application for a final plat map is subject to a Type I process per Section 1.030.080 WDC.
- D. Appeal and post-decision review of final decisions regarding plats are permitted as provided in Sections 1.030.130 and 1.030.150 WDC respectively.

**Section 4.** Section 3.210.040 of the Winlock Development Code is amended to state:

**3.210.040 Approval criteria for a preliminary plat**

- A. The review authority shall recommend and/or approve a preliminary plat if he or she finds:
  1. The applicant has sustained the burden of proving that the application complies with the applicable regulations of the Winlock Development Code to the extent relevant;
  2. That the application can comply with those regulations by complying with certain conditions of approval, and those conditions are adopted; or that necessary adjustments, exceptions, modifications or variations have been approved or are required to be approved before the final plat is approved;
  3. The subdivision makes appropriate provision for potable water supplies and for disposal of sanitary wastes; and
  4. The subdivision complies with RCW 58.17.010.
- B. If phases are proposed, then the subdivision also complies with the following:
  1. The preliminary plat identifies the boundaries of each phase and sequence of phases;
  2. Each phase includes open space and other required public and/or private infrastructure at least in proportion to the number of lots in the phase;
  3. The sequence and timing of phases maintains compliance with applicable standards throughout the development of the subdivision; and

4. The applicant completes or assures completion of public improvements consistent with Chapter 3.210.090 WDC.

C. Flag lots are discouraged. When allowed, flag lots shall comply with the following standards:

1. The flag “pole” shall be at least 20 feet wide instead of the frontage regulations of the zone.
2. The flag pole shall be improved with an all-weather surface with an unobstructed vertical clearance of at least 13 feet six inches. The improved surface shall be at least twenty (20) feet wide and shall be marked and signed as a fire lane.
3. The pole portion of the flag lot shall not be counted toward the minimum lot size.
4. If the length of the flagpole is more than one hundred fifty (150) feet, an approved turnaround in conformance with the current adopted edition of the International Fire Code shall be provided at the end of the driveway, and structures on the lot shall incorporate a fire-hazard warning, including a hard-wired, back-up smoke detector, and a sprinkler system.
5. Where flag lots are not provided but access easements across abutting properties to public or private rights-of-way are provided, the adopted applicable engineering standards shall apply.

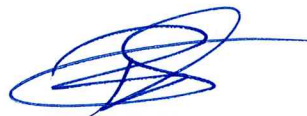
**Section 5. Repealer.** All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 6. 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 7. Effective Date.** This ordinance shall take effect five (5) days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

**Section 8. 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 ~~10th~~ day of May, 2024.

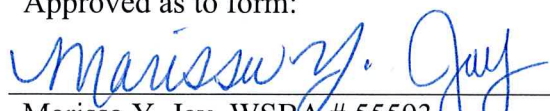


Brandon Svenson, Mayor

Attest:

  
Penny Jo Haney, City Clerk

Approved as to form:

  
Marissa Y. Jay, WSBA # 55593



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City Attorney

Approved Reading: 6/10 /2024  
Publication Date: 6/13 /2024  
Effective Date: 6/18 /2024