

**City of Rainier**  
**Planning Commission Meeting**  
**June 19, 2023**  
**6 p.m.**  
**Rainier City Hall**

Chair Erin O’Connell called the meeting to order at 6:01 p.m.

**Commissioners Present:** Erin O’Connell, Nick Gratzner and Jan Rich

**Commissioners Absent:** Dena Nordstrom and Nina Pogue

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Skip Urling

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the May 22, 2023 Regular Planning Commission Meeting Minutes—Commissioner Nic Gratzner moved to approve the consent agenda. That motion was seconded by Commissioner Jan Rich and adopted unanimously.

**New Business**

- a. Ordinance 1093—Adding a New Chapter to Title 17 of the Rainier Municipal Code Establishing Rules and Regulations for Planned Unit Developments as an Alternative Method of Subdividing or Developing Property for Residential Use—City Planner Skip Urling summarized the proposed ordinance. He said it gives developers flexibility but still requires them to provide amenities. Commissioners agreed by consensus to recommend that the council adopt the ordinance.
- b. Housing Committee Recommendations—City Administrator W. Scott Jorgensen said that the commission recommended permitting duplexes and/or two-unit townhouses in R-1 zones outright. It’s currently a conditional use. Commissioners agreed by consensus to leave it as a conditional use. The other recommendations involved reducing minimum lot sizes for duplexes, triplexes, two and three-unit townhouses in R-3. Chair Erin O’Connell asked if staff could provide more information for the August meeting.

**Old Business**

- a. Cottage Housing Examples—Jorgensen said that commissioners asked him to find other cities that allow cottage clusters. The examples he included in the meeting materials were from Eugene, Bend and Manzanita. Rich said cottage clusters could be a good housing option for seniors. O’Connell said she likes it. Jorgensen suggested that it be a conditional use in R-2 and R-3 zones. Commissioners agreed by consensus.
- b. UGB Update—Jorgensen reported that he applied for a grant through the Department of Land Conservation and Development for a consultant to do the work required for the proposed UGB land swap.

O'Connell adjourned the meeting at 7:11 p.m.

---

Erin O'Connell, Chair

---

Sarah Blodgett, City Recorder

DRAFT

**City of Rainier  
Planning Commission Meeting  
September 18, 2023  
6 p.m.  
Rainier City Hall**

Chair Erin O'Connell called the meeting to order at 6:05 p.m.

**Commissioners Present:** Erin O'Connell, Dena Nordstrom, Nina Pogue and Jan Rich

**Commissioners Absent:** Nick Gratzner

**City Staff Present:** City Recorder Sarah Blodgett, City Administrator W. Scott Jorgensen and City Planner Skip Urling

**Visitor Comments:** There were no visitor comments at this time.

**Consider Approval of the Consent Agenda:** Consider Approval of the June 19, 2023 and August 21, 2023 Regular Planning Commission Meeting Minutes—The June 19, 2023 minutes were tabled by consensus, as the quorum of the commissioners who attended that meeting were not present. Commissioner Nina Pogue moved to approve the August 21, 2023 minutes. That motion was seconded by Commissioner Dena Nordstrom and adopted unanimously.

**New Business**

a. Public Hearing on Proposed Columbia River Launch Services Rezone—O'Connell opened the hearing at 6:09 p.m. None of the commissioners present had any ex parte contacts, biases or conflicts to declare. City Planner Skip Urling gave his staff report. The request is to rezone the property from Central Business District to Waterfront Mixed Use zoning. Its previous owner changed it from Waterfront Mixed Use to Central Business District. The intended use of the property will be to have warehouses to repair boats, and the new zoning would accommodate that. The anticipated timeline of the operations is around two years. This will go before city council for final action, which would be an ordinance for adoption. He recommends approval. No testimony was provided by the applicant. City Administrator W. Scott Jorgensen said that the Shaver Transportation Company provided written testimony in support of the proposed rezone. No testimony was offered in support or opposition. No neutral testimony was provided. O'Connell closed the public hearing at 6:24 p.m. Pogue said the proposed rezone makes sense to her. Nordstrom moved to recommend council approval of the application. That motion was seconded by Commissioner Jan Rich and adopted unanimously.

b. Proposed Planning Priorities—Jorgensen went over the document he included in the meeting packet. The PUD ordinance that the commission worked on is going to council for its first reading October 2. A second reading would take place November 6 and if passed, it would take effect 30 days later. The commission has also agreed to allow cottage clusters as conditional uses in the R-1 and R-2 zones. Accessory Dwelling Units must meet building and zoning codes and should be allowed in suburban residential and R-1 zones. He informed commissioners that DLCD has awarded the City a grant to provide a consultant for the work on the potential urban growth boundary land swap. The City has asked to work with the same firm that is doing a similar process in Vernonia. Jorgensen has also applied for a grant to update the City's Transportation System Plan and is working on a grant application for a public facilities plan. If the City is awarded those grants, the commission will have input on those plans and will work on them next year, along with the land swap. Jorgensen introduced Rick Ide. He owns property on

Old Rainier Road and is looking at options for developing some housing on it. There was a discussion about tiny homes. O'Connell said she was concerned about having them as ADUs. Ide said he was looking at potentially having a development with multiple tiny homes. There was a discussion about ADUs. Urling said that with ADUs, there has to be a primary structure. Longview's ADU ordinance allows ADUs to be part of a remodel or as a separate detached structure, as long as they appear similar to the primary structure and meet building codes. Ide said he has five lots on 10 acres, so an ADU wouldn't work. He's looking at having more of a cluster. Urling asked about the zoning. Ide said it's R-2. Due to the topography, only three of the 10 acres are buildable. Urling asked if a site visit could be arranged. Jorgensen confirmed that one will be scheduled soon. Urling said that the pending PUD ordinance could fit with this project. Jorgensen said he would send Ide the materials from the previous meeting about cottage clusters, because that approach could also work for what Ide wants to do with his property.

c. Shipping Container Discussion—Jorgensen summarized some of the previous commission discussions about this issue. In March 2022, commissioners expressed concern that allowing shipping containers in residential areas was a slippery slope. Concerns about aesthetics, fire and safety issues were mentioned, along with some people using them to bypass the building permitting process and their lack of foundations. A subsequent discussion at the September 2022 commission meeting concluded that they would have to be connected to infrastructure. Jorgensen said there seemed to be a lack of consensus about how to move forward and he didn't want the commission to spend too much time working on the issue. He doesn't really want to see shipping containers popping up all over town and thinks there's a lack of good model ordinances that could be used to regulate them. Commissioners agreed by consensus to table the matter indefinitely.

d. Public Facilities Plan

## **Old Business**

a. Urban Growth Boundary Update

b. Accessory Dwelling Units—There was a discussion about the City of Longview ordinance that Urling submitted for inclusion in the packet. O'Connell asked if the ordinances for the cities of St. Helens or Scappoose could be used instead, because those are Oregon cities. Urling felt that he had adequate direction from staff and commissioners to present an ordinance for consideration at the next meeting.

c. View Preservation Policies—Commissioners agreed by consensus to table the matter indefinitely.

O'Connell adjourned the meeting at 7:43 p.m.

---

Erin O'Connell, Chair

---

Sarah Blodgett, City Recorder

DRAFT



December 11, 2023

To: Rainier Planning Commission

From: Skip Urling, City Planner

Re: Proposed Accessory Dwelling Unit Ordinance No. 1095

Attached is proposed Ordinance No. 1095, which would expand the opportunities for the development of accessory dwelling units (ADUs) in all residential zones except the High-Density Residential R-3 district. It also provides standards for their development and processes for reviewing applications. The Planning Commission reviewed the ordinance from a policy perspective this past September. ADUs are becoming increasingly popular throughout Oregon as a means of increasing housing opportunities across the spectrum of citizens facing challenges to find affordable housing needs.

Pursuant to Rainier Municipal Code (RMC) 18.125.010, amendments to the text of the comprehensive plan or RMC Title 17 shall be reviewed via a Type IV process with public hearings conducted first by the Planning Commission and subsequently by the City Council prior to the council taking action. RMC 18.125.010 provides two criteria as guidance for the Planning Commission's review:

*C: Criteria. Text amendments shall be consistent with the following criteria:*

- 1. Applicable provisions of the Rainier comprehensive plan; and*
- 2. Applicable statewide planning goals and/or administrative rules adopted by the Land Conservation and Development Commission.*

### ***RAINIER COMPREHENSIVE PLAN POLICIES***

The Rainier Comprehensive Plan contains 14 goals with associated policies. Three of the goals and their policies apply to this proposed code amendment. Those sets of policies are presented below together with an analysis of the proposed code amendment consistency.

### ***GOAL 1: CITIZEN PARTICIPATION***



*To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

***FINDINGS:***

- 1. The City of Rainier depends on the efforts of its citizens to achieve its land use goals. Good faith, good communication and mutual trust and respect between the City of Rainier and its citizens are critical if Rainier is to grow and remain livable.*
- 2. The Planning Commission has traditionally encouraged and supported public participation and can most appropriately continue to lead the City's citizen participation efforts.*

***POLICIES:***

- 1. The Planning Commission is designated as the Committee for Citizen Involvement for Rainier. The Planning Commission has the responsibility for gathering citizen input and information concerning any proposed changes to the Rainier Comprehensive Plan. The Planning Commission may, upon approval from the City Council, form ad hoc committees which include members of the community to study special problems faced by the City.*
- 2. The City will provide as much financial support as possible to the Citizen Involvement process through the Planning Commission. However, volunteers will, of necessity, continue to be the mainstay of the process.*
- 3. The City shall ensure its citizens an adequate opportunity to review and comment on all planning and zoning decisions through public hearing and notice procedures established in state statute and set forth in the Rainier Comprehensive Plan and Zoning Ordinance.*

Staff finding: The fact that the planning commission is conducting a public hearing shows that the public has been offered the opportunity to participate. The city council's hearing will reinforce that opportunity. RMC 18.160.050 spells out the public notice requirements for Type IV actions. Following the code requirements, notice for the planning commission's hearing was published in the Clatskanie *Chief* November 24, 2023, at least 20 days in advance of the planning commission hearing and notice also was posted in three conspicuous public places.

This goal and policy set is satisfied.



## **GOAL 2: LAND USE PLANNING**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual basis for such decisions and actions.*

### **FINDINGS:**

- 1. Oregon's land use planning system requires that local government comprehensive plans and implementing ordinances conform to the statewide planning goals.*
- 2. The City of Rainier uses the Comprehensive Plan document to state findings and policies and the Zoning Ordinance, Land Division Ordinance and other regulations to govern the use and development of land within the city.*
- 3. The City has prepared an inventory of land within the Urban Growth Boundary and has determined which areas of Rainier are most appropriate for residential, commercial, industrial and other land uses.*

### **POLICIES:**

- 1. The City shall ensure that this comprehensive plan and all future legislative changes are consistent with the statewide planning goals adopted by the Land Conservation and Development Commission.*
- 2. The Comprehensive Plan and any future amendments to the Plan will be adopted by ordinance after adequate public hearings.*
- 3. The Zoning Ordinance, the Land Division Ordinance and any amendments to these ordinances shall conform to the Comprehensive Plan and shall be adopted by ordinance.*
- 4. The City shall maintain a Comprehensive Plan Inventory. This document provides the factual basis for the Comprehensive Plan. The inventory may be updated by the adoption of appendices or by revision of the entire document.*





5. To ensure that the Comprehensive Plan and implementing ordinances are kept current with the needs of the community, this plan shall be reviewed and updated every five to seven years, consistent with periodic review requirements established in state statute.

6. The City shall coordinate its planning programs and activities with affected public agencies and utilities. At a minimum, the City of Rainier coordination program will involve the following agencies:

- a. Columbia County
- b. Longview-Kelso [**Cowlitz-Wahkiakum**] Council of Governments
- c. Port of [**Columbia County**] St. Helens
- d. State Agencies (Dept. of Land Conservation & Development, Economic Development Department [**Business Oregon**], Division [Department] of State Lands, Department of Transportation, State Marine Board, Oregon Parks Department, Department of Environmental Quality)
- e. Rainier School District and other affected school districts
- f. West Rainier Diking [Company] District, Columbia River Peoples Utility District, Portland General Electric [**Clatskanie Public Utility District**] and other utilities
- g. Rainier Rural Fire District and Rainier City Police Department

7. The Comprehensive Plan Map and the Zoning Map will reflect the plan policies and apply land use categories in the following manner: (Author's note: the remainder of the policy merely describes the various plan map designations and zoning districts, and is not included here in effort to save paper and ink.)

Staff finding: Policy 3 applies to this amendment. The proposed amendment adds a new chapter to the zoning code and amending language of the four residential zoning district codes to provide greater regulatory flexibility for the development of additional housing and policy guidance on how accessory dwellings can be developed. No changes to the plan or zoning maps are proposed, so there is no nonconformity with the plan. An ordinance has been drafted and presented to the planning commission, and if approved, with or without changes, will be forwarded to the city council.

## **GOAL 10: HOUSING**

*To provide for the housing needs of the citizens of the State.*



### ***FINDINGS:***

- 1. The population of Rainier has remained relatively unchanged over the last twenty-five years. The 1970 census population was 1,731; the 1994 population estimate is 1,700. Housing development has been similarly stagnant, with 635 total housing units in 1970 and 672 in 1990.*
- 2. Households in Rainier tend to be family households with household sizes similar to the average for the State. Housing in Rainier primarily has been for family housing in single family detached homes, including mobile homes. In 1990, 77% of Rainier's housing units were single family (attached or detached).*
- 3. Over time and as Rainier is influenced more by demographic trends in the Portland Metropolitan Area, its housing needs will likely shift toward housing for smaller and non-family households.*

### ***POLICIES:***

- 1. Land with slopes in excess of 20 percent, in known slide hazard areas and in designated floodplains and drainage ways has been considered unbuildable for the purposes of the buildable lands inventory. Very limited development will be allowed in these areas subject to engineering documentation that the proposed project can be constructed safely and will not result in a future hazard.*
  - 2. The Comprehensive Plan Map includes a range of designations to accommodate construction of a variety of housing types and densities.*
  - 3. The Zoning Ordinance will include provisions to allow zero-lot-line construction in specific zones to reduce lot and housing costs.*
- [4]5. The City will cooperate with the Columbia County Housing Authority, the Community Action Team and any other appropriate group or individual that wishes to construct low income housing within the Rainier Urban Growth Boundary. Affordable housing strategies in the City will be considered in the context of the Comprehensive Housing Affordability Strategy (CHAS) developed for the region including Columbia, Clatsop, Tillamook and Lincoln Counties.*



*[5]6. The City will review Zoning Ordinance procedures and standards to ensure that they do not preclude the development of needed housing types in Rainier. The City will use land use standards and procedures which are clear and objective.*

Staff finding:

Rainier is facing a shortage of housing opportunities. The proposed ADU ordinance is intended to increase housing opportunities for the existing and growing population of the city provided such accessory dwellings resemble and reflect the characteristics of the neighborhood where they would be located. ADUs also would provide homeowners with a means of obtaining rental income, companionship, security and services through tenant occupancy of an ADU.

Such action is consistent with this this goal.

## **OREGON STATEWIDE PLANNING GOALS**

There are 19 statewide planning goals in the state of Oregon providing guidance to local governments in their efforts to plan for and use land. The 19 goals cover a variety of topics from citizen involvement to agricultural and forest lands, open space, environmental quality, natural disasters, recreation needs, the economy of the state, housing, public facilities, transportation, energy, urbanization, Willamette greenway, estuarine resources, coastal shorelands, beaches and dunes, and ocean resources. Of these, the same statewide goals have applicability to the proposed code amendments as those in the city's comprehensive plan identified above. The applicable goals are summarized below followed by a staff finding of how the proposal satisfies each one.

1. CITIZEN INVOLVEMENT Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program containing six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.

Staff finding: The comprehensive plan goal for citizen participation explicitly identifies the planning commission as the committee for citizen involvement. Public notice requirements included in the zoning code and are consistent with state laws. Notice for the planning commission



hearing followed the code requirements, which alerts the public of a pending action and provides the opportunity for the public to participate. The proposal satisfies this goal.

2. LAND USE PLANNING Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

Staff finding: The city is in compliance with this goal with the subdivision and zoning codes having been in effect for 25 years. The proposal here is to add a chapter to Title 18 Zoning, Division IV, Exceptions and Supplementary Regulations that will provide guidance for the development of ADUs and processes for reviewing applications of such. It also amends the permitted use sections of the R-1, R-2 and R-3 zoning districts to allow ADUs outright. These factors satisfy this state goal.

10. HOUSING This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Staff finding: As discussed above and in the analysis of the comprehensive plan housing goal, the proposed code addition will provide additional opportunities for creating new residential units where there is now a dearth of opportunity for housing. This goal is satisfied.

### Conclusions and Recommendation

The proposed accessory dwelling unit code amendments meets the criteria of RMC 18.125.010 Amendments to the text of the comprehensive plan or implementing ordinances. It conforms to the applicable and pertinent portions of the city comprehensive plan and the statewide planning goals. ADUs will provide increasing housing opportunities to the varied existing and future population of the city of Rainier. Therefore, staff recommends affirming the ordinance and sending it to the city council for adoption.

106 West "B" Street  
P.O. Box 100  
Rainier, Oregon 97048



Phone (503) 556-7301  
Fax (503) 556-3200  
[www.cityofrainier.com](http://www.cityofrainier.com)

**Recommended motion:** "Based on the findings and other information in the December 11, 2023 staff report, I move to endorse draft Ordinance 1095 and forward it to the city council for adoption."

Cc: Scott Jorgensen  
Sarah Blodgett

Enclosure—Draft Ordinance No. 1095

## ORDINANCE NO. 1095

### AN ORDINANCE OF THE CITY OF RAINIER ADDING A NEW CHAPTER TO RAINIER MUNICIPAL CODE (RMC) TITLE 18, DIVISION V REGARDING ACCESSORY DWELLING UNITS, AMENDING RMC SECTION 18.05.100, CHAPTERS 18.15, 18.20 AND 18.25, AND REPEALING RMC SECTION 18.25.100

**WHEREAS**, the City of Rainier is facing a shortage of housing opportunities; and

**WHEREAS**, the City of Rainier desires to remedy this situation by providing for a variety of housing types to serve the diversity of its population; and

**WHEREAS**, the City of Rainier believes that accessory dwelling units provide one method of increasing the housing opportunities for the existing and growing population of the city provided such accessory dwelling units resemble and reflect the characteristics of the neighborhoods where they would be located; and

**WHEREAS**, accessory dwelling units will provide homeowners with a means of obtaining rental income, companionship, security and services through tenant occupancy of an ADU.

**WHEREAS**, the City of Rainier desires to establish the appropriate level of regulatory review for the type of accessory dwelling units proposed, and

**WHEREAS**, the City of Rainier Planning Commission held a duly noticed public hearing on \_\_\_\_\_ and concluded to recommend approval of the text amendments to the Rainier City Council; and

**WHEREAS**, the Rainier City Council held a duly noticed public hearing on \_\_\_\_\_ and found that after due consideration of all the evidence in the record, that they agreed with the recommendation forwarded by the Rainier Planning Commission; and

**WHEREAS**, the Rainier City Council has considered findings of compliance criteria and law applicable to the proposal.

For the amendments below, *new language is italicized*.

**Section 1.** Rainier Municipal Code (RMC) Section 18.05.100 Definitions is amended as follows:

*“Accessory dwelling unit (ADU)” means a second dwelling unit added to or created within, or constructed on the same lot as, an existing single-family dwelling, for use as a complete independent or semi-independent unit with provisions for cooking, eating, sanitation and sleeping.*

**Section 2.** RMC Title 18, Division V is amended as follows:

### ***Accessory dwelling units.***

*(1) Purpose. The city planner shall have the authority to approve attached accessory dwelling units (ADUs) which are consistent with single-family neighborhood character and the regulations and provisions herein. The Planning Commission shall have the authority to approve detached accessory dwelling units which are consistent with single-family neighborhood character and the regulations and provisions herein. It is not the intent of these regulations to provide for ADUs on every residential property and they shall not be deemed to create a right or privilege to establish or maintain an ADU which is not strictly in compliance with these regulations.*

*(2) Requirements. ADUs may be permitted in residential districts Suburban Residential (S-R), Low Density Residential (R-1) and Medium Density Residential (R-2) as accessory to single-family dwellings, subject to the requirements that follow.*

#### ***(3) Site Requirements.***

*(a) A certification from the public works superintendent that existing water and sewer facilities serving the property are adequate is required.*

*(b) Only one ADU shall be permitted (attached or detached) as accessory to a single-family dwelling unit.*

*(c) An accessory dwelling unit may not be sold as a separate piece of property, or as a condominium unit, unless allowed by the existing zoning on the property.*

*(d) Parking. A minimum of two existing off-street parking space must be provided on the property where an ADU is proposed; one additional parking for the ADU is required.*

*(i) On-street parking is defined as parking spaces legally available for parking of vehicles. Posted time- or day-restricted parking spaces are not considered as available for purposes of this section.*

*(ii) A street/sidewalk entrance in the form of a walkway, landscaping features, mailbox post and similar construction to direct visitors to the ADU, is required per the determination of the city planner upon recommendation by the fire marshal.*

*(e) Fire department access shall extend to within 150 feet of all portions of the exterior walls of the building as measured by an approved route. Distances in excess of 150 feet may result in additional requirements for construction as approved by the fire code official. Alleys shall not be considered for fire department access.*

#### ***(4) Building Requirements.***

*(a) Accessory dwelling units must be on the same lot as the single-family dwelling to which they are accessory. They may be attached (added to or created within) the existing single-family*

*dwelling as provided for in subsection (6) of this section, or detached as provided for in subsection (7) of this section.*

*(b) All housing and building codes and standards shall be applicable to all ADUs including, but not limited to, the building code, the plumbing code, the electrical code, the mechanical code, the fire code, and all requirements of the Columbia County health department. Note, manufactured homes may be used for ADUs but must be less than 10 years old.*

*(c) Detached ADUs shall have separate independent utility connections and solid waste facilities.*

*(d) The square foot area of any ADU, excluding any garage area, shall be of not less than 300 square feet nor in excess of 1,000 square feet, and it shall contain no more than two bedrooms.*

*(e) Street-facing entrances may be allowed. Exterior entrances can be located no closer than 10 feet to an adjoining private property line.*

*(f) Any exterior stairs shall be placed in the rear or side yard and no closer than 10 feet to an adjoining private property line.*

*(g) All ADUs shall have separate street addresses that are visible from both the street and alley that clearly identify the location of the ADU.*

*(5) Occupancy.*

*(a) The owner of the property or immediate family member of the property owner, or contract purchaser of record, of the single-family dwelling to which an ADU is accessory, shall reside either in the single-family dwelling or the ADU as a permanent place of residence (must occupy one of the dwelling units on the property for more than six months of each calendar year).*

*(b) Only one of the residences may be rented or leased.*

*(c) Vacation (short-term) rental, transient accommodation, and/or lodging is prohibited in ADUs or in single-family dwellings to which they are accessory. "Vacation (short-term) rental, transient accommodation and/or lodging" means the rental of any building or portion thereof used for the purpose of providing lodging for periods of less than 30 days.*

*(d) The ownership of ADUs may not be separated from ownership of the single-family dwelling to which they are accessory.*

*(f) Before issuance of the certificate of occupancy for an accessory dwelling unit, the homeowner must provide a copy of a statement recorded with the Columbia County Clerk.*

*(i) The statement must read:*



*An application for a permit for an accessory dwelling unit has been submitted to the city of Rainier by the owner of this property. Future owners are advised that the owner of the property must comply with all requirements of the Rainier Zoning Code, as amended, if the accessory dwelling unit is to be occupied or rented.*

*(ii) If an accessory dwelling unit is to be removed, appropriate permits and inspections must first be received from the city and Columbia County. If a homeowner wants to remove the statement as required by subsection (5)(f)(i) of this section from the property's title, then the city shall issue an appropriate release upon evidence that the accessory dwelling unit has been removed. The release shall be recorded by the homeowner with the county clerk's office and a copy of the recorded release shall be provided to the city.*

*(g) No day care centers or adult family homes shall be permitted in ADUs.*

*(h) The following permit and inspection requirements shall be met:*

*(i) No ADU may be added to, created within, or constructed upon the same lot as a single-family dwelling without a permit having been issued by the Columbia County Land Development Services department;*

*(ii) All applications for ADU permits shall be on forms provided by City Recorder, and the fee for such permit shall be as provided in the building code;*

*(iii) No ADU may be occupied unless the owner of record of the single-family dwelling to which it is accessory possesses a current certificate of occupancy for such ADU;*

*(iv) Before any permit for the creation or construction of an ADU is granted, the proposed site thereof and the plans and specifications therefor shall be inspected by the building and fire officials to assure that the provisions of this chapter are not violated; and*

*(v) The building official may inspect ADUs after giving proper notice, at such time as a complaint alleging noncompliance with this chapter is received by the city. The purpose of such inspection shall be to determine if such ADU is in compliance with the requirements of this chapter. If such inspection reveals that such ADU is in compliance, the building official shall issue a certificate of occupancy for said ADU. If the inspection reveals the ADU is not in compliance, the building official shall not issue a certificate of occupancy for said ADU, and shall notify the owner or contract purchaser of the single-family dwelling to which said ADU is accessory that said ADU must be vacated and not occupied until it is reinspected by the building official and found to be in compliance, or the ADU removed.*

*(6) Standards for Attached ADUs.*

*(a) All attached ADUs shall be designed to maintain the appearance of the single-family dwelling to which they are accessory. If an ADU extends beyond the current footprint of the single-family dwelling, it must be consistent with the existing siding of the single-family dwelling.*

*Any additions to an existing structure or building shall not exceed the allowable lot coverage or encroach into the required setbacks.*

*(b) When garage space is converted to accessory dwelling unit living space the portion of the driveway leading to the former garage may remain. The parking standards identified above will still apply.*

*(7) Standards for Detached ADUs. In the event that the Planning Commission grants a conditional use permit for the construction of a detached ADU (i.e., an ADU that is not added to or created within the single-family dwelling) in accordance with this chapter, all of the provisions of this chapter shall be applicable thereto. In addition, the following provisions shall be applicable to such detached ADUs:*

*(a) Landscaping may be provided for the privacy and screening of adjacent properties. Tall vegetative landscaping may be required between any windows or decks facing adjacent residential properties.*

*(b) Two-story, detached accessory dwelling units may be designed to protect the privacy of adjacent residential uses.*

*(c) Detached accessory dwelling units are not permitted in townhouse, zero lot line detached housing, or attached zero lot line housing developments.*

*(8) Conditional Use Hearings.*

*(a) All proposed detached ADUs shall require a conditional use permit be granted by the Planning Commission via a Type III review process with consideration of impacts to privacy of neighboring properties. Where practical, the ADU should be located and designed to minimize disruption of privacy and outdoor activities on adjacent properties. Strategies to accomplish this include, but are not limited to: window staggering, entries face away, no overlooking decks, landscaping.*

*(b) In its consideration of an application, the Planning Commission shall evaluate:*

*(i) Compliance with subsections (8)(a) and (b) of this section.*

*(ii) Window locations.*

*(iii) Impacts from shading of neighboring properties, specifically solar access and impacts to existing solar collection systems, photo-voltaic or solar heating.*

*(9) Existing Illegal ADUs.*

*(a) Application may be made for any accessory dwelling unit existing prior to the effective date of this chapter, to become legally permitted, pursuant to the provisions of this chapter.*

*(b) An application to legalize an existing ADU shall include an application for an ADU permit and a building permit application, showing changes made to the main residence or detached accessory building to accommodate the ADU. Approval shall be consistent with the ADU regulations and process outlined in this section. The ADU shall be reviewed using the current editions of building codes in place at the time its owner brings the unit forward for permit.*

*(c) Nothing in this section shall require that the city permit existing ADUs that are determined to be non-compliant with this chapter.*

**Section 3.** RMC 18.15 is hereby amended as follows:

**18.15.020 Permitted uses.**

The following uses are permitted outright in the SR zone:

- A. Single-family dwelling.
- B. Manufactured home on an individual lot, subject to the standards of Chapter [18.100](#) RMC.
- C. Accessory buildings incidental to the primary residential use.
- D. Agricultural or forestry uses.
- E. Home occupation which meets the restrictions of Chapter [18.90](#) RMC.

by amended as follows:

*F. Attached accessory dwelling unit.*

**8.15.030 Conditional uses.**

The following uses are permitted in the SR zone when a conditional use permit is approved subject to Chapter [18.130](#) RMC:

- A. Public use.
- B. Semipublic use.
- C. Home occupation which does not meet the restrictions of Chapter [18.90](#) RMC
- D. Detached accessory dwelling units.*

**Section 4.** RMC 18.20 is hereby amended as follows:

**18.20.010 Permitted uses.**

The following uses are permitted outright in the R-1 zone:

- A. Single-family dwelling.
- B. Manufactured home on an individual lot, subject to standards of Chapter [18.100](#) RMC.
- C. Accessory buildings incidental to the primary residential use.
- D. Agricultural or horticultural uses. No poultry or livestock, other than household pets, shall be permitted within 100 feet of any residence on an adjacent lot.
- E. Home occupation which meets the restrictions of Chapter [18.90](#) RMC.

*F. Attached accessory dwelling units.*

**18.20.020 Conditional uses.**

The following uses are permitted in the R-1 zone when a conditional use permit is approved subject to Chapter [18.130](#) RMC:

- A. Two-family dwelling.

- B. Public use.
- C. Semipublic use.
- D. Home occupation which does not meet the restrictions of Chapter [18.90](#) RM
- E. *Detached accessory dwelling units.*

**Section 5.** RMC 18.25 is hereby amended as follows:

**18.25.010 Permitted uses.**

The following uses are permitted outright in the R-2 zone:

- A. All uses in the R-2 zone are subject to determination of possible compliance with Chapters [18.75](#) (Geologic Hazard Overlay) and [18.145](#) RMC (Design Review).
- B. Single-family dwelling (detached).
- C. Single-family, attached.
- D. Townhouses. Maximum of three units together on one parcel. Structures made up of more than three attached houses are prohibited unless approved by the city planning commission.
- E. Manufactured home on an individual lot, subject to standards of Chapter [18.100](#) RMC.
- F. Two-family dwelling (duplex).
- G. Accessory buildings incidental to primary residential use.
- H. Home occupation which meets the restrictions of Chapter [18.90](#) RMC.
- I. *Attached accessory dwellings.*

**18.25.020 Conditional uses.**

The following uses are permitted in the R-2 zone when a conditional use permit is approved subject to Chapter [18.130](#) RMC:

- A. Three-family dwelling (triplex).
- B. Public use.
- C. Semipublic use.
- D. Home occupation which does not meet the restrictions of Chapter [18.90](#) RMC
- E. *Detached accessory dwelling units.*

Section 6. RMC 18.25.100 is hereby repealed.

**NOW, THEREFORE,** the City of Rainier ordains as follows:

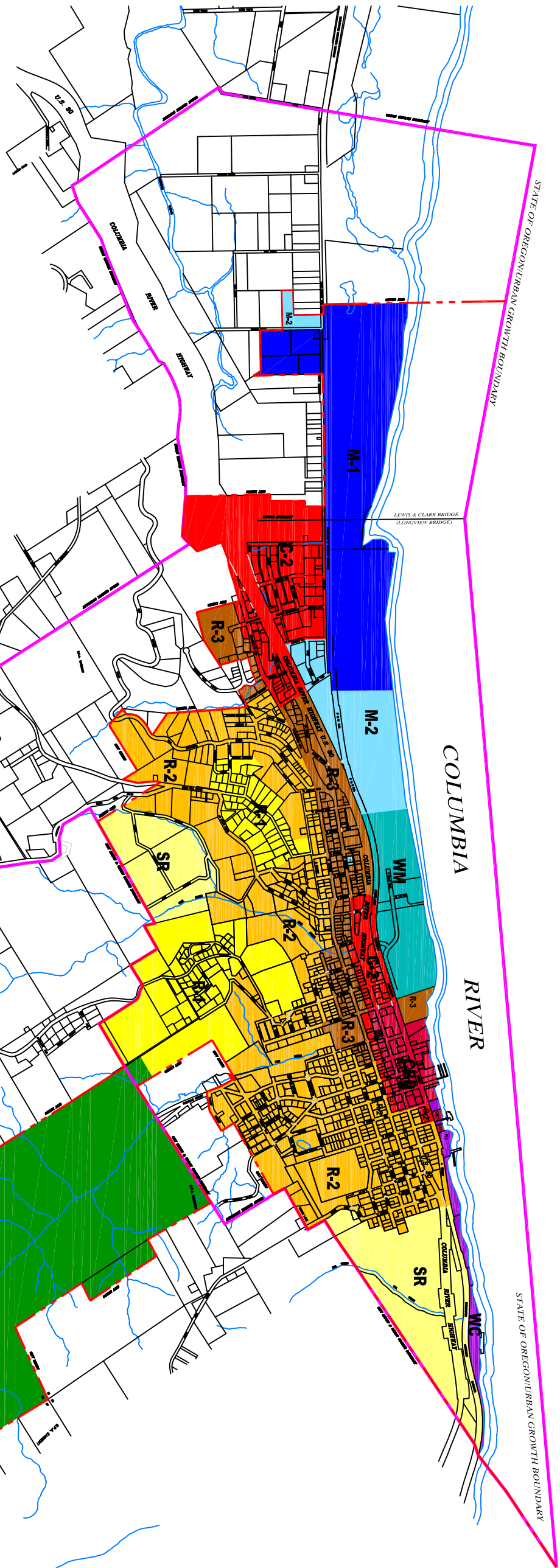
1. The above recitations are true and correct and incorporated herein by this reference.
2. The City of Rainier Municipal Code Text is amended for Chapters 18.05, 18.15, 18.20 and 18.25.
3. In support of the above amendments to the Municipal Code Text, the Rainier City Council hereby adopts the Findings of Facts and Conclusions of Law in the \_\_\_\_\_ City Planner Staff Report, together with its attached addendums and correspondence, dated \_\_\_\_\_
4. The effective date of this Ordinance shall be thirty (30) dates after approval, in accordance with the City Charter and other applicable laws.

Passed by the City of Rainier council and approved by the mayor on the \_\_\_\_ date of \_\_\_\_\_, 2023.

Attested:

BY: \_\_\_\_\_  
Jerry Cole, Mayor

BY: \_\_\_\_\_  
Scott Jorgensen, City Administrator



# ZONING DISTRICTS

- SUBURBAN RESIDENTIAL ZONE (SR)
- LOW DENSITY RESIDENTIAL ZONE (R-1)
- MEDIUM DENSITY RESIDENTIAL ZONE (R-2)
- HIGH DENSITY RESIDENTIAL ZONE (R-3)
- CENTRAL BUSINESS DISTRICT ZONE (CBD)
- GENERAL COMMERCIAL ZONE (C-2)
- WATERFRONT COMMERCIAL ZONE (WC)
- WATERFRONT MIXED USE ZONE (WM)
- LIGHT INDUSTRIAL ZONE (M-2)
- HEAVY INDUSTRIAL ZONE (M-1)
- WATERSHED ZONE (WS)

**City Limits**

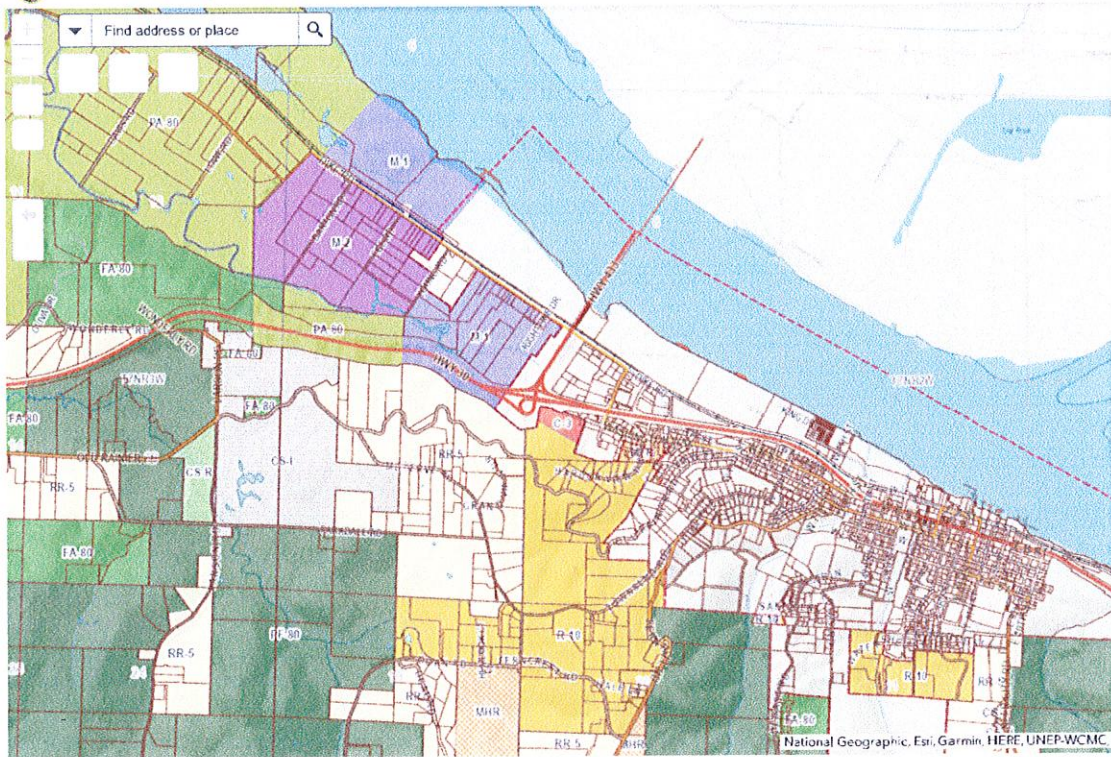
**Urban Growth Boundary**

# City of Rainier

## Zoning Map

October 18, 2007





#### Layers

Tax Map

Survey Research

Points of Interest

Parks

Transportation

Districts and Boundaries

Natural Features

Land Use Planning

2000 Population

2010 Population

Urban Growth Boundary (UGB)

Annexations

Zoning - Columbia County

Zoning - Clatskanie

Zoning - Columbia City

Zoning - Vernonia

Zoning - St. Helens

Zoning - Sceddopose

Zoning - Rainier

Zoning - Prescott

Watersheds

Oregon State Aerial - 2020

Oregon State Aerial - 2018

Oregon State Aerial - 2009

National Geographic Basemap

## **Chapter 5.35 ADULT ENTERTAINMENT**

Sections:

- 5.35.010 Purpose.**
- 5.35.020 Definitions.**
- 5.35.030 Designation of adult entertainment uses.**
- 5.35.040 Regulations and restrictions on adult entertainment uses.**
- 5.35.050 Signage for adult entertainment uses.**
- 5.35.060 Adult entertainment business license.**
- 5.35.070 Adult entertainment business license – Application, issuance.**
- 5.35.080 Adult entertainment business license – Renewal, revocation.**
- 5.35.090 Adult entertainment business regulations.**
- 5.35.100 Nuisance declared.**
- 5.35.110 Inspections.**
- 5.35.120 Penalty.**

### **5.35.010 Purpose.**

It is recognized that the presence of certain “adult businesses” within the community of Rainier, Oregon, may result in adverse social and economic impacts, increased crime incidents, and physical deterioration in the general areas of such businesses. It is evident that regulations applicable to adult businesses are necessary to preserve the integrity of existing commercial areas of the city, and to protect the character, safety and stability of residential areas that are in close proximity to such commercial areas. The purpose of this chapter is to establish regulations applicable to adult businesses, as defined in the Oregon Revised Statutes and in RMC [5.35.020](#), Definitions. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

### **5.35.020 Definitions.**

For the purposes of this chapter:

A. “Adult arcade” means a place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.



B. "Adult bookstore" means an establishment having a substantial or significant portion of its stock-in-trade in books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas.

C. "Adult mini-motion picture theater" means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas for observation by patrons therein.

D. "Adult motel" means a hotel, motel, or similar commercial establishment that (1) offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from a public right-of-way that advertises the availability of this adult type of photographic reproduction; (2) offers a sleeping room for rent for a period of time that is less than 10 hours; or (3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

E. "Adult motion picture theater" means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

F. "Adult novelty store" means an establishment having a substantial or significant portion of its stock-in-trade in books, magazines, periodicals and/or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities, or specified anatomical areas and/or products and novelties which are distinguished or characterized by their emphasis on sexual arousal and/or aids to sexual stimulation.

G. "Auditor" means the Columbia County auditor.

H. "Cabaret" means an adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.

I. "Department" means the city of Rainier.

J. "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

K. "Health district" means the Columbia County health district.

L. "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (2) activities between male and female persons or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

M. "Specified anatomical areas" means:

1. Less than completely and opaquely covered:
  - a. Human genitals, pubic region;
  - b. Buttocks; and
  - c. Female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

N. "Specified criminal activity" means an offense for prostitution or promotion of prostitution, dissemination of obscenity, sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described in this subsection under the criminal or penal code of other states or countries for which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
2. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
3. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

4. The fact that a conviction is being appealed has no effect on the disqualification of the applicant.

O. "Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal;
  2. Acts of human masturbation, sexual intercourse or sodomy; and
  3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.030 Designation of adult entertainment uses.**

The following uses are designated as adult entertainment uses:

- A. Adult arcade;
- B. Adult bookstore;
- C. Adult mini-motion picture theater;
- D. Adult motel;
- E. Adult motion picture theater;
- F. Adult novelty store;
- G. Cabaret;
- H. Escort agency; and
- I. Sexual encounter center. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.040 Regulations and restrictions on adult entertainment uses.**

In addition to complying with the other sections of the zoning ordinance, adult entertainment uses shall only be permitted in the regional commercial (RC), urban commercial (UC) and highway/tourist commercial (HTC) zones within the city and shall not be permitted:

- A. Within 1,000 feet of any other existing adult entertainment use; and/or
- B. Within 1,000 feet of any rural or residential zone, or any of the following residentially related uses:
  1. Churches, monasteries, chapels, synagogues, convents, rectories or church-operated camps;

2. Schools, up to and including the twelfth grade, and their adjunct play areas;
3. Public playgrounds, public swimming pools, public parks and public libraries;
4. Licensed day care centers;
5. Any other public facility or private business whose principal function is providing services, programs, activities or materials for minors.

C. For the purposes of this section, spacing distances shall be measured as follows:

1. From all property lines of any adult entertainment use;
2. From the outward boundary line of all noncommercial zoning districts;
3. From all property lines of any residentially related use in subsections (B)(1) through (B)(3) of this section.

D. The planning commission may, at its discretion, conduct a poll or survey of residents and property owners in the vicinity of a proposed adult business if such poll or survey is determined to be necessary to adequately assess the social, economic or other impacts of the proposed adult business. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.050 Signage for adult entertainment uses.**

A. In addition to other provisions relating to signage in the zoning ordinance, it is unlawful for the owner or operator of any adult entertainment use establishment or any other person to erect, construct or maintain any sign for the adult entertainment use establishment other than one primary sign and one secondary sign, as provided in this section.

B. Primary signs shall have no more than two display surfaces. Each such display surface shall:

1. Be a flat plane, rectangular in shape;
2. Not exceed 75 square feet in area; and
3. Not exceed 10 feet in height or 10 feet in length.

C. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

1. The name of the regulated establishment; and/or

2. One or more of the following phrases:

- a. "Adult bookstore";
- b. "Adult movie theater";
- c. "Adult cabaret";
- d. "Adult novelties";
- e. "Adult entertainment."

3. Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on Premises."

D. Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

E. Secondary signs shall have only one display surface. Such display surface shall:

- 1. Be a flat plane, rectangular in shape;
- 2. Not exceed 20 square feet in area;
- 3. Not exceed five feet in height and four feet in width; and
- 4. Be affixed or attached to any wall or door of the establishment.

F. The provisions of subsections C and D of this section shall also apply to secondary signs. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.060 Adult entertainment business license.**

No person, firm, partnership, corporation or other entity shall operate, conduct or finance an adult entertainment business without a valid adult entertainment business license issued by the department. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.070 Adult entertainment business license – Application, issuance.**

A. Application for adult entertainment business licenses shall be made to the city.

B. An application for adult entertainment business license shall be verified and shall contain or set forth the following information:

1. The name, address, telephone number, and age of the applicant;
2. The business name, business address, and business telephone number of the establishment or proposed establishment;
3. Whether the business or proposed business is the undertaking of a sole proprietorship, partnership, limited liability corporation or other corporation. If a sole proprietorship, the application shall set forth the name, address, telephone number, and age of the sole proprietor. If a partnership, the application shall set forth the names, addresses, telephone numbers, and respective ownership shares of each partner, whether general, limited, or silent. If a corporation, the application shall set forth its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Oregon, the names and capacity of all officers, directors, and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process;
4. The names, addresses, and telephone numbers of every person, partnership, or corporation having any interest in the real or personal property utilized or to be utilized by the business or proposed business;
5. Whether the applicant or anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized or to be utilized by the business or proposed business, has ever been convicted of any specified criminal activity as defined in this chapter, and, if so, the application shall state the person involved, the charge, date, court and disposition of the charge.

C. Applications shall be accompanied by a nonrefundable fee of \$100.00.

D. Within five days of receipt of an application for adult entertainment business license, the department shall transmit copies of such application to the police department.

E. Within 20 days of receipt of a copy of such license application the following shall occur:

1. The police chief shall conduct an investigation to determine whether the information contained in the application regarding convictions for specified criminal activity is true and accurate. The police chief shall thereafter report such findings to the department;

2. The department shall visit the premises and shall determine if the use or proposed use of the premises is in conformity with the city of Rainier zoning ordinance and if the buildings upon the premises meet the requirements of the building, fire, mechanical, and plumbing codes;

3. The department shall request that the health district visit the premises and determine if the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste and report its findings to the department.

F. Once the department has received the reports mentioned in subsections (E)(1), (E)(2), and (E)(3) of this section, the department shall determine the following:

1. Whether the applicant or anyone having an interest in the business or proposed business, or anyone having an interest in the real or personal property utilized or to be utilized by the business or proposed business, has been convicted of any specified criminal activity as defined in this chapter;

2. Whether the use or proposed use of the premises is in conformity with the city of Rainier zoning ordinance and the buildings upon the premises meet the requirements of the building, fire, plumbing, and mechanical codes;

3. Whether the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste.

G. If the department determines that: (1) Neither the applicant nor anyone having an interest in the business or any real or personal property utilized or to be utilized by the proposed business has been convicted of any specified criminal activity as defined in this chapter; (2) that the proposed use of the premises conforms with the city of Rainier zoning ordinance and the buildings thereon meet the requirements of the building, fire, plumbing, and mechanical codes; and (3) that the premises and buildings thereon meet the requirements of all laws regarding potable water and the disposal of sewage and solid waste, then the department shall issue an adult entertainment business license which shall be valid, unless sooner revoked, for a period of one year.

H. All decisions of the department shall be final unless review is sought by filing an action in a court of competent jurisdiction within 10 days of the department's decision or as otherwise provided by the laws of this state. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.080 Adult entertainment business license – Renewal, revocation.**

A. An adult entertainment business license may be renewed by following the application procedure set forth in RMC [5.35.070](#), Adult entertainment business license – Application, issuance; provided, a renewal application shall specifically state whether those persons mentioned in RMC [5.35.070](#)(B) and whether any persons presently employed by the licensee or who have been employed by the licensee at any time since a date 10 days after the effective date of the ordinance codified in this chapter have been convicted of any specified criminal activity as defined in this chapter; and, provided further, the department shall not renew an adult entertainment business license if those persons mentioned in RMC [5.35.070](#)(B) or any persons presently or previously employed have been convicted of any specified criminal activity as defined in this chapter.

B. Any person may file with the department a petition to revoke an adult entertainment business license. Such petition shall state the grounds for which revocation is sought. Upon receipt of such a petition, the department shall conduct a departmental investigation to determine the merits of the petition. The department shall give the adult entertainment business licensee written notice of such investigation by mailing such notice to the licensee's address as contained in the most recent application. Such notice shall be given no less than five days prior to the formal review.

C. The department shall revoke an adult entertainment business license if it finds any of the following:

1. That one or more of the conditions specified in RMC [5.35.070](#)(G) is not now being met;
2. That one or more of those persons mentioned in RMC [5.35.070](#)(B)(5) or persons presently employed by the licensee or who have been employed by the licensee at any time since a date 10 days after the effective date of the ordinance codified in this chapter have been convicted of any specified criminal activity as defined in this chapter;
3. That the licensee gave false or misleading information in the material submitted during the application process.

D. All decisions of the department shall be final unless review is sought by filing an action in a court of competent jurisdiction within 10 days of the department's decision or as otherwise provided by the laws of this state.

E. Whenever a timely request for appeal of a denial to renew a license, license suspension, or license revocation is filed with a court of competent jurisdiction, a licensee may engage in the activity for which the license was required, pending a decision from the court. An applicant not licensed when the current application was made may not engage in the activity for which the license is required pending decision by the court. (Ord. 1062, 2013; Ord. 943 § 11, 1992)



#### **5.35.090 Adult entertainment business regulations.**

A. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment business without a valid adult entertainment business license issued pursuant to this chapter.

B. No later than the first day of March of each year an adult entertainment business licensee shall file a verified report with the city showing the licensee's gross receipts for the preceding calendar year.

C. An adult entertainment business licensee shall maintain and retain for a period of at least two years the names, addresses, and ages of all persons employed by the licensee.

D. No adult entertainment business licensee shall employ a person under the age of 18 years.

E. No adult entertainment business licensee shall allow any person under the age of 18 years to enter the licensee's premises.

F. An adult entertainment business licensee shall be closed between 10:00 p.m. and 8:00 a.m.

G. No adult entertainment business licensee shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor or controlled substance upon the premises of the licensee.

H. No adult entertainment business licensee shall utilize or have any scheme or device whereby any employee or customer is or can be warned or advised that an inspection by law enforcement officials is occurring or is about to occur.

I. An adult entertainment business licensee shall conspicuously display all licenses required by this chapter. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.100 Nuisance declared.**

Any activity, act, or conduct contrary to the provisions of this chapter is hereby declared to be unlawful and a public nuisance and such activity, act, or conduct may be enjoined by an action brought by the prosecuting attorney or any other interested person. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

#### **5.35.110 Inspections.**

A. All books and records required to be kept pursuant to this chapter by an adult entertainment business shall be open to inspection by the sheriff, prosecuting attorney, or agents thereof during the hours when the adult entertainment business is open for business upon two days' written notice to the adult entertainment business licensee. The purpose of such inspection shall be to determine if the books and records meet the requirements of this chapter.

B. The premises and facilities upon which an adult entertainment business is conducted shall be open to inspection by the sheriff, prosecuting attorney, or agents thereof during the hours when the adult entertainment business is open for business. The purpose of such inspection shall be to determine if the adult entertainment business is operated in accordance with the requirements of this chapter. It is expressly declared that unannounced inspections are necessary to ensure compliance with this chapter.

C. The premises and facilities upon which an adult entertainment business is conducted shall be open to inspection by agents, employees, or representatives of the health district when the adult entertainment business is open for business. The purpose of such inspection shall be to determine if the adult entertainment business is operated in accordance with RMC [5.35.070](#), [5.35.080](#) and [5.35.090](#). It is expressly declared that unannounced inspections are necessary to ensure compliance with the aforementioned sections of this chapter.

D. For the purposes of this section, no visit to an adult entertainment business by any undercover operative of the police department or prosecuting attorney shall be deemed to be an inspection. (Ord. 1062, 2013; Ord. 943 § 11, 1992)

**5.35.120 Penalty.**

Any person, firm, or corporation violating any provision of this chapter shall be guilty of a misdemeanor and each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during which any violation is committed, continued, or permitted and upon conviction of any such violation such person, firm, or corporation shall be punished by a fine of not more than \$250.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment; provided, no person shall be deemed guilty of any violation of this chapter if acting in an investigative capacity pursuant to the request or order of the sheriff or prosecuting attorney or duly appointed agent thereof. (Ord. 1062, 2013; Ord. 943 § 11, 1992)