

CODE

ORDINANCE NO. 4026

AN ORDINANCE AMENDING CHAPTER 6 OF THE BEAVERTON CODE AUTHORIZING THE CITY TRAFFIC ENGINEER AND TRAFFIC COMMISSION TO ESTABLISH TRAFFIC CONTROL DEVICES; PROVIDING A PROCEDURE FOR REVIEW OF SUCH DECISIONS AND RELATED MATTERS AND REPEALING SECTIONS 6.02.110 THROUGH 6.02.150.

Whereas, the Traffic Commission has requested that this ordinance be adopted for the purpose of clarifying the role of the Traffic Commission and improving opportunities for citizen participation, now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Chapter 6 of the Beaverton Code, relating to the Traffic Commission, is amended by adding the following provisions:

6.02.050 Title and Purpose. The purpose of this ordinance is to authorize the City Traffic Engineer and Traffic Commission to approve and direct the implementation of restrictions and other devices, such as warnings, on public roadway use that are determined necessary and in the public interest. Such authority is subject to review and approval by the City Council in accordance with procedures established herein. This ordinance shall be known and may be referred to herein as the 'Traffic Issue Process.'

6.02.055 Definitions. For purposes of this ordinance the following terms are defined:

A. City Traffic Engineer - The City employee designated by the Mayor to perform the functions of City Traffic Engineer under this ordinance, or the City employee assigned by the City Traffic Engineer to perform such functions.

B. Development review issue - A development review issue is any issue involving parking restrictions, traffic calming devices or restrictions to traffic operations that has been proposed in a development application, or imposed or approved through the design review process by the Facilities Review Committee, the Board of Design Review, the Planning Commission or the City Council.

C. Emergency Issue - Any traffic restriction, issue or condition which creates a substantial risk of loss, damage, interruption of public services or threat to public health or safety that could not have been reasonably foreseen and requires prompt response to remedy the condition, and which had it been reasonably foreseen, would have been a major issue.

D. Extreme Hazard - An emergency issue that represents a serious hazard or immediate threat to the safety of all persons using the public roadway.

E. Minor Issue – A minor issue is any traffic control issue that is not a major issue and not a development review issue. Minor issues include but are not limited to:

1. Approval of the installation of warning signs, directional signs, and signs giving notice of existing laws;
2. Approval of design details for traffic controls to implement the direction of the City Council, to implement Traffic Commission recommendations approved by the City Council or to comply with State or Federal regulations;
3. Approval of design details for traffic controls on new facilities which have been authorized by the Facilities Review Committee, the Board of Design Review, the Planning Commission or the City Council;
4. Parking restrictions, traffic calming or restrictions to traffic operations imposed for a period of less than 30 days to control traffic during special events or during periods of construction on or adjacent to the roadway;
5. Approval of parking restrictions that extend for a distance of less than 50 feet along a street.

F. Major Issue - A major issue is any issue involving parking restrictions, traffic calming devices or restrictions to traffic operations except development review issues and traffic controls installed for a period of less than 30 days' duration. A "Major issue" includes, but is not limited to:

1. Parking restrictions, provided such restrictions extend for at least 50 feet along a street.
2. Restrictions to traffic movements, such as one-way roadways and turn prohibitions;

3. Assignment of right-of-way at an intersection by the installation of STOP signs or YIELD signs or similar restrictions;
4. The control of traffic at any location by the means of traffic signals;
5. Establishment of speed limits, including recommendations on speed limits provided to other agencies to establish speed limits;
6. Restrictions to the use of a public roadway by any kind or class of vehicle or by pedestrians;
7. Establishment of truck routes;
8. Installation of a crosswalk at a location not controlled by a STOP sign, YIELD sign, or traffic signal;
9. Prohibition or restriction to pedestrian crossing;
10. Prohibition of vehicle passing;
11. Establishment of a school zone where reduced speed limits are established during designated times;
12. Installation of traffic calming devices;
13. Closure of an existing roadway;
14. Restrictions of existing access to adjoining properties;
15. Installation of pavement markings or other devices to delineate traffic lanes or bicycle lanes on a roadway where traffic lanes have not previously been delineated;
16. Citywide policies on traffic; and
17. Any issue referred to the Traffic Commission by the City Council, the Mayor or the City Traffic Engineer.

G. Traffic calming - The installation of speed bumps, traffic circles or similar devices intended to discourage speeding or to discourage through traffic.

H. Traffic controls - All signs, signals, markings, and devices placed on, over, or adjacent to a roadway to regulate, warn, or guide traffic or to regulate parking.

6.02.060 Standards.

A. Decisions by the City Traffic Engineer, Traffic Commission and City Council shall be based on the following standards and criteria:

1. All proposed traffic control devices, all proposed restrictions to traffic operations or parking, and all proposed traffic calming features governed by this ordinance shall endeavor to:

- a. provide for safe vehicle, bicycle and, where allowed, pedestrian movements;
- b. help ensure orderly and predictable movement of vehicles, bicycles and pedestrians;
- c. meet the overall circulation needs of the City;
- d. accommodate the parking needs of residents and businesses in a safe and equitable fashion;
- e. assure safe access and reasonable response times for emergency vehicles;
- f. be structurally suitable for all intended purposes;
- g. carry anticipated traffic volumes safely; and
- h. comply with Federal and State regulations.

2. All proposed new traffic devices shall be based on the standards of the "Manual on Uniform Traffic Control Devices (MUTCD)" and the "Oregon Supplements to the Manual on Uniform Traffic Control Devices" as adopted or in effect at the time of consideration of the issue;

3. All decisions shall comply with officially approved policies of the City Council, including but not limited to policies and objectives set forth in the City's Comprehensive Plan.

B. The City Traffic Engineer shall decide issues of street design.

6.02.065 Procedures.

A. General. A person who wishes to propose new traffic controls or revisions to existing traffic controls shall present such proposal in writing to the City Traffic Engineer in accordance with this section. Alternatively, consideration of new traffic controls or changes to existing traffic controls may be initiated by motion of the City Council or the Traffic

Commission or by the City Traffic Engineer. The procedures to be followed for making a decision on a traffic issue depend on the category of issue involved. The City Traffic Engineer shall decide in what category an issue falls. The process to be followed for categories of traffic issues is as set forth in this subsection.

1. Minor Issues. Any issue that qualifies as a minor issue shall be reviewed by the City Traffic Engineer. Where there is a request for review of a minor issue the City Traffic Engineer shall provide a written response that shall include an explanation of any action taken or recommended and the reasons therefor. The City Traffic Engineer shall send a copy of the written response to the requesting party by regular mail. Where no request is received for review of the decision, the City Traffic Engineer's decision is the final City decision on minor issues. Any person may appeal the decision of the City Traffic Engineer on an issue to the Traffic Commission. Such appeal must be in writing, must include a reference to the subject and date of the City Traffic Engineer's written response and the grounds for objecting to the City Traffic Engineer's decision. Unless the appeal is submitted by a member of the City Council or the Traffic Commission, a fee as established by resolution of the Council to cover the cost of processing and presenting the matter to the Traffic Commission shall accompany the appeal. Review by the Traffic Commission shall be conducted in the same manner as review of major issues. The written decision of the Traffic Commission shall be placed on the City Council's agenda for consent or for Council, by motion, to review the matter. Council action on the proposal is the final decision.

2. Major Issues. Any proposal that qualifies as a major issue shall be scheduled by the City Traffic Engineer for review by the Traffic Control Board and the Traffic Commission. The recommendation of the Traffic Control Board shall be sent to the Traffic Commission. The issue shall be scheduled for a public hearing before the Traffic Commission if the City Traffic Engineer determines that a public hearing is appropriate or if the Traffic Commission directs that the matter be scheduled for a public hearing or if any person makes written request to the City Traffic Engineer for a public hearing. The procedure for the conduct of such hearing shall be as set forth in subsection B. If no public hearing is scheduled, the matter may be approved on the consent agenda of the Traffic Commission and sent to the City Council for final approval.

3. Emergency Issue. Any issue that qualifies as an emergency issue may be scheduled for review by the City Council without the Traffic Commission first reviewing the matter, if the Mayor deems such action to be in the public interest. Notice of Council consideration shall be provided in accordance with requirements of State law for announcing a meeting of the City Council. Notice of the Council consideration of such

issue shall also be provided by regular mail or other methods designed to give advance notice to the Traffic Commission, the Traffic Control Board, and the chair of each NAC directly affected by the proposed action

4. Extreme Hazard. Any issue that qualifies as an extreme hazard may be determined immediately by any of the following officials: the City Traffic Engineer, the Operations Director or the Mayor without prior review or consideration by the Traffic Commission or the City Council. The official taking action under this provision shall as soon as practicable thereafter, but no later than 48 hours, advise the other officials and the City Council of such action and the circumstances. Within 90 days after notifying the City Council, any traffic controls installed under the Extreme Hazard process shall be removed unless the City Traffic Engineer has scheduled the issue for review by the Traffic Commission. In the event of a fire or other public emergency, officers of the Police Department or the Fire District may direct traffic as conditions require, notwithstanding the provisions of this ordinance.

B. Hearings. The following procedures shall govern the conduct of hearings by the Traffic Commission and on appeal from Traffic Commission decisions, by the City Council, except as otherwise specifically provided.

1. Notification. Except as otherwise provided in subsections A and F of this section, notice of the hearing shall be provided at least twenty (20) days before the hearing in the following manner:

a. by regular mail to the person who submitted the proposal or appealed the City Traffic Engineer's response to the proposal, to the chair of the NAC whose boundaries include or are adjacent to the location of the proposed action, to any person who has requested notice, and by internal distribution to members of the City Council;

b. by posting at City Hall, the City Library and the Beaverton (central) Post Office;

c. by publication in a newspaper of general circulation within the City; and

d. by posting at or near the site of the proposed action with signs of sufficient number, size and location so as to be visible to a passing motorist.

Failure to provide notice in the manner set forth herein shall not invalidate any action or decision made by the decision-maker.

2. Notice Contents. Notice shall include the nature of the proposed change; date, time, place and purpose of the hearing; and the name and telephone number of the City staff person who may be contacted to obtain additional information.

3. Conduct of the Hearing. The Chair, or the Chair's designee, shall open the hearing by stating the general nature of the proposal followed by a summary of these procedures. Written minutes of the hearings body's proceedings shall be prepared, approved and maintained. Minutes shall accurately reflect the names of hearings body members present, the substance of any matter discussed and views of participants and the vote and result of any motion or other action. The hearings body may by rule establish time limits on testimony to be observed during a hearing, subject to the right of the Chair, with the hearings body's consent, to amend or waive the time limits. As a general guideline, if the Chair decides to increase or decrease the time limits for testimony, the Chair shall do so in equal proportion for both the person who submitted the proposal or appeal and the person who opposes the proposal. An audio recording shall be made of each meeting.

The Chair shall next call for presentation of the City Traffic Engineer's report. The City Traffic Engineer's report shall list the applicable substantive criteria and shall explain the reasons behind the recommendation, or decision in the case of an appeal.

The Chair shall state that evidence and testimony must be directed to the criteria in section 6.02.060, determined to be applicable by the City Traffic Engineer or other criteria, current City, Metro, Tri-Met, State of Oregon or Federal laws or policies, which the person believes to apply to the decision.

The Chair shall call for testimony from the person who submitted the proposal or the person who appealed the City Traffic Engineer's or Traffic Commission's response to the proposal.

The Chair shall call for evidence or testimony from other interested parties.

Prior to the conclusion of the hearing, any participant may request a continuance of the hearing for the purpose of presenting additional evidence or testimony regarding the application. The hearings body upon its own motion may continue the hearing to a time and date certain. No additional notice of a continued hearing is required if the hearings body announces the continuation of the hearing to a date, time and place certain. The decision on whether to continue the hearing rests solely with the hearings body.

At the conclusion of the deliberations, the hearings body shall make an oral decision to approve, approve with conditions or deny the proposal or the appeal of the proposal based upon the applicable standards and criteria and the evidence and testimony in the record. The hearings body may also refer the matter to the City Traffic Engineer for further review and may retain jurisdiction over the decision. The hearings body's oral decision is not a final decision. At any time prior to the adoption of the final order pursuant to paragraph 4 of this subsection, the hearings body may, after approving a motion to reconsider, modify or change the oral decision or choose to reopen the hearing, or both.

4. A final written order of the Traffic Commission decision shall be signed by the Chair on behalf of the Commission. The final written order shall consist of a brief statement that explains the criteria and standards considered relevant, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth. The order shall also contain or incorporate by reference any conditions of approval deemed necessary or appropriate by the hearings body. A proposed order may be prepared by the City Traffic Engineer or by the prevailing party subject to review and approval of the City Traffic Engineer.

5. In the absence of a properly filed Notice of Intent to Appeal, the Traffic Commission's decision shall appear on the City Council's agenda as a consent item following the expiration of the appeal period. Upon approval by the Council, the decision shall be considered final. Prior to approval, the City Council may, by motion, decide to conduct its own hearing. Any hearing by the City Council shall be in accordance with Subsections E through H of this Section.

6. Notice of the Traffic Commission's decision shall be sent by regular mail to the person who submitted the proposal or appeal of the proposal and to all persons who testified either orally or in writing before the hearings body. The notice shall be sent within 3 calendar days after the signing of the final written order by the Chair. The notice shall include the date (of the notice), a brief summary of the final decision, a geographical reference to the location of the traffic issue, a statement that a copy of the final written order is available for review at City offices and in the case of notice of a Traffic Commission decision, a statement that the decision may be appealed by filing a written Notice of Intent to Appeal with the City Recorder within ten calendar days of the date of the final written order and a reference to the requirements for filing a Notice of Intent to Appeal contained in subsection C of this section.

C. Appeals to the City Council. A final decision of the Traffic Commission may be appealed to the City Council by the person who submitted the proposal or the appeal of the proposal or by any person

who appeared before the Traffic Commission either orally or in writing regarding the proposal. An appeal shall be made by filing a Notice of Intent to Appeal with the City Recorder within ten (10) days of the date of the Traffic Commission's final written order. A Notice of Intent to Appeal shall be in writing and shall contain:

1. A reference to the proposal, the number and date of the final written order;
2. A statement that demonstrates that the appellant is the person who submitted the proposal or appeal of the proposal, or appeared either orally or in writing in front of the Traffic Commission;
3. The name, address, and signature of the appellant or the appellant's representative;
4. An appeal fee as established by resolution of the Council, unless the appeal is filed by the Mayor or a local government agency or unless the fee is waived by motion and order of the City Council; and
5. A discussion of the specific issues raised for Council's consideration and the specific reasons why the appellant contends that the decision by the Traffic Commission is incorrect or not in conformance with the applicable criteria.

D. Rejection of Appeals. The City Recorder shall reject the appeal if it is not filed within the 10-day appeal period or in the proper form or does not include the filing fee, as required by or set forth in subsection C of this section. If the City Recorder rejects an appeal, the City Recorder shall so notify the appellant by regular mail. Such notification shall include a brief explanation of the reason why the City Recorder rejects the appeal. The decision of the City Recorder to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the Traffic Commission or the City Council. The appellant shall be allowed to correct a failure to comply with subsection C of this section, if the correction can be made and is made within the 10-day appeal period provided in subsection C of this section.

E. Record of Proceedings. Following receipt of a Notice of Intent to Appeal filed in compliance with subsection C of this section, the City Traffic Engineer shall prepare a record for Council review containing:

1. all staff reports and memoranda prepared regarding the proposal that were presented to the Traffic Commission;

2. minutes of all Traffic Commission proceedings at which the proposal was considered;

3. all written testimony and all exhibits, maps, documents or other written materials presented to the City Traffic Engineer and the Traffic Commission during the proceedings on the proposal; and

4. the final written order of the Traffic Commission.

A transcript of the Traffic Commission proceedings is not required, however any person who appeared before the Traffic Commission may prepare a certified transcript of all or any part of the Traffic Commission proceedings at that person's own expense, and such certified transcript shall be accepted into evidence and considered by the City Council.

F. Notice of Appeal Hearing. Except for an emergency action, written notice of the appeal hearing before the City Council shall be sent by regular mail no later than 14 days prior to the date of the hearing to the appellant, the person who submitted the proposal if different from the appellant, and all persons who testified either orally or in writing before the Traffic Commission. In the case of an emergency action notice shall be given by publication in a newspaper of general circulation at any time prior to the start of the hearing. Notice contents shall be in accordance with subsection B.2 of this section. In addition, the notice shall state that a copy of the decision being appealed, the proposal and all documents and evidence contained in the record and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost; and include a general statement of the requirements for submission of testimony and procedure for conduct of the hearing.

G. Scope of City Council Review of Appeals. City Council review of appeals shall be on the record. Any person may testify before the City Council, but testimony will be limited to issues previously raised before the Traffic Commission. Council on its own motion may hold a de novo hearing that would allow new evidence to be presented.

H. Conduct of the Appeal Hearing. The Council shall conduct a hearing on appeal in accordance with Beaverton Code 2.11.010. The Council may affirm, reverse, modify in whole or in part, affirm the proposal with one or more conditions or remand the action or decision of the Traffic Commission. A final written order of the Council shall be prepared and presented to the Council for approval.

6.02.070 Existing Traffic Control Devices. Official traffic control devices installed prior to the adoption of this ordinance are lawfully authorized.

Section 2. Beaverton Code Sections 6.02.110, 6.02.120, 6.02.130, 6.02.140, and 6.02.150 are hereby repealed.

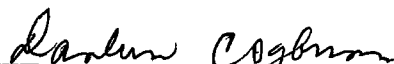
First reading this 26th day of October, 1998.


Passed by the Council this 2nd day of November, 1998.

Approved by the Mayor this 5th day of NOVEMBER, 1998.

ATTEST:

APPROVED:


DARLEEN COGBURN, City Recorder


ROB DRAKE, Mayor