

ORDINANCE NO. 4224

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE
AND ORDINANCE NO. 3301, THE MUNICIPAL CODE.

WHEREAS, in 1998, the City of Beaverton identified a need to conduct a comprehensive review of the City's development applications and permitting procedures; and

WHEREAS, a Code Review Advisory Committee (CRAC) was appointed to assist City staff with the comprehensive review and the preparation of text to amend the Development Code; and

WHEREAS, the CRAC represented a wide range of community perspectives and interests;

WHEREAS, the CRAC met at twenty (20) public meetings, between December 1998 and June 2001 at the conclusion of which a series of amendments to Chapter 10 (General Provisions), Chapter 20 (Land Uses), Chapter 40 (Applications), Chapter 50 (Procedures), Chapter 60 (Special Regulations), Chapter 90 (Definitions) of the Development Code and to Chapters 2, 5, and 9 of the Municipal Code were agreed upon by the CRAC to forward to the Planning Commission for public hearing; and

WHEREAS, on November 7, 2001 the Planning Commission opened the first of seven public hearings to consider a series of the text amendments known as the Code Update Project but more specifically identified as text amendment application numbers TA 2001-0001 (Development Code Chapter 40), TA 2001-0002 (Development Code Chapter 50), TA 2001-0003 (Development Code Chapter 10), TA 2001-0004 (Development Code Chapter 60), TA 2001-0005 (Development Code Chapter 20), TA 2001-0007 (Municipal Code Chapters 2, 5, and 9), and TA 2001-0008 (Development Code Chapter 20); and

WHEREAS, on November 14, 2001, November 28, 2001, December 19, 2001, January 23, 2002, and February 20, 2002, the Planning Commission conducted continued public hearings to consider the proposed Code Update Project text amendments; and

WHEREAS, on March 13, 2002, the Planning Commission conducted a final continued public hearing at the conclusion of which the Planning Commission reached a determination to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code and Municipal Code as summarized in Planning Commission Land Use Order Nos. 1476, 1477, 1478, 1479, 1480, 1481, and 1482; and

WHEREAS, on April 8, 2002, Susan Cook and Henry Kane filed a timely appeal of the Planning Commission's recommendation to amend Chapter 50 (Procedures) of the Development Code as summarized in Land Use Order No. 1477; and

WHEREAS, on June 17, 2001, the City Council held a public hearing to consider APP 2002-0004, the appeal of Chapter 50 (Procedures) TA 2001-0002; and

WHEREAS, at the conclusion of the oral public testimony, the Mayor closed the oral testimony portion of the proceedings after which the Council agreed to hold the record on the proceedings open for seven days to allow interested persons to submit additional written testimony for the Council's consideration on APP 2002-0004; and

WHEREAS, at the June 17, 2001 meeting, the City Council consented to the Planning Commission's recommendation to adopt the amendments to Development Code Chapter 40 (Applications) as contained in Land Use Order No 1476, Chapter 10 (General Provisions) as contained in Land Use Order No 1478, Chapter 60 (Special Regulations) as contained in Land Use Order No 1479, Chapter 90 (Definitions) as contained in Land Use Order No 1480, and Chapter 20 (Land Uses) as contained in Land Use Order 1482, and the amendments to Municipal Code Chapters 2, 5, and 9 as contained in Land Use Order No. 1481; and

WHEREAS, written testimony was received by the City from Mark Holady, Susan Cook, Henry Kane, Jack Franklin, Luanne Alomair, and Catherine Arnold on or before the conclusion of the seven day period on June 24, 2002 to submit additional written testimony for the record; and

WHEREAS, the Council conducted a continued public hearing on APP 2002-0004 on July 8, 2002 at which time the Council considered the additional written testimony and staff responses to questions raised by the Council on the proposed amendments to Chapter 50 (Procedures); and

WHEREAS, after thorough deliberation, the Council concluded to grant the appellant's request in part by directing staff to revise the proposed amendments to Chapter 50 (Procedures) in manner whereby the existing provisions for conducting appeal hearings of Type 3 applications are retained; and

WHEREAS, specific to the comprehensive amendment of Chapter 50 (Procedures) of the Development Code (TA 2001-0002), the Council consents to and adopts as to facts and findings for this ordinance the materials described in Land Use Order 1477 dated March 28, 2002, the Planning Commission record, and the explanatory materials in the memoranda dated May 28, 2002, June 28, 2002, and July 8, 2002, all of which the Council incorporates by their reference herein and finds constitute an adequate factual basis for this ordinance; and

WHEREAS, specific to the amendment of Development Code Chapter 40 (Applications) (TA 2001-0001), Chapter 10 (General Provisions) (TA 2001-0003), Chapter 60 (Special Regulations) (TA 2001-0004), Chapter 90 (Definitions) (TA 2001-0005), and Chapter 20 (Land Uses) (TA 2001-0008) and Municipal Code Chapters 2, 5, and 9, the Council adopts as to facts and findings for this ordinance the materials described in Land Use Order Nos. 1476, 1478, 1479, 1480, 1482, and 1481 respectively dated March 28, 2002, the Planning Commission record, and the explanatory materials in the memorandum dated May 10, 2002, all of which the Council incorporates by their reference herein and finds constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, the Development Code Chapter 10, is amended to read as set out in Appendix "A" to this Ordinance attached to and incorporated herein by this reference.

Section 2. Ordinance No. 2050, the Development Code Chapter 20, is amended to read as set out in Appendix "B" to this Ordinance attached to and incorporated herein by this reference.

Section 3. Ordinance No. 2050, the Development Code Chapter 40, is amended to read as set out in Appendix "C" to this Ordinance attached to and incorporated herein by this reference.

Section 4. Ordinance No. 2050, the Development Code Chapter 50, is amended to read as set out in Appendix "D" to this Ordinance attached to and incorporated herein by this reference.

Section 5. Ordinance No. 2050, the Development Code Chapter 60, is amended to read as set out in Appendix "E" to this Ordinance attached to and incorporated herein by this reference.

Section 6. Ordinance No. 2050, the Development Code Chapter 90, is amended to read as set out in Appendix "F" to this Ordinance attached to and incorporated herein by this reference.

Section 7. Beaverton City Code is amended at Chapter 2, 5, and 9 to read as set out in Appendix "G" to this Ordinance attached to and incorporated herein by this reference.

Section 8. Severance Clause.


The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this 12th day of August, 2002.

Passed by the Council this 19th day of August, 2002.

Approved by the Mayor this 20th day of AUGUST, 2002.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

CHAPTER 10 - GENERAL PROVISIONS

10.05. **Title.** This Code shall be known and may be cited as the "Beaverton Development Code" and shall be referred to herein as "this Code." (ORD 3226; September 1981)

10.10. **Purpose.**

1. This Code has been designed in accordance with the goals, policies, and statements of intent of the Beaverton Comprehensive Plan, the officially enacted Comprehensive Plan for the City of Beaverton and its environs. It is the general purpose of this Code, therefore, to provide one of the principal means for the implementation of the Beaverton Comprehensive Plan.
2. In adopting this Code, the City Council is responding to the development of the City of Beaverton and the issues concerning that development. The Council is anticipating that as future growth and urbanization continues, control will be required to preserve and enhance the amenities necessary to the prosperity and appearance of the community.
3. This Code is designed to regulate the division of land and to classify, designate and regulate the location and use of buildings, structures, and land for residential, commercial, industrial, or other uses in appropriate places, and for said purposes to divide the City of Beaverton into districts of such number, shape, and area as may be deemed best suited to carry out these regulations and provide for their enforcement; to encourage the most appropriate use of lands; to conserve and preserve natural resources; to conserve and stabilize the value of property, to provide adequate open spaces for light and air and prevention of fires; to prevent undue concentrations of population; to facilitate adequate provisions for critical urban services such as fire, water, sewer, streets, and storm drainage systems; to facilitate adequate provision for essential urban services such as police, transit, schools, parks, libraries and other public service requirements; and to promote the public health, safety and general welfare. (ORD 3226; September 1981)

10.10.

4. To further implement the Beaverton Comprehensive Plan, this Code is adopted for the following special purposes:
 - A. To promote coordinated, sound development, taking into consideration the City's natural environment, amenities, views, and the appearance of its buildings and open spaces.
 - B. To achieve a balanced and efficient land use pattern, to protect and enhance real property values, to promote safe and uncongested traffic movement and to avoid uses and development which might be detrimental to the stability and livability of the City.
 - C. To encourage innovations in residential development and renewal so that the demand for housing may be met by a greater variety in the type and design of dwellings and by the conservation and more efficient and attractive use of open space.
 - D. To safeguard and enhance the appearance of the City through advancement of effective land use, architectural design and site planning which reflect improvements in the technology of urban development.
 - E. To provide an orderly, efficient and speedy process of reviewing applications for development activities and to avoid increased development costs borne by citizens and consumers as a result of unnecessary delay.
 - F. To enable interested and affected persons to provide input in the development process.
5. Unless specifically indicated in the Comprehensive Plan, the provisions contained in this Code shall not apply to any application for Comprehensive Plan Amendment. Unless specifically indicated in this Code, the provisions contained in the Comprehensive Plan policies shall not apply to any applications regulated by this Code.

10.15. Compliance.

1. Except as otherwise specifically provided by this Code, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after November 17, 1978, except in conformity with conditions prescribed for each of the zones and general regulations established hereunder. It shall be unlawful for any person to erect, construct, establish, move into, alter, enlarge, or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this Code contrary to the provisions of this Code. Where this Code imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this Code shall control.
2. No yard or other open space provided about any building or on any building lot for the purpose of complying with the provisions of this Code shall be considered as providing a yard or other open space for any other building or any other building lot.
3. Except for the provisions of this Code which regulate signs, special events sponsored by non-profit organizations and public agencies are exempt from the provisions of this Code. Commercial activities not connected with a special event and activities specifically covered by this Code are subject to the provisions of this Code. (ORD 3188; September 1980) Signs for Special Events are subject to regulation under Section 60.60. [ORD 4010; February 1998]
4. No person shall divide land without first complying with the provisions of this Code and the laws of the State of Oregon. (ORD 3226; September 1981)

10.20. Interpretation and Application of Code Language.

1. The terms or words used in this Code shall be interpreted as follows where the context demands; words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; the term "this Code" shall be deemed to include the text of this Code, the accompanying zoning map and all amendments made hereafter to either.

10.20.

2. The Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this Code. The City Council shall have the final authority to interpret all terms, provisions and requirements of this Code. Other persons requesting such an interpretation in writing shall do so in accordance with Section 40.25 (Director's Interpretation).
2. The Code shall be read literally. Regulations are not more or less strict than as stated.
3. Proposals for uses where the code is silent or where the rules of the Code do not provide a basis for concluding that the use is allowed are prohibited.
4. Uses of land not expressly allowed or not incidental to a permitted use are prohibited.
5. Where it is unclear whether or in what manner sections of this Code apply to a given situation, or if terms or sections are ambiguous or vague, the following should be applied as warranted under the circumstances:
 - A. Terms defined in Chapter 90 (Definitions) have specifically stated meanings unless the context clearly requires otherwise.
 - B. Terms not defined in Chapter 90 (Definitions) shall have the meaning set forth in Webster's Third New International Dictionary, 1993, copies of which are available for reference in the Community Development Department and Beaverton City Library.
 - C. This Code shall be interpreted reasonably, reading questioned regulations in relation to other sections such that an interpretation most fully effectuates the intent and purpose of the regulations.
6. This Code shall be interpreted most favorably to provide all necessary authority to carry out its purposes and provisions.

10.25. Classification of Districts. The City is divided into the following zoning districts, each of which shall include a suffix letter designator with its map symbol to indicate its classification:

ZONING DISTRICT	ABBREVIATION
Residential Districts	
Residential-Agricultural	RA
Urban Low Density (10,000)	R10
Urban Standard Density (7,000)	R7
Urban Standard Density (5,000)	R5
Urban Medium Density (4,000)	R4
Urban Medium Density (3,500)	R3.5
Urban Medium Density (2,000)	R2
Urban High Density (1,000)	R1
 Commercial Districts (ORD 3352)	
Convenience Service Center	CV
Office Commercial	OC
Neighborhood Service Center	NS
Community Service	CS
General Commercial	GC
Town Center - Sub Regional	TC-SR
 Industrial Districts	
Campus Industrial	CI
Industrial Park	IP
Light Industrial	LI
 Multiple Use Districts	
Station Area - Multiple Use	SA-MU
Station Area - Medium Density Residential	SA-MDR
Station Community - Multiple Use	SC-MU
Station Community - High Density Residential	SC-HDR
Station Community - Employment	SC-E
Town Center - Multiple Use	TC-MU
Town Center - High Density Residential	TC-HDR
Town Center - Medium Density Residential	TC-MDR
Regional Center - Transit Oriented	RC-TO
Regional Center - Old Town	RC-OT
Regional Center - East	RC-E

[ORD 4005; January 1990] [ORD 4058; August 1999] [ORD 4075; November 1999]

10.30. Zoning Map.

1. The boundaries of the zoning districts established in this Code are indicated on a map entitled "Zoning Map of the City of Beaverton" which shall hereinafter be referred to as the "City zoning map". The City zoning map and all amendments and changes thereto, and all legends, symbols, notations, references and other matters shown thereon, are hereby adopted by reference.
2. Amendments to the City zoning map may be made in accordance with Section 40.97 of this Code. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without change, together with the adopting document, on file in the office of the City Recorder.
3. The Director shall maintain an up-to-date copy of the City zoning map to be revised from time to time so that it accurately portrays changes of zone boundaries. (ORD 3739)

10.35. Interpretation of District Boundaries.

1. When bordering a public right-of-way, all zoning district boundaries shall extend to the centerline of the right-of-way as shown on the Comprehensive Plan.
2. Where due to the scale, lack of detail or illegibility of the City zoning map or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of any district boundary, the exact location of a district boundary line shall be determined by the Director in accordance with the following standards:
 - A. Street Lines. Where district boundaries are indicated as approximately following the centerline of a right-of-way, such lines shall be construed to be such district boundaries.
 - B. Street Vacations. Whenever any public right-of-way is lawfully vacated the lands formerly within such public right-of-way shall be subject to the same zoning regulations as are applicable to the underlying property unless the zoning is changed by separate action.

10.35.2.

- C. Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. If a district boundary divides a lot into two or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of 20 feet or less. If an adjustment of more than 20 feet is required, the change in the district boundary shall be treated as a change of zone.
- D. Water Courses. District boundary lines are intended to follow the center lines of water courses unless such boundary lines are fixed by dimensions shown on the City zoning map.

10.40. **Annexation.**

1. Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.
2. The City may consider the zoning for any area proposed for annexation at the same time as it considers annexation of the area or at a later time. The notice and hearing procedures shall be as set forth in Section 50.45 (Type 3) of this Code. The zoning decision shall not be a final decision for the purposes of judicial review until the date that the question of annexation has received all approvals required by City and State law and has become effective. [ORD 4135; November 2000]
3. [ORD 4135; November 2000] The process for zoning map amendments that are associated with annexations shall be as follows:
 - A. For parcels in which the Washington County - Beaverton Urban Planning Area Agreement (UPAA) identifies a specific City zoning designation and leaves no discretion about which zoning district to assign, the City Council shall adopt the required zoning map amendment without a public hearing pursuant to Section 40.97.15.3 (Non-Discretionary Annexation Related Zone Change) of this Code.

10.40.3.

B. For parcels where the UPAA does not identify a specific City zoning designation and discretion is required, a public hearing shall be held pursuant to Section 40.97.15.4 (Discretionary Annexation Related Zone Change) of this Code. The Planning Commission will conduct the public hearing on the zoning change unless State law requires the City Council to hold a public hearing on the related annexation in which case the zoning map amendment hearing will be conducted concurrently by the City Council and the Planning Commission hearing will not be required. The most similar City zoning designation will be applied as required by the UPAA.

4. Development, uses, or both which have received approval from the former jurisdiction shall continue to be approved and subject to the conditions of approval established by the former jurisdiction, if any. After the effective date of either Annexation Related Zone Change application, any change to any development or uses annexed into the City shall be subject to the City zoning regulations in effect at the time of the proposed change.

10.45. Relationship to Other Regulations and Restrictions. It is not intended by this Code to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Code imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Code shall govern.

10.50. Authorization for Similar Uses. The Director may authorize that a use, not specifically named in the allowed uses, be permitted if the use is of the same general type and is similar to the allowed uses; provided, however, that the Director may not permit a use already allowed in any other zoning district of this Code. Application for such a decision shall be processed as a Director Interpretation, as provided by Section 40.25 of this Code.

10.55. Fees.

1. In order to defray expenses incurred in connection with the processing of applications, preparation of reports, publications of notices, issuance of permits and other matters, the City may charge and collect filing and other fees as established by resolution of the Council. The required fees shall be paid to the City upon filing of an application or at such other time as may be specified in this Code. The City may charge double the usual application fee to those who fail to apply for any permit or other approval required by the City. The failure to submit a required fee with an application or an application for appeal, including return of checks unpaid or other failure of consideration, may preclude the processing of that application or appeal.
2. The Council may reduce or waive required fees upon a showing of just cause to do so. (ORD 3823)
3. If a governmental agency requires removal or relocation of a sign, the fee for any application (Section 40.60) to replace or relocate that sign is waived.

10.60. Burden of Proof.

1. Except as otherwise provided, the applicant shall bear the burden of proof and persuasion that the proposal is in compliance with the applicable provisions of this Code.
2. Failure to comply with applicable procedural provisions of this Code shall invalidate an action only if it prejudices the substantial rights of the person alleging the error. Persons alleging a procedural error shall have the burden of proof and persuasion as to whether the error occurred and whether the error has prejudiced the person's substantial rights.

10.65. Conditions of Approvals.

1. The decision making authority may impose conditions on any Type 1, Type 2, or Type 3 approval. Such conditions shall ensure that the proposal complies with the appropriate approval criteria.
2. In addition to conditions imposed pursuant to Section 10.65.1 above, a condition is valid and enforceable when the applicant has:

10.65.2.

- A. Requested the condition;
 - B. Allow the decision to become final; or
 - C. Taken a substantial step in reliance on the permit that includes the condition.
3. Contract for Conditions. When the approval requires a contract, conditions may be set forth in a contract executed between the City, acting by and through the Mayor and the property owner and any contract purchasers and approved as to form by the City Attorney. If a contract is required, no development permits in connection with approval shall be issued until the properly executed contract is recorded with the Department of Records and Elections of Washington County at the expense of the applicant. The condition, as set forth in the contract and recorded, shall constitute a covenant running with the land in favor of the City of Beaverton and, unless otherwise provided, shall be removed only with the express authorization of the City Council. In return for the granting of the application, the property owner, contract purchasers and their heirs, successors and assigns shall be responsible for performing the conditions set forth therein. Said contract shall contain provisions that it is enforceable against the signing parties, their heirs, successors and assigns by the City by appropriate legal proceedings.
4. Assurance of Compliance with Conditions. A bond, cash deposit, or other security in an amount sufficient to ensure compliance with a condition of approval and accepted by the City may be required from the applicant. Such security shall be posted prior to the issuance of the appropriate construction permit.
5. Challenge to Condition. If the applicant asserts that it cannot legally be required, as a condition of land use approval, to provide property interests or improvements at the level otherwise required by this section, then:
- A. The land use application shall include a "rough proportionality" report, prepared by a qualified civil or traffic engineer, as appropriate, showing:
 - 1. The estimated extent to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;

10.65.5.A.

2. the estimated level of improvements needed to meet the estimated extent of use by persons served by the building or development;
 3. The estimated impact of the building or development on the public infrastructure system of which the improvements will be a part; and
 4. The estimated level of improvements needed to mitigate the estimated impact on the public infrastructure system.
- B. The applicant shall instead be required to provide property interests and improvements that are reasonably related and roughly proportional to what is needed for the safety or convenience of persons served by the building or development plus those additional easements and improvements that are reasonably related and roughly proportional to what is needed to mitigate the impact of the building or development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the property interests and improvements needed for the safety or convenience of persons served by the building or development. The requirements to be imposed under this subsection shall be determined following consideration of the "rough proportionality" report submitted by the applicant and of any other relevant evidence submitted by the City or others for consideration during the application process.
6. Recordation of Conditions. All conditions of approval for a specific proposal shall be recorded in the Deed Records for the specific parcel with the Washington County Department of Assessment and Taxation. The conditions of approval to be recorded may be in the form of a Land Use Order or other City issued document. The City shall conduct the recordation and the applicant shall pay the applicable recording fee.
 7. Failure to Fulfill Previous Conditions. As a condition of approval of an application for a permit the City may require the property owner to fulfill or to give security to fulfill a prior condition of approval of a land use permit for the same property that was imposed by any governmental entity with jurisdiction unless the owner shows that to fulfill that condition would be useless, impractical or impossible in light of the use now proposed for the property in the current application for a permit.

10.65.

8. Modification or Removal of Conditions. Refer to Section 50.95.
9. Revocation. Failure to fulfill any conditions of approval within the time limits provided shall constitute a violation of this Code and the subject approval will be subject to code enforcement proceedings. Enforcement proceedings may include revocation of the subject approval after a hearing by the City Council.

10.70. Enforcement.

1. General. It shall be the duty of the Mayor to enforce the provisions of this Code. The term, "this Code", means not only the provisions expressed herein but also the conditions or terms of any permit, certificate, license or approval granted pursuant to this Code. The Mayor may use the resources of any City department to assist in carrying out the City's responsibilities under this section. (ORD 3226; September 1981)
2. Official Action. All officials, departments and employees of the City vested with authority to issue permits, certificates, licenses, or grant approvals, shall adhere to and require conformance with this Code and shall issue no permit, certificate, license or grant approval for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this Code. Any permit, certificate, license or approval issued or granted in conflict with the provisions of this Code, intentionally or otherwise, shall be void.
3. Maintenance. All improvement(s) constructed pursuant to an approval under this Code shall be maintained in perpetuity by the property owner in compliance with the relevant conditions of approval unless otherwise modified by action of the City.
4. Abatement. Any use which is established, operated, erected, moved, altered, enlarged, painted, or maintained contrary to this Code or to any permit or approval granted under this Code shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such.
5. Injunctive Relief. Upon request of the Mayor, the City Attorney may institute a suit in equity in the Circuit Court of the State of Oregon to enjoin the maintenance of any use, occupation, building or structure or any activity being conducted or proposed to be conducted in violation of any provision of this Code. (ORD 3739)

10.70.

6. Penalties. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any provision of this Code shall be deemed to have committed a Class 1 City infraction, such infraction to be processed in accordance with the procedures set forth in the City Civil Infractions Ordinance.
7. Presumption. The City shall have a rebuttable presumption that a violation of the Code was caused or allowed by the person owning or controlling the property.
8. Cumulative Remedies. The right, remedies, and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies, and penalties available to the City under any other ordinance or law.

10.75. Administrative Rules.

1. The Mayor may promulgate such rules and regulations as he considers necessary to facilitate the administration and interpretation of this Code.
2. A person aggrieved by the application of this Code to an application for any permit or approval allowed under this Code may appeal such a decision pursuant to Sections 50.60 through 50.75 of this Code.
3. A person aggrieved by the application of a rule or regulation concerning the interpretation of this Code shall follow the provision for interpreting this Code found in Section 40.25 (Director's Interpretation).

10.80. Severability. The provisions of this Code are severable. If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Code.

10.85. Repeal. Ordinance Nos. 550, 556, 620, 631, 639, 727, 783, 820, 828, 829, 843, 877, 939, 952, 1025, 1044, 1059, 1086, 1123, 1141, 1193, 1249, 1394, 1427, 1485, 1498, 1499, 1520, 1600, 1660, 1724, 1737, 1743, 1795, 1900, 1913, 1933, 2001, 2063, 3018, 3030, 3032, 3039, 3058 and 3067 are repealed.

10.90. Saving Clause. The repeal of any ordinance listed in Section 10.85 shall not affect or prevent application of remedies or punishment of a person for an act done or committed prior to November 17, 1978 and in violation of any ordinance repealed and listed in Section 10.85.

10.93. Hearings Officer. The City Council may by resolution transfer any or all quasi-judicial powers and duties, including quasi-judicial administrative powers and duties, of the Planning Commission or Board of Design Review as herein provided to a Hearings Officer. Prior to such action, the Commission or Board, as appropriate, shall comment on and recommend to the Council which specific matters should be transferred to the Hearings Officer. (ORD 3216; June 1981)

10.95. Development Review Participants. The following are the primary participants in the planning and development review decision making process in the City of Beaverton. The roles of these participants are outlined in this Section and may be further defined by the City Council through ordinance or resolution.

1. City Council

A. Membership. The City Council is composed of five councilors elected at large to serve a four year term.

B. Responsibility and Authority.

1. The City Council may, by ordinance or resolution, create or continue a Planning Commission or Commissions which shall act as planning and development advisory body(s) to the Council and shall have such other powers and authority as described in this Code or as may be specified by the Council through resolution.

2. The City Council, may, by ordinance or resolution, create subcommittee(s) of the Planning Commission(s) and delegate to such subcommittee(s) such powers and authority deemed necessary by the Council.

3. The City Council shall be the decision making authority on the following applications: Street Vacation, Text Amendment, Quasi-Judicial Zone Change, Legislative Zone Change, Non-Discretionary Annexation Related Zone Change, Discretionary Annexation Related Zone Change, appeals of Director's Interpretation, and appeals of all Planning Commission and Board of Design Review decisions on Type 3 applications.

10.95.1.

- C. Meetings. The City Council shall hold a regular meeting every Monday of each week of each month. However, a meeting need not be held if there are no items submitted for review by the Council or if the designated meeting date falls on a holiday.

2. Planning Commission

A. Membership.

1. There is hereby continued a Planning Commission which shall consist of seven (7) members appointed by the Mayor and confirmed by the City Council for three year terms or until their respective successors are appointed and qualified. Terms of office shall begin on the first day of the calendar year.
2. The Mayor, with approval of the Council, shall appoint one or more alternate members of the Commission. The alternate member having seniority as an alternate shall assume the position of a regular member immediately upon a vacancy in that position and for the remainder of the term of that position. Alternate members shall attend all meetings of the Commission, shall be entitled to all information regularly provided to members of the Commission and shall be subject to removal on the same terms and in the same manner as a regular Commission member.
3. Upon the resignation, permanent disqualification, or removal of any member of the Planning Commission, the Mayor, with Council consent, may appoint the senior most alternate to fill out the remainder of the term. If an alternate is not available, the Mayor, with Council consent, may appoint a successor to fill out the remainder of the term.
4. Planning Commissioners shall serve at the pleasure of the Mayor and may be removed without cause at any time with the consent of the Council as provided in the Beaverton Charter.

10.95.2.A.

5. Members of the Planning Commission shall be residents of the City and are not Council members, officers, or City employees. No more than two members shall be engaged principally in the buying, selling, or developing of real estate. No more than two members shall be engaged in the same occupation.
6. The Mayor, the City Attorney, and such other City personnel as the Council may from time to time designate, shall be entitled to sit with the Commission and take part in its discussions, but they shall not have the right to vote.

B. Responsibility and Authority.

1. The Planning Commission has all powers and duties that are now or may hereafter be granted to or imposed on it by Charter, Code and City ordinances, State law and official policies promulgated by the City Council.
2. The Planning Commission shall act on the behalf of the City on the following applications: Major Adjustment, Major Adjustment - Regional Center and South Tektronix Station Community, Major Modification of a Conditional Use, Conditional Use, Preliminary Planned Unit Development, Final Planned Unit Development, Flexible Setback(s) for a Proposed Land Division, Flexible Setback(s) for a Proposed Annexation, Zero Side or Zero Rear Yard Setback(s) for a Proposed Residential Land Division, Tree Plan Three, Variance, and appeals of some decisions of the Director.
3. The Planning Commission shall act on the behalf of the City where there are multiple complete applications for a single property for which the decision making authority is a combination of either the Director, Design Review Board, or Planning Commission.
4. The Planning Commission shall advise the City Council on Quasi-Judicial Zone Change, Legislative Zone Change, and Discretionary Annexation Related Zone Change application(s).

10.95.2.B.

5. The Director may request that the Planning Commission advise the City Council on Text Amendment application(s).
6. The Planning Commission may appoint a subcommittee(s) of the Planning Commission to act upon such matters as the Planning Commission may delegate or City Council may delegate through ordinance or resolution.

C. Rules and Procedures.

1. The Planning Commission shall hold a regular meeting every Wednesday of each week of each month. However, a meeting need not be held if there are no applications submitted for review by the Commission or if the designated meeting date falls on a holiday.
2. With the exception to continue an agenda item to a future meeting, the Planning Commission may conduct business only when a quorum of the members is present. For purposes of interpreting the provisions of these rules, every member of the Commission who is present shall be counted for the purposes of constituting a quorum, even if the member does not vote on one or more matter before the Commission.
3. The Planning Commission shall, at or before its first meeting in December each year, elect one of its members to serve as Chairman and another to serve as Vice-Chairman which shall be effective as of the following January 1.
4. Actions by the Planning Commission require a majority vote of those present and voting.

10.95.2.C.

5. A tie vote on an action shall constitute a denial of the request. However, if the final vote on an application is a tie, the applicant may request a continuance to a future public hearing. If such continuance is granted, the matter shall be continued to a date, time, and location certain for another vote of the Commission. A member not present at the earlier hearing may participate if the member indicates on the record that he or she has reviewed the record of the earlier hearing. If a tie vote remains after the continued proceeding, the action is deemed denied. If a tie vote of the Planning Commission occurs when the Commission is reviewing an appeal of a Director's decision, the original Director's decision shall stand.

3. Board of Design Review.**A. Membership.**

1. There is hereby continued a Board of Design Review which shall consist of seven (7) members appointed by the Mayor and confirmed by the City Council for three year terms or until their respective successors are appointed and qualified. Terms of office shall begin on the first day of the calendar year.
2. Upon the resignation, permanent disqualification, or removal of any member of the Board of Design Review, the Mayor, with Council consent, may appoint a successor to fill out the remainder of the term.
3. Board of Design Review members shall serve at the pleasure of the Mayor and may be removed without cause at any time with the consent of the Council as provided in the Beaverton Charter.

10.95.3.A.

4. Members of the Board of Design Review shall, when possible, be either property owners, residents, or actively engaged in business or employment in the City. The membership of the Board shall consist of one (1) registered architect, one (1) registered landscape architect, two (2) individuals actively engaged in architecture, landscape architecture, design, engineering or in a construction related industry, or the graphic arts, and three (3) individuals who are qualified by education, training, interest, or experience to serve on the Board.

B. Responsibility and Authority.

1. The Board of Design Review has all powers and duties that are now or may hereafter be granted to or imposed on it by Charter, Code and City ordinances, State law and official policies promulgated by the City Council.
2. The Board of Design Review shall review proposals and make necessary decisions delegated to them by this Code concerning design and aesthetic aspects of proposals. The Board of Design Review shall act on the behalf of the City on the following applications: Major Adjustment, Major Adjustment - Regional Center and South Tektronix Station Community, Design Review Three, Major Alteration of a Landmark, Demolition of a Landmark, New Construction in a Historic District, Tree Plan Three, Variance, and appeals of some decisions of the Director.
3. The Director may request that the Board of Design Review advise the City Council on Text Amendment application(s).
4. The Board of Design Review may appoint a subcommittee(s) of the Board of Design Review to act upon such matters as the Board of Design Review delegates or City Council may delegate through ordinance or resolution.

10.95.3.

C. Rules and Procedures.

1. The Board of Design Review shall hold a regular meeting every Thursday of each week of each month. However, a meeting need not be held if there are no applications submitted for review by the Board or if the designated meeting date falls on a holiday.
2. With the exception to continue an agenda item to a future meeting, the Board of Design Review may conduct business only when a quorum of the members are present. For purposes of interpreting the provisions of these rules, every member of the Board who is present shall be counted for the purposes of constituting a quorum, even if the member does not vote on one or more matter before the Board.
3. The Board of Design Review shall, at its first meeting in January each year, elect one of its members to serve as Chairman and another to serve as Vice-Chairman.
4. Actions by the Board of Design Review require a majority vote of those present and voting.
5. A tie vote on an action shall constitute a denial of the request. If the final vote on the matter is a tie, the applicant may request a continuance. If such continuance is granted, the matter shall be continued to a date, time, and location certain for another vote of the Board. A member not present at the earlier hearing may participate if the member indicates on the record that he or she has reviewed the record made at the earlier hearing. If a tie vote remains after the second hearing, the action is deemed denied. If a tie vote of the Board of Design Review occurs when the Board is reviewing an appeal of a Director's decision, the original Director's decision shall stand.

10.95.

4. Facilities Review Committee.

- A. Membership. There is hereby continued a Facilities Review Committee whose members shall consist of persons with the technical expertise in and responsibility for technical issues including, but not limited to land use, transportation, utilities, police, and fire. The Director shall convene the Facilities Review Committee and the Committee has the power to carry out the duties set forth in this Code. A representative from any unit of local government or public agency with regulation jurisdiction concerning a project shall be entitled to participate as an ex officio member of the Committee in committee meetings, make recommendations on any proposal, or make written comments relevant to the review of a particular proposal.
- B. Powers and Duties. The Facilities Review Committee shall review all Type 2, Type 3, and Type 4 proposals and shall make the necessary recommendations concerning technical aspects of the proposals based upon the technical criteria listed in Section 40.03 of this Code to the Director.
- C. Meetings. The Facilities Review Committee shall hold a regular meeting every Wednesday of each week of each month. However, a meeting need not be held if there are no applications submitted for review by the Committee or if the designated meeting date falls on a holiday.
- D. Committee Recommendations. The conditions recommended by the Facilities Review Committee shall represent a consensus of the Committee. Moreover, the conditions recommended by the Facilities Review Committee are for the purpose of ensuring compliance with the technical criteria listed in Section 40.03 of this Code. The Director, Planning Commission, Board of Design Review, or City Council acting as the decision making authority on an application(s) may change the conditions recommended by the Committee only after requesting and receiving a written report from the Facilities Review Committee detailing the technical aspects concerning the purpose and need for the recommended condition(s).

APPENDIX "B"

Section 1: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.05, is hereby amended to read as follows:

20.05.05. Residential Agricultural - RA District

1. Purpose.

2. District Standards and Uses. Residential Agricultural Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

~~**11. Permitted or conditionally permitted structures over 30 feet in height.**~~

Subsequently listed Conditional Uses will be renumbered to reflect the deletion of Conditional Use number 11.

Section 2: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.10, is hereby amended to read as follows:

20.05.10. Urban Low Density (R10) District

1. Purpose.

2. District Standards and Uses. R10 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

~~12. Permitted or conditionally permitted structures over 30 ft. in height.~~

12. Nursery schools, day or child care facility (ORD 3184; July 1980) (See also Special Use Regulations Section, Uses Requiring Special Regulations - Nursery Schools, Day or Child Care Facilities.

13. Two attached dwellings, only in the Central Beaverton area shown on Map 2 in the Comprehensive Plan (ORD 3236) (See also Special Regulations Section)

14. Cemetery. (See also Section 60.40.25., Uses Requiring Special Regulations, Cemetery, Crematory, Mausoleum, Columbarium.) [ORD 4102; April 2000]

Section 3: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.15, is hereby amended to read as follows:

20.05.15. Urban Standard Density (R7) District

1. Purpose.

2. District Standards and Uses. R7 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

~~12. Permitted or conditionally permitted structures over 30 ft. in height.~~

12. Nursery schools, day or child care facility (ORD 3184; July 1980) (See also Special Regulations Section.)

13. Two attached dwellings, only in the Central Beaverton area shown on Map 2 in the Comprehensive Plan (ORD 3236)

14. Cemetery. (See also Section 60.40.25., Uses Requiring Special Regulations, Cemetery, Crematory, Mausoleum, Columbarium.) [ORD 4102; April 2000]

Section 4: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.20, is hereby amended to read as follows:

20.05.20. Urban Standard Density (R5) District

1. Purpose.

2. District Standards and Uses. R5 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

~~12. Permitted or conditionally permitted structures over 30 ft. in height.~~

12. Nursery schools, day or child care facility (ORD 3184; July 1980) (See also Special Regulations Section, Uses Requiring Special regulation - Nursery Schools, Day or Child Care Facilities.)

13. Two attached dwellings, only in the Central Beaverton area shown on Map 2 in the Comprehensive Plan (ORD 3236)

14. Cemetery. (See also Section 60.40.25., Uses Requiring Special Regulations, Cemetery, Crematory, Mausoleum, Columbarium.) [ORD 4102; April 2000]

Section 5: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.25, is hereby amended to read as follows:

20.05.25. Urban Medium Density (R4) District [ORD 4047; May 1999]

1. **Purpose.** The purpose of this zone is to allow up to one principal and one accessory dwelling per lot of record as permitted uses. In addition, two attached dwellings may be allowed per lot of record subject to a Conditional Use. Three or more attached dwellings may be permitted pursuant to Final Planned Unit Development approval. The R4 district establishes medium urban density residential home sites where a minimum land area of 4,000 square feet is available for each principal dwelling unit, and where full urban services are provided.
2. **District Standards and Uses.** R4 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses are permitted:

1. Detached dwelling.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

1. Two attached dwellings.
2. Three or more attached dwellings subject to approval of a Final Planned Unit Development.

~~18. Structures over Maximum Building Height. (See also Special Requirements Chapter Special Use Regulations: Height Regulations.)~~

Subsequently listed Conditional Uses will be renumbered to reflect the deletion of Conditional Use number 18.

Section 6: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.30, is hereby amended to read as follows:

20.05.30. Urban Medium Density (R3.5) District

1. Purpose.

2. District Standards and Uses. R3.5 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling.
2. Two attached dwellings.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

1. Three or more attached dwellings.

~~12. Permitted or conditionally permitted structures over maximum height established by Section 20.05.50.4.A.~~

Subsequently listed Conditional Uses will be renumbered to reflect the deletion of Conditional Use number 12.

Section 7: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.35, is hereby amended to read as follows:

20.05.35. Urban Medium Density (R2) District

1. **Purpose.** The R2 District is intended to establish sites for medium density residential development where a minimum land area of 2,000 square feet is available for each dwelling.
2. **District Standards and Uses.** R2 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and accessory uses are permitted:

1. Detached dwelling.
- ~~2. Two family dwelling.~~
2. Attached dwellings.

Subsequently listed Permitted Uses will be renumbered to reflect the deletion of Permitted Use number 2.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

- ~~11. Permitted or conditionally permitted structures over maximum height established by Section 20.05.50.4.A.~~

Subsequently listed Conditional Uses will be renumbered to reflect the deletion of Conditional Use number 11.

Section 8: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.40, is hereby amended to read as follows:

20.05.40. Urban High Density (R1) District

1. **Purpose.** The R1 District is intended to establish sites for high density residential developments where a minimum land area of 1,000 square feet is available for each dwelling. [ORD 3918, February 1995]
2. **District Standards and Uses.** R1 districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Detached dwelling.
- ~~2. Two family dwelling.~~
2. Attached dwellings.

Subsequently listed Permitted Uses will be renumbered to reflect the deletion of Permitted Use number 2.

B. Conditional Uses: (Subject to Section 40.15)

The following uses and their accessory uses may be permitted subject to the approval of a Conditional Use (CU):

- ~~10. Permitted or conditionally permitted structures over maximum height established by Section 20.05.50.4.A.~~

Subsequently listed Conditional Uses will be renumbered to reflect the deletion of Conditional Use number 10.

Section 9: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.50, is hereby amended to read as follows:

20.05.50. Site Development Requirements.

1. Minimum Land Area Per Dwelling Unit:

A. Detached Residential Zoning Districts

- RA 5 acres
- R10 10,000 square feet
- R7 7,000 square feet
- R5 5,000 square feet
- R4 4,000 square feet [ORD 4047; May 1999]

B. Attached Residential Zoning Districts

- R3.5 3,500 square feet [ORD 4107; May 2000]
- R2 2,000 square feet [ORD 4107; May 2000]
- R1 1,000 square feet [ORD 4107; May 2000]

2. Minimum Lot Dimensions:

(in feet)

	<u>RA</u>	<u>R10</u>	<u>R7</u>	<u>R5</u>	<u>R4</u>	<u>R3.5</u>	<u>R2</u>	<u>R1</u>
A. Width								
1. Corner Lots	300	90	75	0	40	75	75	110
	[ORD 4047; May 1999]							
2. Interior Lots	300	80	70	0	40	70	70	110
	[ORD 4047; May 1999]							
3.	R5 lots that abut property zoned R7 shall have a minimum width of 70 feet. (ORD 3335, ORD 3739) [ORD 4112; June 2000]							
4.	Lot width, in the R4 district, at the street on a cul-de-sac or hammerhead street terminus, or for a flag lot shall be a minimum of 20 feet. [ORD 4047; May 1999]							
5.	Notwithstanding Section 60.60.40.1., a 24 foot lot width is the minimum required for attached dwellings in the R4 district. [ORD 4047; May 1999]							

6. Notwithstanding Section 60.60.40.1., an 18 foot lot width is the minimum required for attached dwellings in the R2 and R1 zoning districts. [ORD 4112; June 2000]

B. Depth: as specified, provided however that no lot depth shall be more than 2 1/2 times the lot width.

	<u>RA</u>	<u>R10</u>	<u>R7</u>	<u>R5</u>	<u>R4</u>	<u>R3.5</u>	<u>R2</u>	<u>R1</u>
1. Corner Lots [ORD 4047; May 1999]	0	110	90	0	80	100	100	100
2. Interior Lots [ORD 4047; May 1999]	0	120	100	0	80	100	100	100

3. Minimum Yard Setbacks:
(in feet)

Minimum yard setback in feet for all dwellings constructed after (*fill in effective date of ORD 2050*); dwellings in existence on (*fill in effective date of ORD 2050*) which do not meet the following setback requirements shall be exempt from the requirements and may be reconstructed, remodeled, or additions made thereto, providing setback regulations in force and effect on (*fill in effective date of ORD 2050*) are followed and no further encroachment into the setback area required by those regulations takes place. (ORD 3293; November, 1982)

For the purposes of this section, garage setbacks shall be measured from the elevation containing the garage door to the property line. For all other garage elevations, the building setback applies. [ORD 4038; March 1999]

R4 lots that abut property zoned R5, R7, R10, or RA shall provide the abutting district setbacks for any setback, which abuts that district. [ORD 4047; May 1999]

	<u>RA</u>	<u>R10</u>	<u>R7</u>	<u>R5</u>	<u>R4</u>	<u>R3.5</u>	<u>R2</u>	<u>R1</u>
A. Front								

- | | | | | | | | | | |
|----|--|----|----|----|----|----|----|----|----|
| 1. | Dwelling or building
[ORD 4038; March 1999]
[ORD 4047; May 1999] [ORD 4112; June 2000] | 50 | 25 | 20 | 20 | 10 | 10 | 10 | 10 |
| 2. | Garage (ORD 3249;
May 1982) [ORD 4047;
May 1999] [ORD 4112; June 2000] | 50 | 25 | 20 | 20 | 20 | 20 | 20 | 20 |

- | B. Side | | <u>RA</u> | <u>R10</u> | <u>R7</u> | <u>R5</u> | <u>R4</u> | <u>R3.5</u> | <u>R2</u> | <u>R1</u> |
|---------|--|-----------|------------|-----------|-----------|-------------|-------------|-----------|-----------|
| 1. | One side of dwelling
or building [ORD 4038;
March 1999] [ORD 4047; May 1999] | 20 | 9 | 5 | 5 | 0*
or 5 | 9 | 10 | 10 |
| 2. | Opposite side of
dwelling or building
(ORD 3114; April 1979) [ORD 4038; March 1999] [ORD 4047; May 1999] | 20 | 5 | 5 | 5 | 10*
or 5 | 5 | 10 | 10 |
| 3. | Garage
[ORD 4038; March 1999]
[ORD 4107; May 2000] | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |

* To qualify for a 0 or 10 foot side yard setback, all dwellings must be detached and meet the requirements of Section 40.25.15.4.C. To qualify for a 0 or 10 foot side yard setback with attached dwellings, the proposal must meet the requirements of Section 40.25.15.3.C and the requirements of Section 40.15 (Conditional Use). [ORD 4047; May 1999]

- | C. Rear | | <u>RA</u> | <u>R10</u> | <u>R7</u> | <u>R5</u> | <u>R4</u> | <u>R3.5</u> | <u>R2</u> | <u>R1</u> |
|---------|----------------------|-----------|------------|-----------|-----------|-----------|-------------|-----------|-----------|
| 1. | Dwelling or building | 100 | 25 | 25 | 25 | 15 | 15 | 15 | 15 |

[ORD 4038; March 1999]
 [ORD 4047; May 1999] [ORD 4107; May 2000]

- | | | | | | | | | | |
|----|---|-----|-----|-----|-----|-----|----|----|----|
| 2. | Garage | 20 | 5 | 5 | 5 | 10* | 5 | 10 | 10 |
| | [ORD 4038; March 1999]
[ORD 4047; May 1999] [ORD 4107; May 2000] | | | | | | | | |
| 3. | Garage with door
elevation facing alley* | n/a | n/a | n/a | n/a | 24 | 24 | 24 | 24 |
| | [ORD 4107; May 2000] | | | | | | | | |

* If alley present, setback measured from garage door elevation to opposite side of the alley right of way or access easement line. [ORD 4047; May 1999] [ORD 4107; May 2000]

D. Reductions to setback standards:

1. Dwellings constructed in the RA, R10, R7, R5, and R4 residential districts may be eligible for the following reduced setbacks, subject to approval of an application(s) for Flexible Setbacks (See Section 40.25). (ORD 3249; May 1982) [ORD 4038; March 1999] [ORD 4107; May 2000]

a.	Front	<u>RA</u>	<u>R10</u>	<u>R7</u>	<u>R5</u>	<u>R4</u>
	1) Dwelling or building	10	10	10	10	10
	2) Garage	20	20	20	20	20
b.	Side					
	1) Dwelling or building	5	5	5	5	5
	2) Garage	20	20	20	20	20
c.	Rear					
	1) Dwelling or building	5	5	5	5	5
	2) Garage	20	20	20	20	20
	3) Garage with door elevation facing alley*	24	24	24	24	24
	(*If alley present, measured from garage door elevation to opposite side of the alley right-of-way or access easement line.) [ORD 4107; May 2000]					

2. [ORD 4038; March 1999] Dwellings constructed in the R3.5, R2, and R1 residential districts may be eligible for the following reduced setbacks, subject to application for Flexible Setbacks (See Section 40.20).

a. Side*	<u>R3.5</u>	<u>R2</u>	<u>R1</u>
1) First Story	5	5	5
2) Second Story	7	7	7

* Side yards shall not be reduced adjacent to any lower density district.

E. Minimum spacing in feet between buildings on the same parcel or in the same development shall be 8 feet. [ORD 4047; May 1999]

F. Carports shall meet the same yard setbacks as the dwelling. (ORD 3739)

4. Maximum Building Height:
(in feet)

	<u>RA</u>	<u>R10</u>	<u>R7</u>	<u>R5</u>	<u>R4</u>	<u>R3.5</u>	<u>R2</u>	<u>R1</u>
A. Maximum Height without an Adjustment or Variance, except as provided in subsection B. below. (ORD 3587; Jan. 1988) [ORD 4047; May 1999]	30	30	30	30	40	30	35	60

The method of measuring building height for structures built under this section is set out in Chapter 90, Definitions.

B. Maximum building height in feet without an Adjustment or Variance for buildings constructed on lots platted and/or annexed after January 1, 1988 that do not abut existing developed residential lots on two or more sides. (ORD 3587)	<u>R-7</u>	<u>R-5</u>
	35	35

The method of measuring building height for structures built under this section is set out in Chapter 90, Definitions.

5. Open Space Requirements:

The total amount of the required open space, common recreation area, or both shall be within the parent parcel of the proposed development. The minimum common open space, common recreation area, or both is as follows:

	<u>R2</u>	<u>R1</u>
A. Square feet per dwelling unit [ORD 4047; May 1999] [ORD 4112; June 2000]	600	300

Section 10: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, is hereby amended to add the following, Section 20.05.55.

20.05.55. Supplemental Development Requirements

In addition to the site development requirements listed in Section 20.05.50, development in residential zoning districts shall be subject to the following supplemental development requirements:

1. Design Features:

All detached dwellings shall utilize at least two of the following design features (ORD 3899) [ORD 4047; May 1999]:

- | | |
|--------------------------|---|
| A. dormers | K. off-sets on building face or roof (minimum 12) |
| B. recessed entries | L. a roof with a pitch greater than nominal 8:12 |
| C. cupolas | M. covered porch or entry with pillars or posts |
| D. bay or bow windows | N. garage set at least 10 feet behind the front face of the primary dwelling unit |
| E. tile or shake roof | |
| F. gables | |
| G. attached garage | |
| H. window shutters | |
| I. horizontal lap siding | |
| J. eaves (minimum 6) | |

2. Landscaping:

- A. Required for front yard areas except for driveways or walkways in all R3.5, R2 and R1 Districts.
- B. Required open space and recreation areas except for paved or surfaced recreation space in all R2 and R1 Districts.

3. Extension of Facilities. [ORD 4061; September 1999] To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property. Extension of streets shall conform to the requirements of Section 60.55 Transportation Facilities. Facilities

required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.

Section 11: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.60., is hereby deleted.

Section 12: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.70., is hereby deleted.

Section 13: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.05.80., is hereby renumbered and amended as follows:

20.05.60 Required Minimum Residential Density [ORD 4046; May 1999]

New residential development in the RA, R10, R7, R5, R4, R3.5, R2, and R1 zoning districts must achieve at least the minimum density for the zoning district in which they are located. Projects proposed at less than the minimum density must demonstrate on a site plan or other means, how, in all aspects, future intensification of the site to the minimum density or greater can be achieved without an adjustment or variance. [ORD 4071; October 1999] If meeting the minimum density will require the submission and approval of an adjustment or variance application(s) above and beyond application(s) for adding new primary dwellings or land division of property, meeting minimum density shall not be required. [ORD 4111; June 2000]

For the purposes of this section, new residential development shall mean intensification of the site by adding new primary dwelling(s) or land division of the property. New residential development is not intended to refer to additions to existing structures, rehabilitation, renovation, remodeling, or other building modifications or reconstruction of existing structures. Minimum residential density is calculated as follows:

1. Refer to the definition of Acreage, Net. Multiply the net acreage by 0.80.
2. Divide the resulting number in step 1 by the minimum land area required per dwelling for the applicable zoning district to determine the minimum number of dwellings that must be built on the site.
3. If the resulting number in step 2 is not a whole number, the number is rounded to the nearest whole number as follows: If the decimal is equal to or greater than 0.5, then the number is rounded up to the nearest whole number. If the decimal is less than 0.5, then the number is rounded down to the nearest whole number.

Section 14: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.05., is hereby amended to read as follows:

20.10.05. Community Service Districts: CS

1. Purpose.

2. District Standards and Uses. CS Districts and uses shall comply with the following:

A. Permitted Uses:

5. Detached dwellings.

6. Attached dwellings.

Subsequently listed Permitted Uses will be renumbered to reflect the addition of Permitted Use number 6.

Section 15: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.15., is hereby amended to read as follows:

20.10.15. General Commercial Districts: GC

1. **Purpose.** The General Commercial or GC District is intended to provide an area for businesses that require extensive outdoor storage and/or display of merchandise, equipment or inventory.

2. **District Standards and Uses.** GC Districts and uses shall comply with the following:

A. Permitted Uses:

5. Detached dwellings.
6. Attached dwellings.
7. Eating or drinking establishments.
8. Temporary living quarters.
9. Financial institutions.
10. Automotive services, Minor.
11. Residential Care Facilities. [ORD 4036; March 1999]
12. Accessory Dwelling Units (See also Special Use Regulations Section, Accessory Dwelling Units, 60.40.03). [ORD 4048; June 1999]
13. Vehicle Sales, Lease or Rental. [ORD 4071; October 1999]

Section 16: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.25., is hereby amended to read as follows:

20.10.25. Office Commercial Districts: OC

1. **Purpose.** The Office Commercial or OC District is intended for a mixing of professional offices and other compatible commercial purposes with medium and high density residential uses.

2. **District Standards and Uses.** OC Districts and uses shall comply with the following:

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

1. Office uses engaged in providing services to the general public: e.g., medical, real estate, insurance; and similar services as approved by the Planning Director. When an interpretation is discretionary, notice shall be provided in accordance with Section 50.30.2.A. (ORD 3739)
2. Detached or attached dwellings, provided, however, that only 50% of the contiguous area within any office commercial zone may be developed residentially. (ORD 3688)

Section 17: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.30., is hereby amended to read as follows:

20.10.30 Town Center - Sub Regional District: TC-SR [ORD 4023; September 1998]

1. **Purpose.** The Town Center or TC-SR District is intended to allow the Town Centers to develop into a multiple use employment and service centers for the suburban southwest market area of the Portland Metropolitan area.

A. Permitted Uses:

Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted.

5. Detached dwellings.

6. Attached dwellings.

Subsequently listed Permitted Uses will be renumbered to reflect the addition of Permitted Use number 6.

Section 18: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.50., is hereby amended to read as follows:

20.10.50. Site Development Requirements.

	[ORD 4075; November 1999]	<u>NS</u>	<u>GC</u>	<u>CS</u>	<u>TC-SR</u>	<u>OC</u>	<u>OC</u>
1. Minimum Lot Area: (in Square Feet)		7,000	7,000	7,000	None	7,000	7,000
2. Minimum Lot Dimensions: (in feet)							
A. Width		70	70	70	None	70	70
B. Depth		100	100	100	None	100	100
3. Minimum Yard Setbacks: (in feet)							
A. Front		20	20	20	None	20	20
B. Side							
1. Interior		10	10	10	None	10	10
2. Corner Lot		20	20	20	None	20	20
C. Rear (only if next to a residential zone)		20	20	20	None	20	20
D. Reduction to setback standards. Under conditions outlined in Section 40.15, applications may be made for zero side yard setbacks. (ORD 3494)							
4. Maximum Building Height: (in feet)							

	[ORD 4075; November 1999]	<u>NS</u>	<u>GC</u>	<u>CS</u>	<u>TC-SR</u>	<u>OC</u>	<u>OC</u>
A.	Maximum Height [ORD 4075; November 1999]	25	35	35	60	30	30
5.	Maximum Lot Coverage: (in percentage) [ORD 4107; May 2000]				<u>TC-SR</u> 100		

Section 19: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, is hereby amended to add the following, Section 20.10.55.

20.10.55. Supplemental Development Requirements

In addition to the site development requirements listed in Section 20.10.50, development in commercial zoning districts shall be subject to the following supplemental development requirements:

1. **Landscaping:** Not less than 15% of the total lot area shall be landscaped.
2. **Extension of Facilities.** [ORD 4061, September 1999] To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property. Extension of streets shall conform to the requirements of Section 60.55 Transportation Facilities. Facilities required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.
3. **Open Air Display:** Where permitted, open air sales/display/storage of merchandise shall be setback at least 20 feet from the front property line. The area shall be designated and subject to Board of Design Review approval.

Section 20: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.60., is hereby deleted.

Section 21: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.70., is hereby deleted.

Section 22: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.10.80., is hereby renumbered and amended as follows:

20.10.60 Required Minimum Residential Density [ORD 4046; May 1999]

New residential development in the CS, GC, OC, TC and TC-SR zoning districts must comply with the minimum density as calculated below. Attached dwellings must calculate minimum density using 1,000 square feet as the minimum land area per dwelling in step 2 below. Detached dwellings must calculate minimum density using 4,000 square feet as the minimum land area per dwelling unit in step 2 below. Projects proposed at less than the minimum density must demonstrate on a site plan or other means how, in all aspects, future intensification of the site to the minimum density or greater can be achieved without an adjustment or variance. [ORD 4071; October 1999] If meeting the minimum density will require the submission and approval of an adjustment or variance application(s) above and beyond application(s) for adding new primary dwelling units or land division of property, meeting minimum density shall not be required. [ORD 4111; June 2000]

For the purposes of this section, new residential development shall mean intensification of the site by adding new primary dwelling(s) or land division of the property. New residential development is not intended to refer to additions to existing structures, rehabilitation, renovation, remodeling, or other building modifications or reconstruction of existing structures.

Minimum residential density is calculated as follows:

1. Refer to the definition of Acreage, Net. Multiply the net acreage by 0.80.
2. Divide the resulting number in step 1 by the minimum land area required per dwelling for the applicable zoning district to determine the minimum number of dwellings that must be built on the site.
3. If the resulting number in step 2 is not a whole number, the number is rounded to the nearest whole number as follows: If the decimal is equal to or greater than 0.5, then the number is rounded up to the nearest whole number. If the decimal is less than 0.5, then the number is rounded down to the nearest whole number.

Section 23: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.15.50., is hereby amended to read as follows:

20.15.50. Site Development Requirements.

	<u>CI</u>	<u>LI</u>	<u>IP</u>
1. Minimum Lot Area: (in Square Feet)	None	None	None
2. Minimum Lot Dimensions: (in feet)			
A. Width	None	None	None
B. Depth	None	None	None
3. Minimum Yard Setbacks: (in feet)			
A. Front	35	35	35
B. Side	10	10	10
C. Rear	None	None	None
D. Reduction to setback standards. Under the thresholds outlined in Section 40.20.5, application may be made for zero side yard setbacks. (ORD 3494)			
E. Any yard abutting residentially developed property or developable property in a residential zone shall have a minimum setback of 75 feet (ORD 3549)			
F. No side or rear yard setbacks required where side or rear property lines abut a railroad right-of-way or spur track.			
4. Maximum Building Height: (in feet)			
A. Maximum building height except as provided by Section 60.40.10 of this ordinance	<u>CI</u>	<u>LI</u>	<u>IP</u>
	45	45	45

- 5. **Maximum Lot Coverage:** 60% 60% 60%
- 6. **Public parks:** Public parks, parkways, recreation facilities, trails and related facilities are exempt from these site development requirements.

Section 24: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, is hereby amended to add the following, Section 20.15.55.

20.15.55. Supplemental Development Requirements

In addition to the site development requirements listed in Section 20.15.50, development in industrial zoning districts shall be subject to the following supplemental development requirements:

- 1. **Off Street Parking and Loading.** In addition to the provisions of Section 60.25 (Off-Street Loading) and Section 60.30 (Off-Street Parking), the following shall apply to all development in industrial zoning districts.
 - A. No parking shall be allowed within the first 20 feet of the front yard setback. Parking shall be permitted within side or rear yard setbacks; provided, however, when the side and/or rear yards abut a residentially developed property or developable property in a residential zoning district there shall be no parking within the first 20 feet of the setback. (ORD 3549)
 - B. In addition to the requirements of Section 60.25.25, off-street loading shall not be permitted within side or rear yard setbacks abutting a residentially developed property or developable property in a residential zoning district or within front yard setbacks abutting any residentially developed property or developable property in a residential zoning district unless the setback is increased to 75 feet and the first 20 feet from the property line is landscaped or screened. (ORD 3549)
- 2. **Landscaping:**
 - A. Not less than 15% of the total lot area shall be landscaped.
 - B. Fences, walls and hedges: Fencing shall be allowed inside a boundary planting screen.

3. **Extension of Facilities.** [ORD 4061, September 1999] To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property. Extension of streets shall conform to the requirements of Section 60.55 Transportation Facilities. Facilities required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.
4. **Adjacent Residential Zoning District(s).** No service roads, spur trackage, hardstands, outside storage areas, etc. shall be permitted within required yards adjacent to residential zoning district(s).
5. **Required Conditions.** The following is required for development within the Campus Industrial, Industrial Park and Light Industrial zoning districts:
 - A. All business, service, repair, processing, storage or merchandise display shall be conducted wholly within an enclosed building unless screened by a sight-obscuring fence or wall.
 - B. Motor vehicle, boat, or trailer storage lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscaped areas.
 - C. All materials, including wastes, shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create health or fire hazards. All areas for storage of waste shall be fully screened.

Section 25: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.15.60., is hereby amended to read as follows:

20.15.60 Development Control Areas

1. There shall be established five (5) development control areas in which the area use limitations established in Sections 20.15.05.2.A.5 through

7, Section 20.15.05.2.B.3, and Section 20.15.15.2.B.7 shall apply. These development control areas are: [ORD 4107; May 2000]

- A. Area 1 is that area lying north of Tualatin Valley Highway, west of Hocken Avenue, south of Jenkins Road, and east of the Bonneville Power Administration Powerline and Millikan Boulevard. [ORD 4107; May 2000]
 - B. Area 2 is that area lying north of Scholls Ferry Road, west of Highway 217, south of Fifth Street, and east of Alger Street, King Boulevard, and Fanno Creek. [ORD 4107; May 2000]
 - C. Area 3 is that area lying north of Denney Road, west of Scholls Ferry Road, Arrowwood Lane, and Jamieson Road, south of Beaverton Hillsdale Highway, and east of Highway 217. (ORD 3494) [ORD 4107; May 2000]
 - D. Area 4 is that area lying north of Walker Road, west of Murray Boulevard, south of Cornell Road and Highway 26, east of 173rd Avenue. (ORD 3494) [ORD 4107; May 2000]
 - E. Area 5 is that area lying north of Baseline Road, the Westside MAX light rail line, Merlo Road, and Jenkins Road, west of Murray Boulevard, south of Walker Road, and east of 185th Avenue and 170th Avenue. (ORD 3739) [ORD 4107; May 2000]
2. Areas not part of the Areas 1, 2, 3, 4, or 5 described above which may be rezoned CI (Campus Industrial) or which may be annexed to the City and zoned CI pursuant to Section 10.40 shall be added to an existing development control area or be established as a new development control area based upon the following criteria: (ORD 3494) (ORD 3739) [ORD 4107; May 2000]
- A. The size of the newly zoned or annexed area in relation to the purpose of the CI zoning district.
 - B. The proximity of the newly zoned or annexed area to existing CI zoning district development control areas.
 - C. The present or proposed use of the area in question.
 - D. The degree of development of existing development control areas.

3. Calculations for uses permitted under Sections 20.15.05.2.A.5 through 7, Section 20.15.05.2.B.3, and Section 20.15.15.2.B.7, shall be based on net acreage and determined as follows:
 - A. For a development proposal(s) within the CI zoning district, all property zoned CI within the Development Control Area shall be included in area calculations.
 - B. For a development proposal(s) within the LI zoning district, all property zoned LI within the Development Control Area shall be included in area calculations.
 - C. An entire lot utilized for a single use shall be debited against a maximum area limitation for that use.
 - D. In cases where a single lot contains a mixture of uses, the area utilized by any one use shall be the proportion the use occupies to the total area of the lot.

Section 26: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.15.70., is hereby deleted.

Section 27: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.15.80.4., is hereby amended to read as follows:

20.15.80. Performance Standards.

4. **Administration and Enforcement.** Prior to the City taking any action on a Type 1, Type 2, or Type 3 application or the issuance of an occupancy permit, information sufficient to determine the degree of compliance with the standards in this subsection shall be furnished by the applicant. Such request may include continuous records of operations, for periodic checks to assure maintenance of standards, or for special surveys.

Section 28: The Development Code, Ordinance No. 2050, Chapter 20 - Land Uses, Section 20.20, is hereby amended to read as follows:

20.20. MULTIPLE USE DISTRICTS. [ORD 3998, December 1997; ORD 4005, January 1998]

1. **Purpose.** Multiple Use Districts are appropriate for the downtown area, town centers, main streets and corridors, as defined in the Metro Urban Growth Management Functional Plan and the Regional Urban Growth Goals and Objectives (RUGGO) with high transit and pedestrian accessibility. Multiple Use Districts are urban neighborhoods containing a variety and intermixing of uses and seeking to complement the established surrounding communities. In order to accomplish these purposes, a variety of land use designations may be applied within the boundaries of Multiple Use Districts. Such land use designations permit commercial, residential, limited industrial and multiple use developments and are distinguished by differences in emphasis on primary uses and intensity of development. These land use designations are designed to work together to result in lively, prosperous neighborhoods that serve as attractive places to live, work, shop, and recreate with less reliance on the automobile than is typical elsewhere in the City.

2. **Multiple Use Areas.** The areas of the City that are designated as multiple use are as follows:
 - A. The South Tektronix Station Community is comprised of properties within the area generally north of Tualatin Valley Highway, west of Hocken, south of SW Millikan Way and east of SW Murray Boulevard as depicted on Map 20.20.60-3.
 - B. The Beaverton Creek Station Community is comprised of properties within the area generally north of SW Millikan Boulevard, west of SW Murray Boulevard and the railroad spur, south of SW Jenkins Road, and east of SW 153rd Drive.
 - C. The Merlo Station Community is comprised of properties within the general vicinity of the intersection of Merlo Road and 158th Avenue.
 - D. The Elmonica Station Community Plan is comprised of properties within the general vicinity of the intersection of Baseline Road and 170th Avenue.

E. The Murray Scholls Town Center is comprised of properties within the general vicinity of the intersection of Murray Boulevard and Scholls Ferry Road as depicted on Map 20.20.60-2.

F. The Downtown Beaverton Regional Center is the area generally north of 5th Street, west of Highway 217, south of Center and Hall Streets, and east of Cedar Hills Road as depicted on Map 20.20.60-1.

3. **Conflicts.** In the event of a conflict between the standards of the Multiple Use Districts and the standards of any other provisions of this Code, the standards of the specific Multiple Use District shall control.

20.20.05. Station Area – Multiple Use Districts (SA-MU)

1. **Purpose.** The zoning district is generally located within one mile of light rail station platforms, and the primary uses permitted in the zoning district include office, retail, and service uses. Also permitted are multiple use developments and residential development at a minimum density of 24 units per acre and a maximum density of 30 units per acre. [ORD 4111; June 2000] Manufacturing and industrial uses are limited. Retail uses larger than 40,000 square feet are not permitted, unless they are a part of a multiple use development.

2. **District Standards and Uses.** Station Area – Multiple Use Districts and uses shall comply with the following:

A. Permitted Uses:

3. Attached Dwellings

4. ~~Dwellings, Two Family~~

Subsequently listed Permitted Uses will be renumbered to reflect the deletion of Permitted Use number 4.

B. Conditional Uses: (Subject to Section 40.15)

- C. Prohibited Uses: The following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Station Community District:

6. Detached Dwellings

20.20.10. Station Area – Medium Density Residential Districts (SA-MDR)

1. **Purpose.** The zoning district is generally located within one mile of light rail station platforms. Areas designated SA-MDR are medium-density residential neighborhoods with a minimum of 24 units per net acre and a maximum density of 30 units per acre. [ORD 4111; June 2000] Secondary uses include commercial uses and neighborhood parks. Small free-standing office uses are allowed within multiple use developments as defined in Chapter 90 of this ordinance, provided they do not exceed more than 50% of the residential floor area provided within the development, and that minimum residential densities are met. Retail uses are only allowed within multiple use developments, provided each individual establishment does not exceed more than 10,000 square feet of floor area, and that minimum residential densities are met.
2. **District Standards and Uses.** Station Community – Medium Density Residential Districts and uses shall comply with the following:

- A. Permitted Uses:

3. Attached Dwellings

4. ~~Dwellings, Two Family~~

Subsequently listed Permitted Uses will be renumbered to reflect the deletion of Permitted Use number 4.

- B. Conditional Uses: (Subject to Section 40.15)

- C. Prohibited Uses: The following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Station Community District:

6. Detached Dwellings

20.20.15. Station Community - Multiple Use: SC-MU

1. **Purpose.** The zoning district is generally located within one-half mile of light rail station platforms, and the primary uses permitted in the zoning district include office, retail, and service uses. Also permitted are multiple use developments and residential development at a minimum density of 24 or 30 units per net acre depending upon proximity to a LRT Station platform. There shall be no maximum residential density. [ORD 4111; June 2000] Manufacturing and industrial uses are limited. Larger buildings are encouraged in these areas, with parking under, behind, or to the sides of buildings. Individual retail uses larger than 10,000 square feet are not permitted, unless they are a part of a multiple use development.
2. **District Standards and Uses.** Station Community - Multiple Use Districts and uses shall comply with the following:

A. Permitted Uses:

3. Three or more Attached Dwellings
4. Detached Dwellings, existing (subject to Use Restriction h) [ORD 4121; August 2000]
5. Two Attached Dwellings, existing (subject to Use Restriction h) [ORD 4121; August 2000]

B. **Conditional Uses:** (Subject to Section 40.15)

- C. Prohibited Uses: The following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Station Community District:

7. Detached Dwellings, new [ORD 4121; August 2000]
8. Two Attached Dwellings, new [ORD 4121; August 2000]

- D. Use Restrictions:

1. Uses which include drive-in, drive-through or drive-up window facilities within the Station Community - Multiple Use Districts are prohibited.
2. Subsections A and B above indicate permitted and conditional uses subject to restrictions. The restrictions are described in this subsection. The letter reference in parenthesis found for each use permitted with restrictions in Subsections A and B refer to the restrictions below.

- h. Replacement of a detached dwelling two attached dwellings is permitted. [ORD 4121; August 2000]

20.20.20. Station Community – High Density Residential: SC-HDR

1. **Purpose.** The zoning district is generally located within one-half mile of light rail station platforms. Areas designated SC-HDR are high density residential neighborhoods with a minimum of 24 or 30 units per net acre depending on proximity to a LRT Station platform. There shall be no maximum residential density. [ORD 4111; June 2000] Secondary uses include commercial uses and parks that are intended to primarily draw from within the Station Community District and not rely upon vehicular traffic. Office uses are allowed within multiple use developments provided they do not exceed 50% of the residential floor area within the development, and minimum residential densities

are met. Retail uses are only allowed within multiple use development, provided each individual retail use does not exceed 10,000 square feet of floor area and minimum residential densities are met.

2. District Standards and Uses. Station Community - High Density Residential Districts and uses shall comply with the following:

A. Permitted Uses:

3. Attached Dwellings

4. Detached Dwellings, existing (subject to Use Restriction h.) [ORD 4121; August 2000]

5. Two Attached Dwellings, existing (subject to Use Restriction h) [ORD 4121; August 2000]

B. Conditional Uses: (Subject to Section 40.15)

C. Prohibited Uses: The following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Station Community District:

7. Detached Dwellings, new [ORD 4121; August 2000]

8. Two Attached Dwellings, new [ORD 4121; August 2000]

D. Use Restrictions:

1. Uses which include drive-in, drive-through or drive-up window facilities within the Station Community - High Density Residential Districts are prohibited.

2. Subsections A and B above indicate permitted and conditional uses subject to restrictions. The restrictions are described in this subsection. The letter reference in parenthesis found for each use permitted with restrictions in Subsections A and B refer to the restrictions below.

- h. Replacement of a detached dwelling or two attached dwellings is permitted. [ORD 4121; August 2000]

20.20.25. Station Community - Employment District: SC-E [ORD 4188; Jan 2002]

2. District Standards and Uses. Station Community – Employment Districts and uses shall comply with the following:

- A. Permitted Uses Sub Areas 1 and 2: Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

3. Detached dwellings, existing

- C. Prohibited Uses Sub Areas 1 and 2: he following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in Station Community - Employment District Sub Areas 1 and 2:

8. Attached dwellings, including manufactured homes, new
9. Detached dwellings, including manufactured homes, new

Subsequently listed Prohibited Uses will be renumbered to reflect the addition of Prohibited Use number 9.

Prohibited Uses Sub Area 3: The following principal, secondary or accessory non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in Station Community - Employment District Sub Area 3:

8. Attached dwellings, including manufactured homes, new
9. Detached dwellings, including manufactured homes, new

Subsequently listed Prohibited Uses will be renumbered to reflect the addition of Prohibited Use number 9.

20.20.25. CORRIDOR AND MAIN STREET DISTRICTS (RESERVED)

20.20.30. Town Center – Multiple Use Districts (TC-MU)

1. **Purpose.** Primary uses permitted include office, retail, and service uses. Also permitted are multiple use developments and residential development at a minimum density of 24 units per net acre. Industrial uses are limited to light manufacturing uses.
2. **District Standards and Uses.** Town Center - Multiple Use Districts and uses shall comply with the following:

- A. Permitted Uses: Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

- 4. Attached Dwellings

- B. Conditional Uses: (Subject to Section 40.15)

- C. Prohibited Uses: The following non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Town Center Multiple Use District:

- 4. Detached Dwellings [ORD 4111; June 2000]

20.20.35. Town Center – High Density Residential Districts (TC-HDR)

- 1. **Purpose.** Areas designated TC-HDR are high-density residential neighborhoods with a minimum of 24 units per net acre. Secondary uses include commercial uses and neighborhood parks. Small free-standing office and limited retail uses are allowed within multiple use developments.

- 2. **District Standards and Uses.** Town Center - High Density Residential Districts and uses shall comply with the following:

- A. Permitted Uses: Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

- 4. Attached Dwellings

B. Conditional Uses: (Subject to Section 40.15)

C. Prohibited Uses: The following non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in any Town Center High Density Residential District:

6. Detached Dwellings [ORD 4111; June 2000]

20.20.40. Town Center – Medium Density Residential Districts (TC-MDR)

1. **Purpose.** Areas designated TC-MDR are medium-density residential neighborhoods with a minimum of 18 units per net acre. Secondary uses include commercial uses and neighborhood parks. Small free-standing office and limited retail uses are allowed within multiple use developments.

2. **District Standards and Uses.** Town Center - Medium Density Residential Districts and uses shall comply with the following:

A. Permitted Uses: Unless otherwise prohibited or subject to a conditional use permit, the following uses and their accessory uses are permitted:

4. Attached Dwellings

5. Detached Dwellings [ORD 4111; June 2000]

~~6. Dwellings, Two Family~~

Subsequently listed Permitted Uses will be renumbered to reflect the deletion of Permitted Use number 6.

20.20.45. Regional Center - Transit Oriented: RC-TO

1. **Purpose.** The intent for the Regional Center - Transit Oriented (RC-TO) District, which is served by light rail, is to promote a transit-supportive multiple-use land use pattern and to create over time a pedestrian-oriented commercial center within approximately 1/4 mile of the light rail stations while supporting existing and future businesses in moving toward and achieving the vision of a Regional Center.
2. **District Standards and Uses.** The Regional Center - Transit Oriented District and uses shall comply with the following:

A. Permitted Uses.

Unless otherwise prohibited or subject to a conditional use permit, the following uses are permitted:

1. Administrative Facilities
2. Automotive Services, Minor (subject to Use Restriction a)
3. Commercial Amusements (subject to Use Restriction b. See also Section 60.40.25.1. and 5.)
4. Commercial Schools
5. Convalescent Facilities
6. Attached Dwellings
7. Detached Dwellings, existing
8. Two Attached Dwellings, existing
9. Eating or Drinking Establishments (subject to Use Restriction g.)
10. Financial Institutions
11. Home Occupations (See also Section 40.35)

12. Manufacturing (subject to Use Restrictions c. and i.)
13. Nursery Schools, Day or Child Care Facilities (see also Section 60.40.25.8.)
14. Offices
15. Places of Worship (subject to Use Restriction c. See also Section 60.40.25.4.)
16. Recreation Facilities (subject to Use Restriction b.)
17. Research Facilities
18. Residential Care Facilities
19. Retail Trade (subject to Use Restrictions d., e., h., and i.)
20. Service (Repair other than auto repair) Businesses (subject to Use Restriction j.)
21. Social Organizations (subject to Use Restriction c.)
22. Temporary Living Quarters (subject to Use Restriction k.)
23. Temporary Uses (See Section 40.80)
24. Utility Transmission Lines (See also Section 60.40.25.11.)
25. Warehousing as an accessory use, not to exceed 25% of the principal use.

B. Conditional Uses: (Subject to Section 40.15)

Unless otherwise prohibited, the following uses may be permitted subject to the approval of a Conditional Use Permit (CUP):

1. Commercial Amusements that exceed a 20,000 square foot building footprint (subject to Use Restriction b. See also Sections 60.40.25.1. and .5.)
2. Educational Institutions (See also Section 60.40.25.9.)
3. Hospitals (See also Section 60.40.25.4)

4. Live/Work Facilities
5. Manufacturing uses that exceed 10,000 square feet in floor area, abut a Major Pedestrian Route, or both. (Subject to use Restrictions c. and i.)
6. Medical Clinics
7. Parking, as the Principal Use
8. Parks
9. Places of Worship (subject to Use Restriction c. See also Section 60.40.25.4.)
10. Planned Unit Developments
11. Public Services
12. Service Stations
13. Social Organizations (subject to Use Restriction c.)
14. Transit Centers
15. Utility Stations or Installations
16. Vehicle Sales, Lease or Rental (subject to Use Restriction f.)
17. Uses which include drive-in, drive-through or drive-up window facilities beyond 500 feet of a light rail station platform.

C. Prohibited Uses:

The following non-transit supportive uses shall not be established as new uses, nor may existing uses or structures be converted to the following uses in the Regional Center - Transit Oriented District:

1. Automotive Services, Major
2. Bulk retail uses

3. Cemeteries
4. Detached Dwellings, new
5. Two Attached Dwellings, new

D. Use Restrictions:

1. Subsections A and B of the Regional Center - Transit Oriented zoning district indicate permitted and conditional uses subject to restrictions. The restrictions are described in this subsection. The letter reference in parenthesis found for each use permitted with restrictions in subsections A and B refer to the restrictions below.
 - a. Service stations shall require the approval of a Conditional Use Permit.
 - b. Except for theaters, a building with a gross ground floor area larger than 20,000 square feet is subject to the approval of a Conditional Use Permit.
 - c. Buildings larger than 10,000 square feet are subject to the approval of a Conditional Use Permit. Regardless of building size, proposed development abutting a Major Pedestrian Route is subject to the approval of a Conditional Use Permit.
 - d. Activity is conducted wholly within an enclosed structure.
 - e. Accessory open air sales or display related to the principal use may be permitted, provided that the outdoor space devoted to these uses does not occupy an area greater than the equivalent of fifteen percent of the building gross floor area.
 - f. All uses established after December 9, 1999 shall be conducted wholly within an enclosed structure. Accessory open air sales or display related to permitted uses in existence on a site at the time this Code is adopted may be expanded on that site.

- g. Accessory outdoor seating related to the primary eating or drinking establishment use may be permitted provided that the outdoor space devoted to this use does not exceed:
 - 1. an area greater than the equivalent of fifteen percent of the dining, drinking, or both floor area; or
 - 2. 750 square feet.

If outdoor dining is to exceed either fifteen percent of the dining, drinking, or both floor area or 750 square feet, the additional area in excess of 750 square feet must provide additional parking at a ratio as provided by the appropriate zoning district.

Eating, drinking, or both establishments may combine accessory outdoor seating areas, provided that the outdoor seating area not exceed the total combined allowed area. Such establishments may combine their outdoor seating provided that the accessory outdoor seating does not exceed thirty percent of the total enclosed dining, drinking, or both, not to exceed 1,500 square feet.

- h. Retail Trade: Permitted uses for building materials, home equipment and improvements, or landscape or nurseries sales shall not occupy more than 15,000 gross square feet of space in an individual building, site or parcel.
- i. Book Binderies shall have a maximum size of 2,000 square feet.
- j. The maximum gross ground floor area for a building involving a single use shall be 10,000 square feet. The maximum square footage for these uses within a multiple use development shall be 25% of the total square footage of the development.
- k. Motel use is a prohibited use.

E. District Requirements.

None identified for this district.

20.20.50. Regional Center - Old Town District: RC-OT

1. **Purpose.** The intent for the Regional Center - Old Town (RC-OT) District, which encompasses the City of Beaverton's original downtown, is to maintain the mix of uses, scale of development, and appearance that are characteristic of this historically significant area while supporting existing and future businesses in moving toward and achieving the vision of a Regional Center.

2. **District Standards and Uses.** The Regional Center - Old Town District and uses shall comply with the following:

A. Permitted Uses

Unless otherwise prohibited or subject to a conditional use permit, the following uses are permitted:

1. Administrative Facilities
2. Automotive Services, Minor
3. Commercial Amusements (subject to Use Restriction a. See also Section 60.40.25.1. and 5.)
4. Commercial Schools
5. Attached Dwellings
6. Detached Dwellings, existing
7. Eating or Drinking Establishments (subject to Use Restriction f.)
8. Home Occupations (See also Section 40.35)
9. Hospitals (See also Section 60.40.25.4.)
10. Manufacturing (subject to Use Restrictions b. and h.)
11. Medical Clinics
12. Nursery Schools, Day or Child Care Facilities (see also Section 60.40.25.8.)

13. Offices
14. Places of Worship (subject to Use Restriction b. See also Section 60.40.25.4.)
15. Recreation Facilities (subject to Use Restriction a.)
16. Research Facilities
17. Retail Trade (subject to Use Restrictions c., d., g., and h.)
18. Service (Repair other than auto repair) Businesses (subject to Use Restriction i.)
19. Service Stations
20. Social Organizations (subject to Use Restriction b.)
21. Temporary Uses (See Section 40.80)
22. Utility Transmission Lines (See also Section 60.40.25.11.)
23. Warehousing as an accessory use, not to exceed 25% of the primary use.

B. Conditional Uses: (Subject to Section 40.15)

Unless otherwise prohibited, the following uses may be permitted subject to the approval of a Conditional Use Permit (CUP):

1. Commercial Amusements that exceed 20,000 square foot building footprint (subject to Use Restriction a. See also Section 60.40.25.1. and 5.)
2. Detached Dwellings, new
3. Educational Institutions (See also Section 60.40.25.9.)
4. Live/Work Facilities
5. Manufacturing uses that exceed 10,000 square feet in floor area, abut a Major Pedestrian Route, or both. (Subject to Use Restrictions b. and h.)

6. Parking, as the Principal Use
7. Parks
8. Places of Worship (subject to Use Restriction b. See also Section 60.40.25.4.)
9. Planned Unit Developments
10. Public Services
11. Residential Care Facilities
12. Social Organizations
13. Storage Yard (subject to Use Restriction j.)
14. Temporary Living Quarters (subject to Use Restriction k.)
15. Transit Centers
16. Utility Stations or Installations
17. Vehicle Sales, Lease or Rental (subject to Use Restriction e.)
18. Uses which include drive-in, drive-through or drive-up window facilities.

C. Prohibited Uses:

D. Use Restrictions:

1. Subsections A and B of the Regional Center - Old Town zoning district indicate permitted and conditional uses subject to restrictions. The restrictions are described in this subsection. The letter reference in parenthesis found for each use permitted with restrictions in subsections A and B refer to the restrictions below.
 - a. Except for theaters, a building with a gross ground floor area larger than 20,000 square feet is subject to the approval of a Conditional Use Permit.

- b. Buildings larger than 10,000 square feet are subject to the approval of a Conditional Use Permit. Regardless of building size, proposed development abutting a Major Pedestrian Route is subject to the approval of a Conditional Use Permit.
- c. Activity is conducted wholly within an enclosed structure.
- d. Accessory open air sales or display related to the principal use may be permitted, provided that the outdoor space devoted to these uses does not occupy an area greater than the equivalent of fifteen percent of the building gross floor area.
- e. All uses established after December 9, 1999 shall be conducted wholly within an enclosed structure. Accessory open air sales or display related to permitted uses in existence on a site at the time this Code is adopted may be expanded on that site.
- f. Accessory outdoor seating related to the primary eating or drinking establishment use may be permitted provided that the outdoor space devoted to this use does not exceed:
 - 1. an area greater than the equivalent of fifteen percent of the dining, drinking, or both floor area; or
 - 2. 750 square feet.

If outdoor dining is to exceed either fifteen percent of the dining, drinking, or both floor area or 750 square feet, the additional area in excess of 750 square feet must provide additional parking at a ratio as provided by the appropriate zoning district.

Eating, drinking, or both establishments may combine accessory outdoor seating areas, provided that the outdoor seating area not exceed the total combined allowed area. Such establishments may

combine their outdoor seating provided that the accessory outdoor seating does not exceed thirty percent of the total enclosed dining, drinking, or both, not to exceed 1,500 square feet.

- g. Retail Trade: Permitted uses for building materials, home equipment and improvements, or landscape or nurseries sales shall not occupy more than 15,000 gross square feet of space in an individual building, site or parcel.
- h. Book Binderies shall have a maximum size of 2,000 square feet.
- i. The maximum gross ground floor area for a building involving a single use shall be 10,000 square feet. The maximum square footage for these uses within a multiple use development shall be 25% of the total square footage of the development.
- j. Only as an accessory use to a permitted or conditionally permitted use.
- k. Motel use is a prohibited use.

E. District Requirements.

None identified for this district

20.20.55. Regional Center - East District: RC-E

- 1. **Purpose.** The intent for the Regional Center - East (RC-E) District, adjoining Highway 217 and located generally more than 1/4 mile from the nearest light rail station, is to support existing and future businesses and accommodate more highly automobile oriented uses and lower intensity uses which are inappropriate in either the Transit Oriented (TO) or Old Town (OT) Districts while still maintaining pedestrian linkages to the transit stations and transit-served land uses.
- 2. **District Standards and Uses.** The Regional Center - East District and uses shall comply with the following:
 - A. Permitted Uses.

Unless otherwise prohibited or subject to a conditional use permit, the following uses are permitted:

1. Administrative Facilities
2. Automotive Services, Minor
3. Commercial Amusements (subject to Use Restriction a. See also Section 60.40.25.1. and 5.)
4. Commercial Schools
5. Attached Dwellings
6. Detached Dwellings, existing
7. Two Attached Dwellings, existing
8. Eating or Drinking Establishments (subject to Use Restriction f.)
9. Financial Institutions
10. Home Occupations (See also Section 40.35)
11. Hospitals (See also Section 60.40.25.4.)
12. Manufacturing (subject to Use Restrictions b. and h.)
13. Medical Clinics
14. Nursery Schools, Day or Child Care Facilities (see also Section 60.40.25.8.)
15. Offices
16. Places of Worship (subject to Use restriction b. See also Section 60.40.25.4.)
17. Recreation Facilities. (Subject to Use Restriction a.)
18. Research Facilities
19. Residential Care Facilities

20. Retail Trade (subject to Use Restrictions c., d., g., and h.)
21. Service (Repair other than auto repair) Businesses (subject to Use Restriction i.)
22. Service Stations
23. Social Organizations (subject to Use Restriction b.)
24. Temporary Uses (See Section 40.80)
25. Utility Transmission Lines (See also Section 60.40.25.11.)
26. Warehousing as an accessory use, not to exceed 25% of the primary use.

B. Conditional Uses: (Subject to Section 40.15)

Unless otherwise prohibited, the following uses may be permitted subject to the approval of a Conditional Use (CU):

1. Automotive Services, Major (subject to Use Restriction c.)
2. Commercial Amusements that exceed a 20,000 square foot building footprint (subject to Use Restriction a. See also Section 60.40.25.1. and 5.)
3. Detached Dwellings, new
4. Two Attached Dwellings, new
5. Educational Institutions (See also Section 60.40.25.9.)
6. Live/Work Facilities
7. Manufacturing uses that exceed 10,000 square feet in floor area, abut a Major Pedestrian Route, or both. (Subject to Use Restriction b. and h.)
8. Parking, as the Principal Use
9. Parks
10. Places of Worship (subject to Use Restriction b. See also Section 60.40.25.4.)

11. Planned Unit Developments
12. Public Services
13. Storage Yards (subject to Use Restriction j.)
14. Temporary Living Quarters (subject to Use Restriction k.)
15. Utility Stations or Installations
16. Vehicle Sales, Lease or Rental (subject to Use Restriction e.)
17. Uses which include drive-in, drive-through or drive-up window facilities

C. Prohibited Uses:

D. Use Restrictions:

1. Subsections A and B of the Regional Center - East zoning district indicate permitted and conditional uses subject to restrictions. The restrictions are described in this subsection. The letter reference in parenthesis found for each use permitted with restrictions in subsections A and B refer to the restrictions below.
 - a. Except for theaters, a building with a gross ground floor area larger than 20,000 square feet is subject to the approval of a Conditional Use Permit.
 - b. Buildings larger than 10,000 square feet are subject to the approval of a Conditional Use Permit. Regardless of building size, proposed development abutting a Major Pedestrian Route is subject to the approval of a Conditional Use Permit.
 - c. Activity is conducted wholly within an enclosed structure.

- d. Accessory open air sales or display related to the principal use may be permitted, provided that the outdoor space devoted to these uses does not occupy an area greater than the equivalent of fifteen percent of the building gross floor area.
- e. All uses established after December 9, 1999 shall be conducted wholly within an enclosed structure. Accessory open air sales or display related to permitted uses in existence on a site at the time this Code is adopted may be expanded on that site.
- f. Accessory outdoor seating related to the primary eating or drinking establishment use may be permitted provided that the outdoor space devoted to this use does not exceed:
 - 1. an area greater than the equivalent of fifteen percent of the dining, drinking, or both floor area; or
 - 2. 750 square feet.

If outdoor dining is to exceed either fifteen percent of the dining, drinking, or both floor area or 750 square feet, the additional area in excess of 750 square feet must provide additional parking at a ratio as provided by the appropriate zoning district.

Eating, drinking, or both establishments may combine accessory outdoor seating areas, provided that the outdoor seating area not exceed the total combined allowed area. Such establishments may combine their outdoor seating provided that the accessory outdoor seating does not exceed thirty percent of the total enclosed dining, drinking, or both, not to exceed 1,500 square feet.

- g. Retail Trade: Permitted uses for building materials, home equipment and improvements, or landscape or nurseries sales shall not occupy more than 15,000 gross square feet of space in an individual building, site or parcel.
- h. Book Binderies shall have a maximum size of 2,000 square feet.

- i. The maximum gross ground floor area for a building involving a single use shall be 10,000 square feet. The maximum square footage for these uses within a multiple use development shall be 25% of the total square footage of the development.
- j. Only as an accessory use to a permitted or conditionally permitted use.
- k. Motel use is a prohibited use.

E. District Requirements.

None identified for this district

20.20.50. Site Development Requirements

A. STATION AREAS

		<u>SA-MU</u>	<u>SA-MDR</u>
1.	Lot Area: (in Square Feet)		
A.	Minimum	none	none
B.	Maximum	none	none
2.	Lot Dimensions: (in feet)		
A.	Minimum	none	none
B.	Maximum	none	none
3.	Yard Setbacks: (in feet)	<u>SA-MU</u>	<u>SA-MDR</u>
A.	Front		
1.	Minimum	0'	0'
2.	Maximum for developments without residential units on the ground floor.	20'	20'

3.	Maximum for developments with residential units on the ground floor.	20'	20'
B. Side			
1.	Minimum	none	none
2.	Maximum	none	none
C. Rear			
1.	Minimum	none	none
2.	Maximum	none	none
D. Reduction to setback standards. Up to twenty (20) feet additional front yard setback is allowed upon a demonstration that not less than 60% of the additional setback area is used to provide enhanced pedestrian amenities such as plazas, courtyards, benches, street furniture or similar useable pedestrian space.			
4. Building Height:			
	(in feet)	<u>SA-MU</u>	<u>SA-MDR</u>
A.	Maximum height without an Adjustment or Variance, except as provided by Section 60.40.10 of this Code.	60'	60'
B.	Maximum height with an Adjustment or Variance, except as provided by Section 60.40.10 of this Code.	no limit specified	no limit specified
5. Floor Area:			
A.	Maximum	Subject to FAR as specified below	
B.	Minimum Floor Area Ratio (FAR) for multiple use or non-residential developments	0.35	0.35
C.	Maximum Floor Area Ratio (FAR) for multiple use or non-residential developments.	0.8	0.6

D. Maximum Floor Area Ratio (FAR) for residential developments not specified not specified

E. Permitted Density (Floor Area Ratio-FAR).

1. General. When a Planned Unit Development is approved, phased development may be proposed, so long as each phase complies with the minimum density or floor area ratio, or both.

2. Method of Calculating Intensity (FAR). Required FAR shall be calculated on a net acre basis, determined as follows: Gross acreage shall be reduced by:

a. Unbuildable land, such as wetlands, protected or regulated natural areas under Section 60.60 (Trees and Vegetation) and 40.75 (Tree Plan), other natural resource areas, drainage areas, or drainage facilities, which is set aside in an unbuildable tract of land or dedicated to the public; and

b. Other lands devoted to public or private streets or street right-of-way.

F. For developments or phases thereof which are partially within and partially beyond the threshold distance of 400 feet of the LRT Station platform, only that portion which is 400 feet or less from the platform shall comply with the higher floor area ratio and density requirements.

G. For developments or phases that involve multiple buildings, the floor area ratio may be averaged by totaling the square footage of the buildings divided by the square footage of the net acreage of land within such development or phase.

H. Separation of buildings is subject to the State Building Code and the Uniform Fire Code.

6. **Extension of Facilities.** [ORD 4061, September 1999] To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property. Extension of streets shall conform to the

requirements of Section 60.55 (Transportation Facilities). Facilities required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.

B. STATION COMMUNITIES [ORD 3998, December 1997] [ORD 4005, January 1998] [ORD 4188; January 2002]

		<u>SC-MU</u>	<u>SC-HDR</u>	<u>SC-E Sub Areas</u>		
				<u>1</u>	<u>2</u>	<u>3</u>
1.	Lot Area: (in Square Feet)					
	A. Minimum	none	none	none	none	none
	B. Maximum	none	none	none	none	none
2.	Lot Dimensions: (in feet)					
	A. Minimum	none	none	none	none	none
	B. Maximum	none	none	none	none	none
3.	Yard Setbacks: (in feet)					
	A. Front					
	1. Minimum	0'	0'	none	none	none
	2. Maximum for developments without residential units on the ground floor.	5' on Major Pedestrian Routes; 10' on all other streets	5' on Major Pedestrian Routes; 10' on all other streets	10'	10'	10'

		<u>SC-MU</u>	<u>SC-HDR</u>	<u>SC-E Sub Areas</u>		
				<u>1</u>	<u>2</u>	<u>3</u>
3.	Maximum for developments with residential units on the ground floor.	20'	20'	N/A	N/A	N/A
B.	Side					
1.	Minimum	none	none	none	none	none
2.	Maximum	none	none	none	none	none
C.	Rear					
1.	Minimum	none	none	none	none	none
2.	Maximum	none	none	none	none	none
D.	Reduction to setback standards. Up to twenty (20) feet additional front yard setback is allowed upon a demonstration that not less than 60% of the additional setback area is used to provide enhanced pedestrian amenities such as plazas, courtyards, benches, street furniture or similar useable pedestrian space.					
E.	Within SC-E sub area 3, if the side or rear yards of a proposed development abut lands which are zoned residential or are zoned with a Multiple Use zoning designation where the applicable Multiple Use zoning designation allows residential development, the setback shall equal the applicable required residential rear yard setback.					
F.	Within the Merlo Station Area Community Plan, no side or rear yard setbacks are required where property lines abut a railroad right-of-way or spur track.					

<u>SC-MU</u>	<u>SC-HDR</u>	<u>SC-E Sub Areas</u>		
		<u>1</u>	<u>2</u>	<u>3</u>

4. **Building Height:**
(in feet)

A. Minimum	none	none	24'	24'	none
B. Maximum height without an Adjustment or Variance, except as provided by Section 60.40.10 of this Code	100' within 400' of the LRT station platform, 60' beyond the 400'	100' within 400' of the LRT station platform, 60' beyond the 400'	100', except that within 100' of residentially zoned property or Multiple Use zoned property where residential is allowed the maximum height shall be equal to the maximum height of the abutting residential zone.	60', except that within 100' of residentially zoned property or Multiple Use zoned property where residential is allowed the maximum height shall be equal to the maximum height of the abutting residential zone.	45', except that within 100' of residentially zoned property or Multiple Use zoned property where residential is allowed the maximum height shall be equal to the maximum height of the abutting residential zone.

	<u>SC-MU</u>	<u>SC-HDR</u>	<u>SC-E Sub Areas</u>		
			<u>1</u>	<u>2</u>	<u>3</u>
5. Floor Area:					
A. Maximum	Subject to FAR as specified below	Subject to FAR as specified below	none	none	none
B. Minimum Floor Area Ratio (FAR) for multiple use or non-residential developments	0.6 within 400' of the LRT Station platform, 0.5 beyond the 400'	0.6 within 400' of the LRT Station platform, 0.5 beyond the 400'	0.5	0.35	none
C. Maximum Floor Area Ratio (FAR) for multiple use or non-residential developments	1.2 within 400' of the LRT Station platform, 1.0 beyond the 400'	1.2 within 400' of the LRT Station platform, 1.0 beyond the 400'	2.0	1.0	0.5
D. Maximum Floor Area Ratio (FAR) for residential developments	1.2 within 400' of the LRT Station platform, 1.0 beyond the 400'	1.2 within 400' of the LRT Station platform, 1.0 beyond the 400'	N/A	N/A	N/A

E. Permitted Density (Floor Area Ratio-FAR).

1. General. When a Planned Unit Development is approved, phased development may be proposed, so long as each phase complies with the minimum density or floor area ratio, or both.
2. Method of Calculating Intensity (FAR). Required FAR shall be calculated on a net acre basis, determined as follows: Gross acreage shall be reduced by:
 - a. Unbuildable land, such as wetlands, protected or regulated natural areas under Section 60.60 (Trees and Vegetation) and 40.75 (Tree Plan), other natural resource areas, drainage areas, or drainage facilities, which is set aside in an unbuildable tract of land or dedicated to the public; and
 - b. Other lands devoted to public or private streets or street right-of-way.

6. **Extension of Facilities.** [ORD 4061, September 1999] To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines through applicant's property to the property line of the adjoining or abutting property. Extension of streets shall conform to the requirements of Section 60.55. Transportation Facilities. Facilities required in accordance with this section shall be consistent with the acknowledged Comprehensive Plan. Where physical or topographic conditions make the extension of a facility or facilities impracticable, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions.

C. **CORRIDOR AND MAIN STREET DISTRICTS (RESERVED)**

D. TOWN CENTER DISTRICTS [ORD 4058, August 1999]

4. Building Height: (in feet)	<u>TC-MU</u>	<u>TC-HDR</u>	<u>TC-MDR</u>
A. Maximum height without an Adjustment or Variance, except as provided by Section 60.40.10 of this Code.	60'	50'	35'
B. Maximum height with an Adjustment or Variance, except as provided by Section 60.40.10 of this Code.	100'	75'	45'
C. Refer to Section 20.20.60.D.3.C for additional height requirements for structures adjacent to Major Pedestrian Routes.			

5. Floor Area:

Floor Area is dependent upon whether residential development is involved or not. Residential only development is governed by minimum and maximum densities. Whereas non-residential only development and multiple use development that includes residential floor space, is governed by minimum and maximum Floor Area Ratios. For Multiple Use development, no maximum limitation shall be placed on the number of dwelling units permitted.

	<u>TC-MU</u>	<u>TC-HDR</u>	<u>TC-MDR</u>
A. Minimum Floor Area Ratio (FAR) for multiple use or non-residential developments.	0.50	0.30	0.25
B. Minimum Floor Area Ratio (FAR) for multiple use or non-residential developments with a Final Planned Unit Development.	0.35	0.20	0.20

Projects that propose to utilize the Final Planned Unit Development process to develop a site at the minimum FAR established in subsection 20.20.50.D.5.b above must demonstrate in the Planned Unit Development plans how, in all aspects of site development requirements, future intensification of the site, to the minimum FAR established in subsection 20.20.50.D.5.a or greater, can be achieved.

	<u>TC-MU</u>	<u>TC-HDR</u>	<u>TC-MDR</u>
C. Maximum Floor Area Ratio (FAR) for multiple use or non-residential developments.	1.00	0.60	0.50
D. Maximum Floor Area Ratio (FAR) for multiple use or non-residential developments with a Final Planned Unit Development.	2.00	1.00	0.75

G. Permitted Density (Dwelling Units/Acre - DU/Ac) and (Floor Area Ratio - FAR).

1. General.

a. When a Final Planned Unit Development is approved, phased development may be proposed, so long as an approved Phasing Plan is submitted as part of a PUD which demonstrates how required densities will be accomplished upon completion of the final phase. This could be accomplished by identifying future building sites, identifying plans for future intensification of existing buildings through the addition of more square footage, or by identifying future redevelopment of parking areas to more intensive land uses. In all cases, the phasing plan should demonstrate that proposed development will not preclude the ability to establish an urban street grid and urban levels of development as the Town Center matures.

- b. Existing Development, which either exists or is the subject of a vested development application as of September 17, 1999, shall not be deemed non-conforming solely on the basis of failure to meet the minimum FAR or residential density requirements. With redevelopment of the site, an approved phasing plan demonstrating how the development will meet the applicable FAR and residential density requirements upon final buildout must be submitted prior to issuance of necessary land use permits.

E. REGIONAL CENTER [ORD 4075; November 1999]

The purpose of the following site development requirements and standards is to support existing and future businesses and development consistent with the intent and purpose of each of the three Regional Center District subareas as set forth in this ordinance [RC-TO: Section 20.20.45; RC-OT: Section 20.20.50; RC-E: Section 20.20.55]

**3. Yard Setbacks:
(in feet)**

G. Alternative Maximum Setback – Large Retail Use.

- 1. Purpose. Retail of at least 100,000 square feet located within the Regional Center district may be developed with an alternative maximum setback in exchange for pedestrian-oriented development. These large retail sites are to be pedestrian-oriented by placing smaller commercial buildings close to adjacent public streets and by creating an internal circulation system that is similar to streets in that they divide the parking area into blocks and provide pedestrian access. The intent is to encourage development that will, over time, form a pedestrian-oriented street along the perimeter of the parking blocks. In order to utilize this option, projects must use the Final Planned Unit Development process.

4. Building Height:
(in feet)

	<u>RC-TO</u>	<u>RC-OT</u>	<u>RC-E</u>
A. Maximum height without an Adjustment or Variance, except as provided under Height Regulations in Section 60.40.10 of this Code.	120'	30'	80'
B. Maximum height with an Adjustment or Variance, except as provided under Height Regulations in Section 60.40.10 of this Code.	200'	60'	200'
C. The height of a stepped or terraced building is the maximum height of any segment of the building.			
D. Refer to Section 20.20.60.E.3.C for additional height requirements for structures adjacent to Major Pedestrian Routes.			

5. Floor Area:

Floor Area is dependent upon whether residential development is involved or not. Residential only development is governed by minimum and maximum densities. Whereas non-residential only development and multiple use development that includes residential floor space, is governed by minimum and maximum Floor Area Ratios. For Multiple Use development, no maximum limitation shall be placed on the number of dwelling units permitted.

	<u>RC-TO</u>	<u>RC-OT</u>	<u>RC-E</u>
A. Minimum Floor Area Ratio (FAR) for multiple use or non-residential developments.	0.60	0.35	0.30

Projects may use the Final Planned Unit Development process to develop a site in phases to achieve the minimum FAR established in this subsection. Such projects must demonstrate

in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

- D. Maximum Floor Area Ratio Unlimited FAR in all RC zones. (FAR) for multiple use or non-residential developments with a Final Planned Unit Development.

- H. Permitted Density (Dwelling Units/Acre-Du/Ac) and (Floor Area Ratio-FAR).
1. General. Except as otherwise approved through the Final Planned Unit Development process, phased development may be proposed, so long as each phase complies with the minimum density or floor area ratio, or both.

- J. Planned Unit Development (PUD) Bonus.

A Floor Area Ratio bonus of 0.2 shall be granted to a project submitted as a Final Planned Unit Development (Development Code Section 40.15.15.5.). To be eligible for the FAR bonus, a project shall:

20.20.60 Supplementary Regulations

A. STATION AREAS

1. Development Standards.

The following supplementary development standards apply to all development within the Station Area Districts.

- A. Streets that form a boundary of a Station Area for which maximum front yard setbacks shall apply are: **(reserved)**
- B. All buildings shall have at least one primary building entrance oriented toward an abutting street, pedestrian way, or if available, a Major Pedestrian Route.
- C. Building entrances shall incorporate elements such as arcades, roofs, porches, alcoves, porticos, awnings, or any combination of the foregoing that protect pedestrians from the rain and wind.
- D. Sidewalks are required on all streets. On Major Pedestrian Routes, sidewalks shall provide an unobstructed path at least eight (8) feet wide. All other sidewalks or pedestrian ways shall provide an unobstructed path at least six (6) feet wide. Larger sidewalk dimensions up to twenty (20) feet are desirable in areas where pedestrian activity will be greatest or where outdoor seating is encouraged, or both.
- E. In residential only developments, a total area equal to at least fifteen (15) percent of site area shall be devoted to outdoor common area(s). This area may include decks, roofs, or balconies, provided such spaces are easily accessible to all residents and landscaped as appropriate for such uses.
- F. In Nonresidential and Multiple Use Developments, a total area equal to at least ten (10) percent of the site area shall be devoted to outdoor common area(s). This area may include public arcades, decks, or roof surfaces, provided such areas are easily accessible to the public (for developments that are open to the general public) or building tenants and landscaped as appropriate for such uses.
- G. Parking lots shall be placed behind buildings or behind a landscaped buffer with a minimum depth of eight (8) feet from adjacent streets or pedestrian ways.
- H. Ground level off-street parking lots abutting a major Pedestrian Route shall be screened from the street and pedestrian areas either by evergreen plant material, or by solid-face walls, fences or berms not exceeding 3 and 1/2 feet in height.

- I. Off-street loading spaces shall be placed behind or to the side of buildings to avoid blocking pedestrian connections. Loading areas shall be visually screened from the street or any pedestrian way by solid walls, or landscaping, or both.
- J. Parking and service areas for nonresidential and multiple use developments shall be screened from adjacent residential areas.
- K. Mechanical equipment shall be screened from view.

2. Specific District Development Approvals.

(Reserved)

3. Development Standards for Major Pedestrian Routes.

The following standards shall apply to all development, or any development phase, located on a site adjoining a designated Major Pedestrian Route. Major pedestrian routes shall be identified for each Multiple Use District established pursuant to this section.

- A. For all buildings in a development, or any development phase, providing reasonably direct access to a Major Pedestrian Route:
 - 1. Secondary entries may face on other streets, off-street parking areas or loading areas.
 - 2. Ground floor residential units fronting on a Major Pedestrian Route shall have separate entries directly from the Major Pedestrian Route. Upper story units may share one or more entries.
 - 3. Nonresidential and multiple use buildings shall provide direct public pedestrian access from the Major Pedestrian Route to all businesses occupying fronting ground level building space. All such entries shall be sheltered with an element such as overhang, awning, or portico with a depth of at least four (4) feet.
 - 4. For Nonresidential and multiple use buildings, at least 50 percent of the surface area of the ground floor elevation facing onto a Major Pedestrian Route, park, plaza or other public outdoor space shall be devoted to windows or doors. Provided that the total combined width of such glazed

areas shall equal or exceed 50 percent of the total ground level width of the related building facade. For purposes of these requirements, the height of the ground floor elevation shall be measured from the interior finished ceiling of the fronting space or fourteen (14) feet above grade, whichever is less. Glazed areas shall provide views into retail, office, or lobby space, pedestrian entrances, or retail display windows.

- B. For development, or any development phase, which is adjacent to a Major Pedestrian Route, non-residential and non-residential multiple use buildings shall be located so that a minimum of 70 percent of the frontage is occupied by one or more buildings lying within five (5) feet of the special setback line as specified in Section 20.20.50.A.3.D. Residential multiple use buildings with housing units at grade along such frontages shall have a maximum setback of twenty (20) feet along such frontages. A Variance to these standards for a parcel with a frontage width of less than 100 feet may be granted when access to required off-street parking must be located on the Major Pedestrian Route.
- C. Off-street parking lots shall be located to the rear of buildings with no portion of the parking lot lying within fifty (50) feet of the right-of-way or easement of the Major Pedestrian Route. Where feasible, ingress and egress to parking shall be provided from side streets or alleys. When access must be provided directly from a Major Pedestrian Route, driveways for ingress and egress shall be limited to one per 150 feet. For lots with frontage of 150 feet or less, or lots abutting lots with a frontage of 150 feet or less, shared access shall be provided. In the event lot dimensions or the presence of multiple Major Pedestrian Route frontages make application of these standards impractical, a Variance may be granted. In such case, a landscape buffer with a depth of at least eight (8) feet shall be provided between the edge of the right-of-way and the parking lot.
- D. Parking structures located on Major Pedestrian Routes shall incorporate one or more uses other than parking at ground level along that portion of the structure fronting onto such routes. A Variance may be granted for either 1) semi-subterranean parking structures, provided that the height of such structures, or portions thereof, is not greater than three and one-half (3 1/2) feet above the elevation of the adjoining walkway or sidewalk

and the structure is architecturally and functionally incorporated into the design of the street, or 2) where lot dimensions or presence of multiple Major Pedestrian Routes make application of this standard impractical.

B. STATION COMMUNITIES

1. Development Standards.

The following supplementary development standards apply to all development within the Station Community Districts.

- A. Streets that form a boundary of a Station Community for which maximum front yard setbacks shall apply are: **(reserved)**

2. Specific District Development Approvals.

~~In addition to the Development Approvals requirements of Section 20.20.2, the following requirements shall apply:~~

3. Development Standards for Major Pedestrian Routes.

- B. For development, or any development phase, which is adjacent to a Major Pedestrian Route, non-residential and non-residential multiple use buildings shall be located so that a minimum of 70 percent of the frontage is occupied by one or more buildings lying within five (5) feet of the special setback line as specified in Section 20.20.50.B.3.D. Residential multiple use buildings with housing units at grade along such frontages shall have a maximum setback of twenty (20) feet along such frontages. A Variance to these standards for a parcel with a frontage width of less than 100 feet may be granted when access to required off-street parking must be located on the Major Pedestrian Route.
- C. Off-street parking lots shall be located to the rear of buildings with no portion of the parking lot lying within fifty (50) feet of the right-of-way or easement of the Major Pedestrian Route. Where feasible, ingress and egress to parking shall be provided

from side streets or alleys. When access must be provided directly from a Major Pedestrian Route, driveways for ingress and egress shall be limited to one per 150 feet. For lots with frontage of 150 feet or less, or lots abutting lots with a frontage of 150 feet or less, shared access shall be provided. In the event lot dimensions or the presence of multiple Major Pedestrian Route frontages make application of these standards impractical, a Variance may be granted. In such case, a landscape buffer with a depth of at least eight (8) feet shall be provided between the edge of the right-of-way and the parking lot.

- D. Parking structures located on Major Pedestrian Routes shall incorporate one or more uses other than parking at ground level along that portion of the structure fronting onto such routes. A Variance may be granted for either 1) semi-subterranean parking structures, provided that the height of such structures, or portions thereof, is not greater than three and one-half (3 1/2) feet above the elevation of the adjoining walkway or sidewalk and the structure is architecturally and functionally incorporated into the design of the street, or 2) where lot dimensions or presence of multiple Major Pedestrian Routes make application of this standard impractical.

4. Phasing of Development Standards.

Projects in the South Tektronix Station Community area may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

C. CORRIDOR AND MAIN STREET DISTRICTS (RESERVED)

D. TOWN CENTER DISTRICTS

- 1. **Development Standards.** The following supplementary development standards apply to all development within the Town Center Districts.

2. **Specific District Development Approvals.** ~~In addition to the Development Approvals requirements of Section 20.20.2, the following requirements shall apply:~~

3. **Development Standards for Major Pedestrian Routes.** The following standards shall apply to all development, or any development phase, located on a site adjoining a designated Major Pedestrian Route. Major pedestrian routes shall be identified for each Multiple Use District established pursuant to this section.

Consistent with the definition of Major Pedestrian Route in Chapter 90, the Major Pedestrian Routes in the Town Center zoning districts are identified in the attached map of Major Pedestrian Routes in the Town Center zoning districts.

- A. Streetscapes for Pedestrians. Development along Major Pedestrian Routes shall be designed to encourage use by pedestrians by providing a safe, comfortable and interesting walking environment. The standards in this section are intended to enhance street safety and pedestrian comfort by providing ground-level features of interest to pedestrians, and by creating an urban streetscape appropriate for a Town Center. Architecture helps define the character and quality of a street and can make a strong statement about the overall city at large. The placement and design of buildings provide the framework for the streetscape and defines the edges of street space.

2. For development, or any development phase, which is adjacent to a Major Pedestrian Route, non-residential and non-residential multiple use buildings shall be located so that a minimum of 70 percent of the frontage is occupied by one or more buildings lying within five (5) feet of the special setback line as specified in Section 20.20.50.D.3.D.

- B. Building Entrances. Provide for safe, convenient, direct and identifiable access for pedestrians between Major Pedestrian Routes and adjacent buildings.

- C. Building Heights The minimum and maximum building height standards are used to establish building scales along Major Pedestrian Routes in order to achieve a pedestrian-friendly character which supports a wide variety of residential and commercial uses in combination. Buildings which are compatible in terms of scale help to create a harmonious visual setting which enhances the livability of a district and helps to bring about the successful mixing of diverse land uses and activities.

3. The maximum heights specified by Sections 20.20.60.D.3.C.1 and 2 can be further adjusted an additional twelve (12) feet in excess of the maximum building height for any portion of a building located above the coping, eave or deck line and beneath a plane extending back from the coping, eave or deckline at an angle of thirty (30) degrees from a horizontal plane equal to the height of the coping, eave or deckline. The point from which the thirty (30) degree angle shall be measured is at the highest permitted elevation at twelve (12) feet from the face of curb.

- D. Parking Areas and Garages Garages and off-street surface parking areas shall be designed to be as unobtrusive and as attractive in appearance, as possible. There shall be low bushes or a low wall or berm at the perimeter of surface parking lots to reduce their visibility from the surrounding area. Barriers around the perimeter of a parking lot shall not be so high, however, that it becomes a safety or security problem. Trees shall be used extensively at the perimeter and in the interior of surface parking lots to break up large parking areas and provide shade. Accessways through surface parking lots shall be clearly identifiable through use of different paving materials, grade separation, or landscaping, well lighted, and as short as practicable.

1. Off-street parking lots shall be located to the rear of buildings. Where feasible, ingress and egress to parking shall be provided from side streets or alleys. When access must be provided directly from a Major Pedestrian Route, driveways for ingress and egress shall be limited to one per 150 feet. For lots with frontage of 150 feet or less, or lots abutting lots with a frontage of 150 feet or less, shared access shall be provided. In the event lot dimensions or the presence of multiple Major Pedestrian Route frontages make application of these standards impractical and notwithstanding the adjustment process, a Variance may be granted.

3. Parking structures located on Major Pedestrian Routes shall incorporate one or more retail or commercial uses other than parking at ground level along that portion of the structure fronting onto such routes. Notwithstanding the adjustment process, a Variance may be granted for either:
 - a. Semi-subterranean parking structures, provided that the height of such structures, or portions thereof, is not greater than three and one-half (3 1/2) feet above the elevation of the adjoining walkway or sidewalk and the structure is architecturally and functionally incorporated into the design of the street, or
 - b. Where lot dimensions or presence of multiple Major Pedestrian Routes make application of this standard impractical.

E. REGIONAL CENTER [ORD 4075; November 1999]

The purpose of the supplementary regulations and standards is to support existing and future businesses and development consistent with the intent and purpose of each of the three Regional Center District subareas as set forth in this ordinance [RC-TO: Section 20.20.45.1; RC-OT: Section 20.20.50.1; RC-E: Section 20.20.55.1]

1. Development Standards.

The following supplementary standards apply to all development within the Regional Center.

2. Specific District Development Approvals.

A. (reserved)

3. Development Standards for Development along Major Pedestrian Routes.

The following standards shall apply to all development, or any development phase, located on a site adjoining a designated Major Pedestrian Route. Major pedestrian routes shall be identified for each Multiple Use District established pursuant to this section.

Consistent with the definition of Major Pedestrian Route in Chapter 90, the Major Pedestrian Routes in the Regional Center zoning districts are identified in the map entitled Regional Center Major Pedestrian Routes, dated 9/30/98, in the Regional Center zoning districts. Major Pedestrian Routes include all existing and future public streets and easements in the Regional Center - Transit Oriented zone, along all existing and future transit routes in the three (3) Regional Center zoning districts, and on both sides of Canyon Road and SW 117th Avenue.

A. Streetscapes for Pedestrians. Development along Major Pedestrian Routes shall be designed to encourage use by pedestrians by providing a safe, comfortable and interesting walking environment. The standards in this section are intended to enhance street safety and pedestrian comfort by providing ground-level features of interest to pedestrians, and by creating an urban streetscape appropriate for a Regional Center.

Architecture helps define the character and quality of a street and can make a strong statement about the overall city at large. The placement and design of buildings provide the framework for the streetscape and defines the edges of street space.

2. For development, or any development phase, which is adjacent to a Major Pedestrian Route, non-residential and non-residential multiple use buildings shall be located so that a minimum of 50 percent of the frontage is occupied by one or more buildings lying within five (5) feet of the special setback line as specified in Section 20.20.50.E.3.D.

B. Building Entrances.

C. Building Heights.

- D. Parking Areas and Garages. Garages and off-street surface parking areas shall be designed to be as unobtrusive and as attractive in appearance, as possible. There shall be low bushes or a low wall or berm at the perimeter of surface parking lots to reduce their visibility from the surrounding area. Barriers around the perimeter of a parking lot shall not be so high, however, that it becomes a safety or security problem. Trees shall be used extensively at the perimeter and in the interior of surface parking lots to break up large parking areas and provide shade. Access ways through surface parking lots shall be clearly identifiable through use of different paving materials, grade separation, or landscaping, well lighted, and as short as practicable.

1. Off-street parking lots shall be located to the rear or side of buildings. Where feasible, ingress and egress to parking shall be provided from side streets or alleys. When access must be provided directly from a Major Pedestrian Route, driveways for ingress and egress shall be limited to one per 75 feet. For lots with frontage of 75 feet or less, or lots abutting lots with a frontage of 75 feet or less, shared access shall be provided. In the event lot dimensions or the presence of multiple Major Pedestrian Route frontages make application of these standards impractical and notwithstanding the adjustment process, a Variance may be granted.

3. Parking structures located on Major Pedestrian Routes shall incorporate one or more uses, excluding parking, at ground level along that portion of the structure fronting onto such routes. Notwithstanding the adjustment process, a Variance may be granted for either:
 - a. Semi-subterranean parking structures, provided that the height of such structures, or portions thereof, is not greater than three and one-half (3 1/2) feet above the elevation of the adjoining walkway or sidewalk and the structure is architecturally and functionally incorporated into the design of the street, or
 - b. Where lot dimensions or the presence of multiple Major Pedestrian Routes make application of this standard impractical.
4. **Phasing of Development Standards.** Projects may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

20.20.70 Method for Calculating Minimum Residential Density [ORD 4046; May 1999] [ORD 4107; May 2000]

New development applications must comply with the minimum and maximum dwelling unit density requirements cited in the table below. Projects proposed at less than the minimum density cited in the following table must demonstrate on a site plan or other means how, in all aspects, future intensification of the site to the minimum density or greater can be achieved without a variance. This may be accomplished through a phased development through the approval of a Final Planned Unit Development [ORD 4071; October 1999] If meeting the minimum density will require the submission and approval of variance application(s) above and beyond application(s) for adding new primary dwelling units or land division of property, meeting minimum density shall not be required. [ORD 4111; June 2000]

For the purposes of this subsection, new development shall mean intensification of the site by adding new primary dwelling units, other than accessory dwelling units, or land division of the property. New development is not intended to refer to additions to existing structures, rehabilitation, renovation, remodeling, or other building modifications or reconstruction of existing structures.

Minimum density is calculated as follows:

1. Multiply the net acreage by the density figures in the table below.
2. If the value in step 1 is not a whole number, the number is rounded to the nearest whole number using mathematical rounding. If the decimal is equal to or greater than 0.5, then the number is rounded up to the nearest whole number. If the decimal is less than 0.5, then the number is rounded down to the nearest whole number.

Residential Density (Dwelling Units per Acre)				
Zoning District	SC-MU	SC-HDR	SA-MU	SA-MDR
Minimum	30 within 400' of the LRT station platform, 24 beyond the 400'	30 within 400' of the LRT station platform, 24 beyond the 400'	24	24
Maximum	None	None	30	30

20.20.85 Performance Standards

(None currently specified)

20.20.90. Natural Resource Protection and Enhancement

A. STATION AREAS

1. Beaverton Creek Station Area District.

Specific findings must be made for Natural Resources Policies a.-j. and n.-q. (Section 7.4.2.) in the Natural Resources and Open Spaces Chapter of the Beaverton Comprehensive Plan.

B. STATION COMMUNITIES

1. Beaverton Creek Station Community District

In the preparation of a development proposal, the proposal must satisfy the following requirements. Proposals which would not satisfy these requirements must show an equal or greater level of resource protection and enhancement on the site through the Final Planned Unit Development process.

- A. Protect clusters of grand fir and douglas-fir in the north central area near Jenkins and near the Jenkins and Murray intersection.
- B. Protect clusters of Oregon white oak, western red cedar and Oregon ash near the intersection of Jenkins and 153rd and north of the light rail tracks near Murray Boulevard.
- C. Protect clusters of ponderosa pine north of, and along the light rail tracks.
- D. Protect specimen trees throughout the District.
- E. A certified arborist or other qualified professional shall have responsibility for establishing the limits of disturbance near protected trees which at a minimum are subject to the requirements of this Section. The arborist or other professional shall review plans, notify the City, and be on site if construction is necessary within the established limits of disturbance.
- F. Tree clusters shall be protected in a manner which will minimize the risk for windthrow.
- G. Snags and dying trees, that do not pose a hazard, shall be left in protected areas to provide wildlife habitat.
- H. To minimize landscape maintenance and provide wildlife habitat, native plants shall be used in all protected areas and encouraged where appropriate throughout the District.
- I. Collected and treated stormwater shall be directed to wetland buffer areas in order to maintain predevelopment hydrologic conditions within the protected wetland area.

- J. Lighting near protected areas shall be minimized and directed away from those areas unless necessary for safety. If lighting is necessary for safety, it should be directed only to where it is needed for that purpose.
- K. Any necessary encroachment into protected areas by walks, roads or utilities shall generally follow the shortest route possible.
- L. All areas of protected trees, wetlands and other wildlife habitat shall be configured so as to protect the natural resource rather than to be only convenient for development.
- M. Specific findings must be made for each Natural Resource Protection and Enhancement policy listed in the Multiple Use Element of the Beaverton Comprehensive Plan for the Beaverton Creek Station Community.

2. South Tektronix Station Community District. [ORD 4121; August 2000]

In the preparation of a Design Plan, development proposal must satisfy the requirements specified in Section 20.20.90.1.D - L P. Proposals which would not satisfy these requirements must show an equal or greater level of resource protection and enhancement on the site through the Final Planned Unit Development process.

C. CORRIDOR AND MAIN STREET DISTRICTS (RESERVED)

D. TOWN CENTER DISTRICTS

1. General. In the preparation of a Design Plan, development proposals must satisfy the following requirements. Proposals which would not satisfy these requirements must show an equal or greater level of resource protection and enhancement on the site through the Final Planned Unit Development process.

- A. Protect specimen trees throughout the District.
- B. A certified arborist or other qualified professional shall have responsibility for establishing the limits of disturbance near protected trees which at a minimum are subject to the

requirements of this Section. The arborist or other professional shall review plans, notify the City, and be on site if construction is necessary within the established limits of disturbance.

- C. Tree clusters shall be protected in a manner that will minimize the risk for windthrow.
- D. Snags and dying trees, that do not pose a hazard, shall be left in protected areas to provide wildlife habitat.
- E. To minimize landscape maintenance and provide wildlife habitat, native plants shall be used in all protected areas and encouraged where appropriate throughout the District.
- F. Consistent with the Metro Code section 3.07.340, vegetative buffers ranging in width from 50 feet to 200 feet for primary protected water features and 15 feet to 50 feet for secondary protected water features shall be provided. The buffers shall be measured from the edge of bankfull flow or 2-year storm level, the delineated edge of a Title 3 stream and wetland, or both. Any new vegetation planted within the required buffer shall use plant materials native to the Portland Metropolitan area (see Metro native plant list).
- G. Consistent with the recommended variance provisions of Section 9 of the Metro Title 3 Model Ordinance, an averaged undisturbed vegetative buffer width may be provided between the stream or significant wetland and any hard surface improvement or building. The required buffer should be treated as an average dimension to allow flexibility in design and increase opportunities to enhance wildlife habitat.
- H. Development within the buffer areas should be avoided. If development within the buffer areas is unavoidable and the buffers are reduced, mitigation will be required as outlined in Metro Code section 3.07.340.D.3.d.. Furthermore, adjacent urban development should include increased landscaping and street tree plantings to maximize tree canopy coverage and reduce the urban heating effect. Additional mitigation may be required consistent with the Metro Title 3 Model Ordinance. Increased landscaping will help reduce stream temperatures through the urban area.

- I. Collected and treated stormwater shall be directed to wetland buffer areas in order to maintain predevelopment hydrologic conditions within the protected wetland area.
- J. Lighting near protected areas shall be minimized and directed away from those areas unless necessary for safety. If lighting is necessary for safety, it should be directed only to where it is needed for that purpose.
- K. Any necessary encroachment into protected areas by walks, roads or utilities shall generally follow the shortest route possible.
- L. All areas of protected trees, wetlands and other wildlife habitat shall be configured so as to protect the natural resource rather than to be only convenient for development.

2. Murray Scholls Town Center District.

Specific findings must be made for each Natural Resource Protection and Enhancement policy listed in the Multiple Use Element of the Beaverton Comprehensive Plan for Town Centers.

E. REGIONAL CENTER (RESERVED)

20.20.95. Expansion and Enlargement of Nonconforming Uses

A. South Tektronix Station Community Zoning Districts. [ORD 4121; August 2000]

For purposes of this section preexisting use(s) shall have the same meaning as nonconforming uses of land, nonconforming uses of structures, and nonconforming structures, including but not limited to preexisting site configurations not in compliance with current development standards. Uses of land, uses of structures, and structures in any of the South Tektronix Station Community zoning districts which are preexisting to the establishment of the South Tektronix Station Community zoning districts may be expanded or enlarged subject to this section. In the event this section requires interpretation the intent of Chapter 30 will control.

2. All additions, expansions, enlargements, or modifications of a preexisting use that take place after using the 20 percent addition, expansion, or enlargement exception shall be in conformance with the development standards of this Code. Projects may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

3. If a pre existing and nonconforming use is involuntarily destroyed to an extent of more than 50% of its replacement cost at the time of destruction, then the use will retain its preexisting status under this provision so long as (a) the destroyed part of the use is at least 50% rebuilt, reconstructed, or replaced within three (3) years of the date of the loss; and (b) any new development other than the reestablished portion of the use conforms with the development standards of this Code, provided that in reestablishing the previously existing structure, the pad or footprint may be utilized in whole or in part. Projects may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

B. Regional Center

For purposes of this section preexisting use(s) shall have the same meaning as nonconforming uses of land, nonconforming uses of structures, and nonconforming structures, including but not limited to preexisting site configurations not in compliance with current development standards. Uses of land, uses of structures, and structures in any of the Regional Center districts which are preexisting to the establishment of the Regional Center districts may be expanded or enlarged subject to this section. In the event this section requires interpretation the intent of Chapter 30 will control.

2. All additions, expansions, or enlargements of a preexisting use that take place after using the 20 percent addition, expansion, or enlargement exception shall be in conformance with the development standards of this Code. Projects may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

3. If a pre existing and nonconforming use is involuntarily destroyed to an extent of more than 50% of its replacement cost at the time of destruction, then the use will retain its preexisting status under this provision so long as (a) the destroyed part of the use is at least 50% rebuilt, reconstructed, or replaced within three (3) years of the date of the loss; and (b) any new development other than the reestablished portion of the use conforms with the development standards of this Code, provided that in reestablishing the previously existing structure, the pad or footprint may be utilized in whole or in part. Projects may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development.

CHAPTER 40 APPLICATIONS

40.03. FACILITIES REVIEW COMMITTEE

Consistent with Section 10.95.4 (Facilities Review Committee) of this Code, the Facilities Review Committee shall review all Type 2, Type 3, and Type 4 applications listed in Chapter 40 (Applications). The purpose of the Facilities Review Committee is to review the technical aspects of Type 2, Type 3, and Type 4 applications. The Facilities Review Committee shall provide the necessary recommendations concerning technical aspects of the proposal to the Director. In making a recommendation on a proposal, the Facilities Review Committee shall base its recommendation on all the following technical criteria:

1. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.
2. Essential facilities and services are available or can be made available prior to occupancy of the development. In lieu of providing essential facilities and services, a specific plan strategy may be submitted that demonstrates how these facilities, services, or both will be provided within five years of occupancy.
3. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.
4. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Regulations) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
5. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.

40.03.

6. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site.
7. The on-site vehicular and pedestrian circulation system connects to the surrounding circulation system in a safe, efficient, and direct manner.
8. Structures and public facilities and services serving the site are designed in accordance with adopted City codes and standards at a level which will provide adequate fire protection, including, but not limited to, fire flow, and protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.
9. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.
10. That access and facilities for physically handicapped people are incorporated into the site and building design, with particular attention to providing continuous, uninterrupted access routes.

40.05. ACCESSORY DWELLING UNIT

40.05.05. Purpose.

The purpose of an Accessory Dwelling Unit application is to provide a mechanism to allow accessory dwelling units. Accessory dwelling units are normal, incidental and subordinate to a detached dwelling. This Section is carried out by the approval criteria listed herein.

40.05.10. Applicability.

An Accessory Dwelling Unit application may be requested for a property with a detached dwelling as the principal use in any zoning district that allows accessory dwelling units.

40.05.15. Application.

There is a single Accessory Dwelling Unit application which is subject to the following requirements.

1. Accessory Dwelling Unit.

A. Threshold. An application for Accessory Dwelling Unit shall be required when the following threshold applies:

1. An accessory dwelling unit is proposed to be added to a property.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Accessory Dwelling Unit. The decision making authority is the Director.

C. Approval Criteria. In order to approve an Accessory Dwelling Unit application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for an Accessory Dwelling Unit application.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.05.15.1.C.

3. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
4. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Regulations) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.
5. There is only one detached dwelling on the subject site.
6. The proposed accessory dwelling unit is no more than fifty percent (50%) of the gross floor area of the primary detached dwelling or 800 square feet, whichever is less.
7. The proposal is not located over any easement.
8. The exterior finish materials of the proposal is the same as the detached dwelling in terms of type, size, placement, and finish.
9. The roof pitch of the proposal matches the roof pitch of the detached dwelling.
10. The trim of the proposal is the same as the detached dwelling in type, size, location, and finish.
11. The windows of the proposal match those on the detached dwelling in terms of proportion (height to width ratio) and orientation (vertical vs. horizontal).
12. The eaves of the proposal project the same distance as the eaves on the detached dwelling.
13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.05.15.1.

- D. Submission Requirements. An application for an Accessory Dwelling Unit shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Accessory Dwelling Unit application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Accessory Dwelling Unit application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10. ADJUSTMENT**40.10.05. Purpose.**

The purpose of an Adjustment application is to provide a mechanism by which certain regulations in this Code may be adjusted if the proposed development continues to meet the intended purpose of such regulations. This Section is carried out by the approval criteria listed herein.

40.10.10. Applicability.

An Adjustment may be requested only for numerical Site Development Requirements contained in Chapter 20 (Land Uses) and for Major Pedestrian Route Standards in the Regional Center zoning districts and the South Tektronix Station Community.

40.10.15. Application.

There are four (4) Adjustment applications which are as follows: Minor Adjustment, Minor Adjustment - All Regional Center zones and South Tektronix Station Community, Major Adjustment, and Major Adjustment - All Regional Center zones and in the South Tektronix Station Community.

1. Minor Adjustment.

- A. Threshold. An application for Minor Adjustment shall be required when one or more of the following thresholds apply:
1. Involves up to and including a 10% adjustment from the numerical Site Development Requirements specified in Chapter 20 (Land Uses).
 2. Involves up to and including a 10% adjustment from the numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.B.3 of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Minor Adjustment. The decision making authority is the Director.

40.10.15.1.

- C. Approval Criteria. In order to approve a Minor Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Adjustment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Special conditions exist which are unique to the land, structure, or building involved.
 4. Granting the adjustment will result in a project that equally or better meets the regulation to be modified.
 5. Granting the adjustment as part of the overall project will not obstruct pedestrian or vehicular movement.
 6. The adjustment will allow City designated scenic resources and historic resources, if present, to be preserved.
 7. If more than one (1) Minor Adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.
 8. Any Minor Adjustment granted shall be the minimum that will make possible a reasonable use of land, building, and structures.
 9. The proposal incorporates building, structure, or site design features or some combination thereof which compensate for adjusting the Site Development Requirement.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.10.15.1.

- D. Submission Requirements. An application for a Minor Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

2. Minor Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes.

A. Threshold. An application for Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be required when the following threshold applies:

1. Involves an adjustment of up to and including 25% of numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.A.3 or Section 20.20.60.D.3 of this Code.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. Granting the adjustment will equally or better meet the purpose of the District subarea requirement, standard or regulation to be modified.
4. The proposal will be consistent with the desired character of the area.

40.10.15.2.C.

5. If more than one (1) adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the zone.
 6. City-designated scenic resources and historic resources, if present, are preserved.
 7. Any impacts resulting from the adjustment are mitigated to the extent practical.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

3. Major Adjustment.

- A. Threshold. An application for Major Adjustment shall be required when one or more of the following thresholds apply:
1. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Site Development Requirement specified in Chapter 20 (Land Uses).
 2. Involves an adjustment of more than 10% and up to and including 50% adjustment from the numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.B.3 of this Code.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Adjustment. Upon determination by the Director, the decision making authority will be either the Planning Commission or the Board of Design Review. The determination will be based upon the characteristics of the proposal and any other associated applications.
- C. Approval Criteria. In order to approve a Major Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Major Adjustment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Special conditions exist which are unique to the land, structure, or building involved.
 4. Granting the Major Adjustment will result in a project that equally or better meets the regulation to be modified.
 5. Granting the adjustment will not obstruct pedestrian or vehicular movement.

40.10.15.3.C.

6. The Major Adjustment will allow City designated scenic resources and historic resources, if present, to be preserved.
 7. If more than one (1) Major Adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.
 8. Any Major Adjustment granted shall be the minimum adjustment that will make possible a reasonable use of land, building, and structures.
 9. The proposal incorporates building, structure, or site design features which compensate for adjusting the Site Development Requirement.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Major Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.10.15.

4. Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes

A. Threshold. An application for Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be required when one or more of the following thresholds apply:

1. Involves an adjustment of more than 25% to a numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.A.3 or 20.20.60.D.3.
2. Involves an adjustment to a non-numerical Development Standards for Major Pedestrian Routes specified in Section 20.20.60.A.3 or Section 20.20.60.D.3.
3. Involves multiple Minor Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes applications.

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes. Upon determination by the Director, the decision making authority will be either the Planning Commission or the Board of Design Review. The determination will be based upon the nature and characteristics of the proposal.

C. Approval Criteria. In order to approve a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.10.15.4.C.

3. Granting the adjustment will equally or better meet the purpose of the District subarea requirement, standard or regulation to be modified.
 4. The proposal will be consistent with the desired character of the area.
 5. If more than one (1) adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.
 6. City-designated scenic resources and historic resources are preserved.
 7. Any impacts resulting from the adjustment are mitigated to the extent practical.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Adjustment - Regional Center and South Tektronix Station Community Major Pedestrian Routes application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15. CONDITIONAL USE**40.15.05. Purpose.**

The purpose of a Conditional Use application is to allow uses on a case by case basis which warrant special review because of their size or operation. These uses are subject to the conditional use regulations because they may, but do not necessarily, cause significant adverse effects on the environment, overburden public services, change the character of an area, create or foster nuisances. A review of these uses is necessary due to the potential individual or cumulative impacts these uses may have on the surrounding area or neighborhood. The conditional use review provides an opportunity to allow the use when there are minimal impacts, to allow the use but impose conditions specifying mitigation measures to address identified impacts, or to deny the use if the impacts are substantial and the impacts cannot be mitigated. A Conditional Use for Planned Unit Development approval may allow adjustment, variance, or both to Site Development Requirements in Chapter 20 (Land Uses) without the necessity for separate Adjustment or Variance application, findings, and approvals. This Section is carried out by the approval criteria listed herein.

40.15.10. Applicability.

The uses listed in Chapter 20 (Land Uses) for each zoning district as a Conditional Use shall be subject to the provisions of this section.

40.15.15. Application.

There are six (6) conditional use applications which are as follows: Minor Modification of a Conditional Use, Major Modification of a Conditional Use, Administrative Conditional Use, New Conditional Use, Preliminary Planned Unit Development, and Final Planned Unit Development.

1. Minor Modification of a Conditional Use.

A. Threshold. An application for Minor Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. An increase in the gross floor area of a conditional use up to and including 10% and less than 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.

40.15.15.1.A.

2. A projected or actual increase in vehicular traffic to and from a site approved for a conditional use of up to and including 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Minor Modification of a Conditional Use. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Minor Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Minor Modification of a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal complies with conditions of an applicable conditional use approval.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Minor Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Minor Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.15.15.1.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Minor Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

2. Major Modification of a Conditional Use.

A. Threshold. An application for Major Modification of a Conditional Use shall be required when one or more of the following thresholds apply:

1. Any increase in the gross floor area of a conditional use on properties located in a residential zoning district or within a distance of up to and including 50 feet of a residential zoning district.
2. An increase in the gross floor area of a conditional use by more than 10% or in excess of 1,000 gross square feet of floor area for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
3. Any projected or actual increase in vehicle trips per day to and from a site approved for a conditional use as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are located in a residential zoning district or are located at a distance of up to and including 50 feet from a residential zoning district.
4. A projected increase in vehicular traffic to and from a site approved for a conditional use of more than 100 vehicle trips per day as determined by using the Institute of Transportation Engineers (ITE) Trip Generation manual or an evaluation by a traffic engineer or civil engineer licensed by the State of Oregon for all properties that are not located in a residential zoning district and are located at a distance of more than 50 feet from a residential zoning district.
5. Modification of one or more conditions of approval which apply to an approved Conditional Use.
6. Any increase in the number of dwellings or residential lots.

40.15.15.2.

- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Major Modification of a Conditional Use. The decision making authority is the Planning Commission.

- C. Approval Criteria. In order to approve a Major Modification of a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 - 1. The proposal satisfies the threshold requirements for a Major Modification of a Conditional Use application.

 - 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

 - 3. The proposal complies with the applicable policies of the Comprehensive Plan.

 - 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

 - 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.

 - 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.2.

- D. Submission Requirements. An application for a Major Modification of a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Major Modification of a Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Major Modification of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

3. Administrative Conditional Use.

- A. Threshold. An application for Administrative Conditional Use shall be required when one or more of the following thresholds apply:
1. Placement of one or more portable classroom on a public or private school site.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Administrative Conditional Use. The decision making authority is the Director.
- C. Approval Criteria. In order to approve an Administrative Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for an Administrative Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal complies with conditions of an applicable conditional use approval.
 4. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability of properties adjoining the subject site.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.3.

- D. Submission Requirements. An application for a Administrative Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Administrative Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Administrative Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

4. Conditional Use.

- A. Threshold. An application for Conditional Use shall be required when the following threshold applies:
1. A new conditional use is proposed.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Conditional Use. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Conditional Use application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Conditional Use application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will comply with the applicable policies of the Comprehensive Plan.
 4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.15.15.4.

- D. Submission Requirements. An application for a Conditional Use shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Conditional Use application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Conditional Use application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

5. Preliminary Planned Unit Development.

- A. Threshold. A Preliminary Planned Unit Development (PUD) application is an optional application process which may be chosen by the applicant. A Preliminary PUD application is the first application of a two-step application process with a Final PUD application as the second step. A Preliminary PUD is a plan that generally demonstrates the ultimate development of a project. A Preliminary PUD may be applied to properties within any City zoning district except Residential-Agricultural (RA).
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Preliminary PUD. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Preliminary PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.
 4. The proposal will comply with the applicable policies of the Comprehensive Plan.
 5. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

40.15.15.5.C.

6. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 7. Lessening the Site Development Requirements results in benefits to the site, building, and structural design or preservation of natural features that could otherwise not be achieved.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary PUD application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. The decision shall expire two (2) years after of the date of decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.15.15.

6. Final Planned Unit Development

- A. Threshold. A Final Planned Unit Development (PUD) application is the second application of a two-step application process with a Preliminary PUD as the first step. A Final PUD application may also be a one-step application process which is an alternative to the two-step process required when an applicant chooses to apply for a Preliminary PUD. The option of a one-step or two-step process rests with the applicant. The requirements for a Final PUD may be applied to properties within any City zoning district except Residential-Agricultural.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Final PUD approval. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Final PUD application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Final PUD application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If a Preliminary PUD has been approved, the Final PUD is filed within two (2) years or the Preliminary PUD has received an extension approval pursuant to Section 50.93 of this Code.
 4. The final PUD complies with the approved Preliminary PUD, if any.
 5. The proposal meets the Site Development Requirement for setbacks within the applicable zoning district for the perimeter of the parent parcel unless the setbacks are approved as an Adjustment, Flexible Setback or Variance which shall be considered concurrently with the subject proposal.

40.15.15.6.C.

6. The proposal complies with the applicable policies of the Comprehensive Plan.
 7. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.
 8. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact on livability and appropriate development of properties in the surrounding area of the subject site.
 9. The lessening of the Site Development Requirements results in benefits to the enhancement of site, building, and structural design or preservation of natural features.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Final PUD shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Final PUD application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Final PUD application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision.
1. If the application proposes to develop the PUD in a single phase, the decision shall expire two (2) years after the date of decision. Refer to Section 50.90.

40.15.15.6.G.

2. If the application proposes to develop the PUD over multiple phases, the decision making authority may approve a time schedule of not more than five (5) years for the multiple development phases. However, all PUD phases must commence construction within five (5) years of the date of decision of the Final PUD. Refer to Section 50.90.

- H. Extension of a Decision. Refer to Section 50.93.

40.20. DESIGN REVIEW

40.20.05. Purpose.

The purpose of Design Review is to encourage originality, flexibility, and innovation in development, site planning, buildings, structures, and landscaping. It is intended that monotonous, drab, unsightly, dreary and inharmonious development will be discouraged. Design Review is also intended to conserve the City's natural amenities and visual character by insuring that proposals are properly related to their sites and to their surroundings by encouraging compatible and complementary development. This Section is carried out by the approval criteria listed herein.

40.20.10. Applicability.

1. The scope of Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development are located.
2. Considering the thresholds for Design Review One, Two, or Three and unless exempted by Section 40.20.10.3, Design Review approval shall be required for the following:
 - A. All uses listed as Conditional Uses in the RA, R10, R7, R5, and R4 zoning districts.
 - B. All uses listed as Permitted and Conditional Uses in the R3.5, R2, and R1 residential zoning districts.
 - C. All uses listed as Permitted and Conditional Uses in all commercial, industrial, and multiple use zoning districts.
 - D. Site grading.
 - E. Painting attached dwellings, nonresidential, and multiple use buildings and structures with similar or different color from those previously approved.
3. Design Review approval shall not be required for the following:
 - A. All uses listed as Permitted Uses in the RA, R10, R7, R5, and R4 residential zoning districts.

40.20.10.3.

- B. Detached dwellings and related accessory structures, uses, or both in any zoning district.
- C. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
- D. Maintenance of an existing transportation facility, public utility, or any component thereof.
- E. Painting detached dwellings.
- F. Painting attached dwellings, nonresidential, and multiple use buildings and structures with the same color as previously approved.

40.20.15. Application.

There are three (3) Design Review applications which are as follows: Design Review One, Design Review Two, and Design Review Three.

1. Design Review One.

- A. Threshold. An application for Design Review One shall be required when the applicability statements listed in Sections 40.20.10.1 and 40.20.10.2 apply, none of the thresholds listed in Section 40.20.10.3 apply, and one or more of the following thresholds describe the proposal:
 - 1. Addition of not more than one (1) attached dwelling.
 - 2. New construction or an addition of up to and including 700 gross square feet of floor area to a nonresidential use or multiple use.
 - 3. Residential development which involves the addition of up to and including ten percent (10%) gross square feet of floor area to an existing building, not to exceed 1,000 gross square feet of floor area, and will not add any new or additional dwellings.

40.20.15.1.A.

4. Modification of parking and maneuvering areas, driveways, sidewalks, and excluding landscaped islands, which will result in no increase in the amount of parking area, paved or unpaved, and which continues to satisfy the original Design Review conditions of approval.
5. Reduction of landscaping area within a single calendar year of up to and including ten percent (10%) of the original approved landscape area.
6. Increase of landscaping area of up to and including ten percent (10%) of the original approved landscape area.
7. Excluding landscape maintenance, any change to existing grade that will result in the excavation, fill, grading, or other form of earth moving of up to and including fifty (50) cubic yards of earth, and not to exceed the disturbance of 500 gross square feet of surface area.
8. Relocation of one or more window or person door that will locate a window or door on the same wall more than ten feet (10') and up to and including sixteen feet (16') from the approved location. Relocation of a person door may not be to a location inconsistent with door placement requirements of the subject zoning district. The relocated window or person door must use the same materials and finishes as previously approved.
9. Increase or reduction to the size of window or person door glazing up to and including ten percent (10%) of the approved glazing area of the subject wall but shall not be reduced to a level inconsistent with minimum glazing requirements of the subject zoning district. The modified window or person door glazing must use the same materials and finishes as previously approved.
10. Addition of up to and including 100 gross square feet of window, person door, or both to a wall that has no existing or approved window or person door.

40.20.15.1.A.

11. Any wall for the purpose of retaining earth, rock or other similar material up to four feet (4') in height as measured from the bottom of the footing to the top of the wall.
 12. Any fence or wall taller than two feet six inches (2'6") and up to and including six feet (6') that does not bear any structural load and does not retain any earth, rock or other material.
 13. Repainting an existing building or structure with a similar color.
 14. Modification, elimination, or addition of loading facilities that requires any of the following:
 - a. Grading of up to and including fifty (50) cubic yards;
 - b. Removal of up to and including ten percent (10%) of approved landscaping; or
 - c. Relocation of a loading facility to a location more than fifty feet (50') from an existing residential zoning district.
 - d. Conversion of an existing loading door to a window, person door, or both within the area of the existing loading door;
 15. Addition, removal, or alteration of awnings or canopies.
 16. Addition of curbs, medians, or other improvements within a right-of-way or easement.
 17. Other similar minor changes to building, structure, or site.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Design Review One. The decision making authority is the Director.

40.20.15.1.

- C. Approval Criteria. In order to approve a Design Review One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Review One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal meets all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be already approved or considered concurrently with the subject proposal.
 4. The proposal complies with all applicable provisions in Chapter 60 (Special Regulations).
 5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection or any facilities identified in the Street Improvement, Bicycle Improvement, and Pedestrian Improvement Action and Master Plans of the Comprehensive Plan.
 6. The proposal is similar to or better than valid prior approvals for development on the site with regard to materials, color, fenestration, roof pitch, and plant materials.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Multiple Use Zoning Districts. In addition to the provisions of Section 40.15, Design Review One proposals which are located within a multiple use zoning district shall be subject to the applicable requirements in Section 20.20. In the case of any conflicting requirements, the standards in Section 20.20 shall prevail.

40.20.15.1.

- E. Submission Requirements. An application for a Design Review One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- F. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review One application to ensure compliance with the approval criteria.
- G. Appeal of a Decision. Refer to Section 50.60.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Refer to Section 50.93.

40.20.15.

2. Design Review Two.

- A. Threshold. An application for Design Review Two shall be required when the applicability statements listed in Sections 40.20.10.1 and 40.20.10.2 apply, none of the thresholds listed in Section 40.20.10.3 apply, and one or more of the following thresholds describe the proposal:
1. Residential development which involves new buildings, additions, or both that will create at least two (2) and up to and including ten (10) attached dwellings where the parcel on which the development is proposed is located at a distance up to and including fifty feet (50') from any RA, R10, R7, R5, or R4 zoning district.
 2. Residential development which involves new buildings, additions, or both that will create at least two (2) and up to and including twenty (20) attached dwellings where the parcel on which the development is proposed is located at a distance greater than fifty feet (50') from any RA, R10, R7, R5, or R4 zoning district.
 3. Nonresidential development which involves the new building, addition, or both of more than 700 gross square feet and up to and including 2,500 gross square feet of floor area to an existing building on property located in a residential zoning district or within a distance of up to and including fifty feet (50') of any residential zoning district.
 4. Residential development which involves the addition of more than ten percent and up to and including fifty percent (10% - 50%) gross square feet of floor area to an existing building, not to exceed an additional 5,000 gross square feet of floor area, and will not add any dwellings.
 5. Nonresidential development of up to and including 5,000 gross square feet of floor area in any residential zoning district.

40.20.15.2.A.

6. Nonresidential development which involves new building, addition, or both of at least 700 gross square feet of floor area and up to and including 5,000 gross square feet of floor area for all property that is not located in any residential zoning district and is located at a distance greater than fifty feet (50') from any residential zoning district.
7. The expansion or creation of surface parking or maneuvering area, driveways, or sidewalks which will result in the increase of the total amount of area dedicated to surface parking or maneuvering area, driveways, or sidewalks.
8. Reduction of landscaping area within a single calendar year of more than ten percent and up to and including fifty percent (10% - 50%) of the previously approved landscape area.
9. Increase of landscaping area of more than ten percent and up to and including fifty percent (10% - 50%) of the previously approved landscape area.
10. Modification to a previously approved landscaping plan to alter the location of landscaping area, change the plant materials, or both.
11. Site modifications, grading, or vegetation removal within areas protected through a previous approval.
12. Excluding landscape maintenance, any change to existing or approved grade that will result in the excavation, fill, grading, or other form of earth moving in excess of fifty (50) cubic yards of earth, the disturbance of more than 500 square feet of surface area, or both.
13. Relocation of one or more window or person door that will locate a window or person door on the same wall more than sixteen feet (16') from the previously approved location. Relocation of a person door may not be to a location inconsistent with person door placement requirements of the subject zoning district.

40.20.15.2.A.

14. Increase or reduction to the size of window or person door glazing more than ten percent (10%) of the approved glazing area of the subject wall but shall not be reduced to a level inconsistent with minimum glazing requirements of the subject zoning district.
15. Addition of more than 100 gross square feet of window, person door, or both to a wall that has no existing window or person door.
16. Any wall for the purpose of retaining earth, rock or other similar material taller than four feet (4') as measured from the bottom of the footing to the top of the wall.
17. Any fence or wall taller than six feet (6') that does not bear any structural load and does not retain any earth, rock or other material.
18. Repainting of an existing building or structure to a color that is not similar to the color that was previously approved.
19. Modification, elimination, or addition of loading facilities that requires any of the following:
 - a. Grading of more than fifty (50) cubic yards;
 - b. Removal of more than ten percent (10%) of approved landscaping; or
 - c. Relocation of a loading facility to a location within and including fifty feet (50') from an existing residential zoning district.
20. Widening or realignment of an existing transportation facility within the existing right-of-way or easement.
21. In-kind reconstruction or replacement of an existing transportation facility, or any component thereof, that is located within a floodplain, wetland, or Significant Natural Resource Area.

40.20.15.2.A.

22. A change in the type and location of driveways which include:
 - a. Increase in the number of driveways connecting to one or more public or private streets;
 - b. Relocation of one or more driveways; or
 - c. Change in the number of driveway lanes where the driveway connects a public or private street.
 23. Any addition of or modification to a drive-up window facility.
 24. Placement of a portable classroom on a public or private school site.
 25. Other similar moderate changes to building, structure, and site.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Design Review Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Design Review Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Review Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.

40.20.15.2.C.

4. The proposal is similar to or better than valid prior approvals for development on the site with regard to materials, fenestration, roof pitch, and plant materials.
5. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the uses and structures are compatible, with consideration given to increased setbacks, building heights, shared parking, common driveways and other similar considerations.
6. There is a desirable, efficient and workable inter-relationship among buildings, building entrances, transit stops, transit facilities and routes, parking, loading areas, circulation, open spaces, landscaping and related activities and uses on the site.
7. For Significant Natural Resource sites, that treatment of the natural features which have been identified on the site as part of the City's natural resources inventory process and the siting and design of buildings and other improvements are appropriate to protect such features.
8. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species. Consideration shall be given to whether wildlife habitat preservation, survival of the tree species, and aesthetics can best be achieved by preserving groves or areas of trees as opposed to only individual trees.
9. That the proposed development does not detract from the existing character of historic buildings or features both on the site and within the immediate area.
10. That grading and contouring of the site shall take place with particular attention to minimizing the possible adverse effect of grading and contouring on the natural vegetation and physical appearance of the site.

40.20.15.2.

11. That the quality, location, size and aesthetic design of walls, fences, berms, traffic islands, median areas, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
 12. That proposed lighting is appropriate for the use and does not adversely impact surrounding properties.
 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Multiple Use Zoning Districts. In addition to the provisions of section 40.15, Design Review Two proposals which are located within a multiple use zoning district shall be subject to the applicable requirements in Section 20.20. In the case of any conflicting requirements, the standards in Section 20.20 shall prevail.
- E. Submission Requirements. An application for a Design Review Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- F. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Two application to ensure compliance with the approval criteria.
- G. Appeal of a Decision. Refer to Section 50.65.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Refer to Section 50.93.

40.20.15.

3. Design Review Three.

- A. Threshold. An application for Design Review Three shall be required when the applicability statements listed in Sections 40.20.10.1 and 40.20.10.2 apply, none of the thresholds listed in Section 40.20.10.3 apply, and one or more of the following thresholds describe the proposal:
1. Residential development which involves new building, addition, or both that will create more than ten (10) attached dwellings where the parcel on which the development is proposed is located at a distance up to and including fifty feet (50') from any RA, R10, R7, R5, or R4 zoning district.
 2. Residential development which involves new building, addition, or both that will create more than twenty (20) attached dwellings where the parcel on which the development is proposed is located at a distance greater than fifty feet (50') from RA, R10, R7, R5, or R4 zoning district.
 3. Any residential development involving any number of attached dwellings located within the RA, R10, R7, R5, or R4 zoning district.
 4. Residential development which involves the addition of more than fifty percent (50%) gross square feet of floor area to an existing building and will not add any dwellings.
 5. Nonresidential development which involves the new building, addition, or both of more than 2,500 gross square feet of floor area to an existing building on property located in any residential zoning district or within a distance of up to and including fifty feet (50') from any residential zoning district.
 6. Nonresidential development of more than 5,000 gross square feet of floor area in any residential zoning district.

40.20.15.3.A.

7. Nonresidential development which involves new building, addition, or both of more than 5,000 gross square feet of floor area on property not located in any residential zoning district and located at a distance greater than fifty feet (50') from any residential zoning district.
 8. A new transportation facility within existing or new right-of-way or easement.
 9. Widening, realignment, or modification of an existing transportation facility beyond an existing right-of-way or easement.
 10. A parking structure.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Design Review Three. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve a Design Review Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Design Review Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will not obstruct an existing, approved, or Comprehensive Plan identified vehicular, pedestrian, or bicycle connection.
 4. That, in relationship to the existing surroundings and future allowed uses, the location, size, shape, height and spatial and visual arrangement of the uses and structures are compatible, with consideration given to increased setbacks, building heights, shared parking, common driveways and other similar considerations.

40.20.15.3.C.

5. That there is a desirable, efficient and workable interrelationship among buildings, building entrances, transit stops, transit facilities and routes, parking, loading areas, circulation, open spaces, landscaping and related activities and uses on the site.
6. For Significant Natural Resource sites, that treatment of the natural features which have been identified on the site as part of the City's natural resources inventory process, and the siting and design of buildings and other improvements, are appropriate to protect such features.
7. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species. Consideration shall be given to whether wildlife habitat preservation, survival of the tree species, and aesthetics can best be achieved by preserving groves or areas of trees as opposed to only individual trees.
8. That the proposed development does not detract from the existing character of historic buildings or features both on the site and within the immediate area.
9. That grading and contouring of the site shall take place with particular attention to minimizing the possible adverse effect of grading and contouring on the natural vegetation and physical appearance of the site.
10. That the quality, location, size and aesthetic design of walls, fences, berms, traffic islands, median areas, hedges, screen planting and landscape areas have minimal adverse effect on existing or approved abutting land uses.
11. That proposed lighting is appropriate for the use and does not adversely impact surrounding properties.
12. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.20.15.3.

- D. Multiple Use Zoning Districts. In addition to the provisions of Section 40.15, Design Review Three proposals which are located within a multiple use zoning district shall be subject to the applicable requirements in Section 20.20. In the case of any conflicting requirements, the standards in Section 20.20 shall prevail.
- E. Submission Requirements. An application for a Design Review Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Design Review Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- F. Conditions of Approval. The decision making authority may impose conditions on the approval of a Design Review Three application to ensure compliance with the approval criteria.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Refer to Section 50.93.

40.25. DIRECTOR'S INTERPRETATION**40.25.05. Purpose.**

The purpose of the Director's Interpretation is to address new uses which may come into existence over time that are not addressed specifically in the Code or some of the terms or phrases within the Code which may require further interpretation. The Director's Interpretation is established for resolving Code interpretation issues in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.25.10. Applicability.

The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code.

40.25.15. Application.

There is a single Director's Interpretation application which is subject to the following requirements.

1. Director's Interpretation.

- A. Threshold. An application for Director's Interpretation shall be required when one or more of the following thresholds apply:
 1. A request that the Director interpret the Development Code in writing.
 2. A request that the Director provide a determination of nonconforming status of a lot, structure, or use in writing.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Director's Interpretation. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Director's Interpretation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Director's Interpretation application.

40.25.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. That the interpretation is consistent with the City's Comprehensive Plan and other provisions within this Code.
 4. When interpreting that a use not identified in the Development Code is a permitted, a conditional, or prohibited use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Director's Interpretation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Director's Interpretation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Director's Interpretation application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. A Director's Interpretation shall not expire unless superseded by a subsequent Director's Interpretation or a Development Code change.
- H. Extension of a Decision. Because a Director's Interpretation does not expire, extension of a Director's Interpretation is not necessary. If a prior Director's Interpretation is superceded, the prior Director's Interpretation will no longer be in effect and cannot be extended.

40.30. FLEXIBLE AND ZERO YARD SETBACKS**40.30.05. Purpose.**

The purpose of flexible and zero yard setbacks is to encourage flexibility in building design and layout, while providing for open space, adequate light, air, and safety. It is also recognized that a reduction in the setback standards may create compatibility problems for surrounding properties. The following provisions allow flexible setbacks in a manner which is appropriate given the unique character of the property involved and the surrounding area. This Section is carried out by the approval criteria listed herein.

40.30.10. Applicability.

Development on a lot of record in Residential, Commercial, Industrial, and Multiple Use zoning districts may request approval of the flexible or zero setback provisions of this section.

40.30.15. Application Types.

There are six (6) Flexible and Zero Yard Setback applications which are as follows: Flexible Setback for Individual Lot With Endorsement; Flexible Setback for Individual Lot Without Endorsement; Flexible Setback for a Proposed Land Division; Flexible Setback for an Annexation; Zero Side or Zero Rear Yard Setback for a Proposed Land Division in Residential Districts; and Zero Side Yard Setback for a Proposed Land Division in the Commercial, Industrial, or Multiple Use Districts.

1. Flexible Setback for Individual Lot With Endorsement.

A. Threshold. An application for Flexible Setback for an Individual Lot With Endorsement shall be required when the following threshold applies:

1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and can demonstrate abutting property owners of record endorsement of the request.

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Flexible Setback for Individual Lot With Endorsement. The decision making authority is the Director.

40.30.15.1.

- C. Approval Criteria. In order to approve a Flexible Setback on Individual Lot With Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot With Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal does not violate any recorded Solar Access requirements.
 4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot With Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot With Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot With Endorsement application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

2. Flexible Setback for Individual Lot Without Endorsement.

- A. **Threshold.** An application for Flexible Setback for an Individual Lot Without Endorsement shall be required when the following threshold applies:
1. Development on individual residentially zoned lots of record proposes to use flexible setbacks and cannot demonstrate abutting property owners of record endorsement of the request.
- B. **Procedure Type.** The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for Individual Lot Without Endorsement. The decision making authority is the Planning Commission.
- C. **Approval Criteria.** In order to approve a Flexible Setback on Individual Lot Without Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot Without Endorsement application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal does not violate any recorded Solar Access Permit requirements.
 4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.
 5. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.2.C.

6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Flexible Setback for Individual Lot Without Endorsement shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for Individual Lot Without Endorsement application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for Individual Lot Without Endorsement application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

3. Flexible Setback for a Proposed Residential Land Division.

- A. Threshold. An application for Flexible Setback for a Proposed Residential Land Division shall be required when the following threshold applies:
1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Residential Land Division and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Residential Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is compatible with the surrounding area, which is defined as abutting properties and properties directly across the street from the proposal site. Properties directly across the street from the development shall be those properties perpendicular from any property line of the proposal. Findings for compatibility must be made with regard to topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

40.30.15.3.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

- D. Submission Requirements. An application for a Flexible Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.

- F. Appeal of a Decision. Refer to Section 50.70.

- G. Expiration of a Decision. Refer to Section 50.90.

- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

4. Flexible Setback for a Proposed Annexation.

- A. Threshold. An application for Flexible Setback for a Proposed Annexation shall be required when the following threshold applies:
1. The property is located within a residential zoning district which is the subject of a petition for annexation into the City.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Annexation and shall be considered concurrently with any Comprehensive Plan and Zoning Map amendments. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Annexation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Annexation application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with previous applicable land use decisions regarding the subject property rendered by the former jurisdiction.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.30.15.4.

- D. Submission Requirements. An application for a Flexible Setback for a Proposed Annexation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Annexation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Annexation application to ensure compliance with the approval criteria.

- F. Appeal of a Decision. Refer to Section 50.70.

- G. Expiration of a Decision. Refer to Section 50.90.

- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

5. Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division.

A. Threshold. An application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be required when the following threshold applies:

1. The property is located within a residential zoning district and is accompanied by a land division application for the subject property.

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division in any residential zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Planning Commission.

C. Approval Criteria. In order to approve a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The side or rear yard setback on all adjacent lots which abut the proposed zero side or rear setback are either zero feet (0') or ten feet (10') or more.
4. The zero side or zero rear yard is not abutting a public right-of-way or any access easement.
5. No portion of a structure or architectural feature shall project over a property line related to the zero side or rear yard setback unless a permanent easement allowing such projection has been granted.

40.30.15.5.C.

6. A four foot (4') non-exclusive maintenance easement appears on the plat within the adjacent side or rear yard setback of the adjacent lot where it abuts the zero setback.
 7. Satisfactory deed restrictions are submitted with the preliminary land division which address maintenance requirements for the zero setback wall.
 8. Five foot utility easements are provided along all side and rear property lines except where the zero setback is designated.
 9. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.30.15.

6. Zero Side Yard Setback for a Proposed Non-Residential Land Division.

- A. Threshold. An application for Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be required when the following threshold applies:
1. The property is located within a commercial, industrial, or multiple use zoning district and is accompanied by a land division application for the subject property.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Zero Side Yard Setback for Proposed Non-Residential Land Division in any Commercial, Industrial, and Multiple Use zoning district and shall be considered concurrently with the proposed land division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Zero Side Yard Setback for a Proposed Non-Residential Land Division in the Commercial, Industrial, or Multiple Use zoning districts application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Zero Side Yard Setback for a Proposed Non-Residential Land Division application in the Commercial, Industrial, or Multiple Use zoning districts.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The minimum adjacent side yard setback on all adjacent lots which abut the proposed zero setback parcel are either zero feet (0') as well or twenty feet (20') or more.
 4. The zero side yard is not abutting a public right-of-way or any access easement.

40.30.15.6.C.

5. The zero side yard does not abut any residential district.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Zero Side Yard Setback for a Proposed Non-Residential Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Zero Side Yard Setback for a Proposed Non-Residential Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Zero Side Yard Setback for a Proposed Non-Residential Land Division application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35. HISTORIC REVIEW**40.35.05. Purpose.**

The purpose of Historic Review is to preserve, enhance, and perpetuate landmarks and districts which represent or reflect elements of the City's cultural, social, economic, and architectural history and to promote the use of historic districts and landmarks for the education, pleasure, housing and public welfare of the City's current and future citizens. This Section is carried out by the approval criteria listed herein.

40.35.10. Applicability

1. The scope of Historic Review shall be limited to the exterior alteration, modification, demolition, and moving of a designated historic landmark and the construction of new structures within a designated historic district.
2. Historic Review approval shall not be required for the following:
 - A. Changes in use.
 - B. Interior remodeling.
 - C. Maintenance or repair of the exterior where any change to the original building materials or physical appearance is conducted in a manner that is consistent with previous approvals. Determination of the original building materials or physical appearance can be made by reviewing a historic photograph, original building plans, or other evidence of the original building features.
3. Nothing in this Code shall be construed to prevent the construction, reconstruction, alteration, or demolition of City designated historic resources which the City Building Official certifies as required by the City's Building Code.

40.35.15. Application.

There are four (4) Historic Review applications which are as follows: Alteration, Emergency Demolition, Demolition of a Landmark, and New Construction in a Historic District.

40.35.15.

1. Alteration of a Landmark.

- A. Threshold. An application for Alteration of a Landmark shall be required when one or more of the following thresholds apply:
1. Changes to any aspect of the exterior appearance, including, but not limited to, paint color, exterior finish materials, architectural detailing, and changes to window and door locations or dimensions.
 2. Moving a landmark to a new location.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Alteration of a Landmark. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve an Alteration of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for an Alteration of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The distinguishing original historic or architectural qualities or character of a building, structure, or site and its environment are being preserved.
 4. Any alteration to buildings, structures, and sites are in keeping with the time period of the original construction.
 5. Any distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site have been preserved unless said features are a threat to public health and safety or are in violation of building, fire, or access regulations.

40.35.15.1.C.

6. Deteriorating architectural features will be repaired rather than replaced, wherever possible.
 7. New material used for replacement will match the material being replaced in terms of composition, design, color, texture, and other visual qualities.
 8. The repair or replacement of missing architectural features is based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence.
 9. The design of the proposed addition or alteration does not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, material, and character of the property, neighborhood, or environment.
 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for an Alteration of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Alteration of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Alteration of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

2. Emergency Demolition of a Landmark.

- A. Threshold. An application for Emergency Demolition of a Landmark shall be required when the following threshold applies:
1. Demolition of an existing landmark when demolition is required by the Building Official.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Emergency Demolition of a Landmark. The decision making authority is the Director.
- C. Approval Criteria. In order to approve an Emergency Demolition of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for an Emergency Demolition of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The City of Beaverton Building Official has declared, consistent with the Dangerous Buildings Code, the historic building or structure to be an immediate threat to health and safety.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.35.15.2.

- D. Submission Requirements. An application for an Emergency Demolition of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Emergency Demolition of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of an Emergency Demolition of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

3. Demolition of a Landmark.

- A. Threshold. An application for Demolition of a Landmark shall be required when the following threshold applies:
1. Demolition of an existing landmark.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Demolition of a Landmark. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve a Demolition of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Demolition of a Landmark application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The economic, social, environmental, and energy consequences of allowing the demolition outweigh the preservation of the historic landmark.
 4. The applicant has not rejected the highest bona fide offer for sale and removal of the building.
 5. If applicable, the historic or architectural significance of the resource is not sufficient to warrant its continued preservation.
 6. If applicable, the physical condition of the building is such that it is not practical to improve its condition to meet applicable building codes.

40.35.15.3.C.

7. If within a Historic District, the loss of the structure will not diminish the overall integrity of the District.
 8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Demolition of a Landmark shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Demolition of a Landmark application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Demolition of a Landmark application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.35.15.

4. **New Construction in a Historic District.**

- A. Threshold. An application for New Construction in a Historic District shall be required when the following threshold applies:
1. Construction of a new structure of more than 120 gross square feet in size in a historic district, which is not attached to a designated historic structure.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for New Construction in a Historic District. The decision making authority is the Board of Design Review.
- C. Approval Criteria. In order to approve a New Construction in a Historic District application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a New Construction in a Historic District application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. As it relates to existing surroundings and future allowed uses, their location, size, shape, height, and spatial and visual arrangement, the proposed development is compatible with and does not substantially detract from the historic value of the existing Historic District.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.35.15.4.

- D. Submission Requirements. An application for a New Construction in a Historic District shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The New Construction in a Historic District application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a New Construction in a Historic District application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.70.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.40. HOME OCCUPATION

40.40.05. Purpose.

The provisions of Home Occupation is to provide recognition of the needs or desires of many people to engage in small scale business ventures at home. It recognizes the potential advantages for reducing commuter travel when people work at home. It is also recognized that such uses, if not carefully regulated, may be incompatible with the purposes of residential districts. It is the intent of this section that these uses be allowed so long as they are not in violation of the terms of this section and do not alter the residential character of the neighborhood, infringe upon the right of neighboring residents to the peaceful enjoyment of their neighborhood homes, or otherwise be detrimental to the community at large. This Section is carried out by the approval criteria listed herein.

40.40.10. Applicability.

The provisions of this section apply to all home occupations as defined in Chapter 90 of this Code, except for the following situations:

1. Garage, Yard, or Estate sales from the site that occur for no more than three (3) consecutive days on not more than two (2) occasions during a calendar year.
2. Production of produce or other vegetative agricultural products grown on the premises. The temporary or seasonal sale of produce or other vegetative agricultural products grown on the premises is subject to the provisions of Section 40.85, Temporary Use.
3. Prohibited home occupation uses are:
 - A. Any use not conducted within a wholly enclosed building.
 - B. Automotive services, Major.
 - C. Automotive services, Minor.
 - D. Junk and Salvage Operations.
 - E. Storage or sale of fireworks.

40.40.10.3.

- F. Any use that consists of the manufacturing, processing, generation, or storage of materials that constitute a fire, explosion, or health hazard as defined by the Building Code, Fire Code, or both.

40.40.15. Application.

There are two (2) Home Occupation applications which are as follows: Home Occupation One and Home Occupation Two.

1. Home Occupation One

- A. Threshold. An application for Home Occupation One shall be required when one or more of the following thresholds describe the proposed home occupation:
 - 1. There are no outside volunteers or employees who do not reside on the premises.
 - 2. No clients or customers of the proposed home occupation visit the premises for a reason related to the home occupation.
 - 3. There will be no exterior alteration to the residence.
 - 4. Excluding regular U. S. Postal Service delivery, the home occupation shall not require more than one (1) trip per day for delivery or pick up per day to the residence between the hours of 8:00 a.m. and 6:00 p.m. There shall be no deliveries between the hours of 6:00 p.m. and 8:00 a.m.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Home Occupation One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Home Occupation One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

40.40.15.1.C.

1. The proposal satisfies the threshold requirements for a Home Occupation One application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The home occupation is being undertaken only by an occupant of the residence.
4. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
5. The proposed home occupation shall be operated entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment will occur on the premises.
6. The proposed home occupation will not change the use classification of the dwelling unit or accessory structure, as determined by the City Building Official applying the State Building Code.
7. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
8. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.
9. The home occupation, including deliveries from other businesses, does not include the use of tractor trailers, fork lifts, or similar heavy equipment.
10. There will be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.

40.40.15.1.C.

11. There will be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property provided such parking complies with all parking restrictions.
 12. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
 13. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.
 14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Home Occupation One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation One application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Home Occupation One application shall not be extended.

40.40.15.

2. Home Occupation Two

- A. Threshold. An application for Home Occupation Two shall be required when one or more of the following thresholds apply:
1. The proposed home occupation has a maximum of one (1) volunteer or employee who is not a resident on the premises.
 2. The proposed home occupation will have no more than 8 daily customers or clients on the premises.
 3. All customer and client visits to the proposed home occupation will occur only between the hours of 7:00 a.m. and 10:00 p.m.
 4. If on-site parking is provided, a plan for additional parking may be approved if:
 - a. Not more than a total of 4 on-site parking spaces for the combined residential and home occupation uses are proposed.
 - b. The parking spaces, driveway, street access, landscaping, storm water drainage, and screening comply with this Code and other city standards.
 5. Exterior alteration to the residence will take place to accommodate the home occupancy.
 6. Excluding regular U. S. Postal Service delivery, the home occupation shall not require more than two (2) trips per day for delivery or pick up to the residence between the hours of 8:00 a.m. and 6:00 p.m. There shall be no deliveries or pick ups between the hours of 6:00 p.m. and 8:00 a.m.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Home Occupation Two. The decision making authority is the Director.

40.40.15.2.

- C. Approval Criteria. In order to approve a Home Occupation Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Home Occupation Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed home occupation is being undertaken by an occupant of the residence.
 4. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.
 5. The proposed home occupation shall be operated entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.
 6. The proposed home occupation will not change the use classification of the dwelling unit or accessory structures as determined by the City Building Official applying the State Building Code.
 7. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.
 8. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.
 9. The home occupation, including deliveries from other businesses, shall not include the use of tractor trailers, fork lifts, or similar heavy equipment.

40.40.15.2.C.

10. There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.
 11. There shall be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property, provided such parking complies with applicable parking restrictions.
 12. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.
 13. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.
 14. Exterior remodeling will not alter the residential character of the building.
 15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Home Occupation Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Home Occupation Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Home Occupation Two application to ensure compliance with the approval criteria.

40.40.15.2.

- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Home Occupation
Two application shall not be extended.

40.45. LAND DIVISION**40.45.05. Purpose.**

The purpose of the Land Division applications is to establish regulations, procedures, and standards for the division of land within the City of Beaverton. This Section is carried out by the approval criteria listed herein.

40.45.10. Applicability.

The provisions of this section shall apply to the creation of new lots or the reconfiguration of existing property lines, except for the dedication of public rights-of-way.

40.45.15. Application.

There are seven (7) Land Division applications which are as follows: Lot Line Adjustment, Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Final Land Division, and Expedited Land Division.

1. Lot Line Adjustment.

- A. Threshold. An application for Lot Line Adjustment shall be required when the following threshold applies:
 1. The changing of the common boundary of at least two (2) lots of record and does not create an additional lot.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Lot Line Adjustment. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.45.15.1.C.

3. An additional lot is not created.
 4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be considered concurrently with the subject proposal.
 5. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations).
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Lot Line Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Lot Line Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Lot Line Adjustment application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

2. Preliminary Partition.

- A. Threshold. An application for Preliminary Partition shall be required when the following threshold applies:
1. The creation of up to and including three (3) new lots from one (1) lot of record in one calendar year.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Partition. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Partition application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Oversized lots shall have a size and shape which will facilitate the future partitioning or subdividing of such lots in accordance with the requirements of this Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots as well as the future development on oversized lots.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary Partition shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Partition application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.45.15.2.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Partition application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

3. Preliminary Subdivision.

- A. Threshold. An application for Preliminary Subdivision shall be required when the following threshold applies:
1. The creation of four (4) or more new lots from a lot of record in one (1) calendar year.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Subdivision. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Subdivision application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Oversized lots shall have a size and shape which will facilitate the future partitioning or subdividing of such lots in accordance with the requirements of this Code. In addition, streets, driveways, and utilities shall be sufficient to serve the proposed lots as well as the future development on oversized lots.
 4. If phasing is requested by the applicant, the requested phasing plan can be carried out in a manner which satisfies the approval criteria and provides necessary public improvements for each phase as the project develops.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.45.15.3.

D. Submission Requirements.

1. An application for a Preliminary Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Subdivision application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
2. When an applicant desires to phase the development of a Preliminary Subdivision, it shall be indicated at the time of Preliminary Subdivision application submittal. The Director is responsible for approving a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five years without filing a new Preliminary Subdivision application.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Subdivision application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

4. **Preliminary Fee Ownership Partition.**

A. Threshold. An application for Preliminary Fee Ownership Partition shall be required when one or more of the following thresholds apply:

1. The creation of up to and including three (3) new lots from a lot of record in one calendar year which do not meet all of the Site Development Requirements of Chapter 20 (Land Uses) for new lots in Commercial, Industrial, or Multiple Use zones where an Adjustment, Variance, or Planned Unit Development application will not be filed to address the same Site Development Requirements.
2. The creation of up to and including three (3) new lots from a lot of record in one calendar year which do not meet the access requirements contained in Section 60.55.40.1 of this Code.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Fee Ownership Partition. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Preliminary Fee Ownership Partition application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Preliminary Fee Ownership Partition application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, or Zero Side Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.

40.45.15.4.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Preliminary Fee Ownership Partition shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Fee Ownership Partition application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Partition application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

5. Preliminary Fee Ownership Subdivision.

- A. Threshold. An application for Preliminary Fee Ownership Subdivision shall be required when one or more of the following thresholds apply:
1. The creation of four (4) or more new lots from a lot of record in one (1) calendar year which do not meet all of the Site Development Requirements of Chapter 20 (Land Uses) for new lots in Commercial, Industrial, or Multiple Use zones where an Adjustment, Variance, or Planned Unit Development application will not be filed to address the same Site Development Requirements.
 2. The creation of four (4) or more new lots from a lot of record in one (1) calendar year which do not meet the access requirements contained in Section 60.55.40.1 of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Preliminary Fee Ownership Subdivision. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Preliminary Fee Ownership Subdivision application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Preliminary Fee Ownership Subdivision application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The parent parcel shall meet the minimum setback requirements for the applicable zoning district unless the setback is subject to an Adjustment, Variance, or Zero Side Yard Setback for a proposed Non-Residential Land Division application which shall be considered concurrently with the subject proposal.

40.45.15.5.C.

4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements.

1. An application for a Preliminary Fee Ownership Subdivision shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Preliminary Fee Ownership Subdivision application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
2. When an applicant desires to phase the development of a Fee Ownership Subdivision, it shall be indicated at the time of Preliminary Fee Ownership Subdivision application submittal. The Director is responsible for approving a time schedule for the final platting of the various phases. In no case shall the total time period for the final platting of all stages be greater than five years without filing a new Preliminary Fee Ownership Subdivision application.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Preliminary Fee Ownership Subdivision application to ensure compliance with the approval criteria.

F. Appeal of a Decision. Refer to Section 50.65.

G. Expiration of a Decision. Refer to Section 50.90.

H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

6. Final Land Division.

- A. Threshold. An application for Final Land Division shall be required when the following threshold applies:
1. A proposal to finalize a previously approved Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, or Preliminary Fee Ownership Subdivision.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Final Land Division. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Final Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Final Land Division application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is consistent with the applicable previously approved Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, or Preliminary Fee Ownership Subdivision.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Final Land Division shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Final Land Division application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.45.15.6.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Final Land Division application to ensure compliance with the approval criteria. Following approval by the City of the Final Land Division, the applicant shall record the plat with Washington County. The applicant shall submit a mylar copy of the recorded plat to the City prior to issuance of building permits for any of the new lots.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.45.15.

7. Expedited Land Division

An application for and any appeal of an expedited land division shall be subject to the provisions in ORS 197.360 through ORS 197.380.

40.50. LOADING DETERMINATION

40.50.05. Purpose.

The purpose of a Loading Determination is to establish mechanism to determine or modify the required number of off street loading spaces, or modify the off-street loading space dimensions in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.50.10. Applicability.

A Loading Determination may be requested in writing to establish an off street loading space total for any use not specifically listed in Section 60.25 (Off Street Loading), establish an off street loading space total that differs from the listed requirement in Section 60.25, and modify the off street loading space dimensions listed in Section 60.25 of this Code.

40.50.15. Application.

There is a single Loading Determination application which is subject to the following requirements.

1. Loading Determination.

- A. Threshold. An application for Loading Determination shall be required when one or more of the following thresholds apply:
1. A request that the Director establish, in writing, an off street loading space total or requirement for any use not listed or substantially similar to a use listed in Section 60.25 (Off Street Loading) of this Code.
 2. A request to modify the total number of off street loading spaces from the required number listed in Section 60.25 (Off Street Loading) of this Code.
 3. A request to modify the dimensions of a required off street loading space listed in Section 60.25 (Off Street Loading) of this Code.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Loading Determination. The decision making authority is the Director.

40.50.15.1.

- C. Approval Criteria. In order to approve a Loading Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Loading Determination application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The determination will not create adverse impacts, taking into account the total gross floor area and the hours of operation of the use.
 4. The proposal will not interfere with pedestrian or vehicular traffic on a street.
 5. The proposal will be able to reasonably accommodate the off street loading needs of the structure.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Loading Determination shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Loading Determination application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Loading Determination application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Loading Determination application shall not be extended.

40.55. PARKING DETERMINATION

40.55.05. Purpose.

The purpose of a Parking Determination is to establish required number of parking spaces for uses which do not have a parking ratio requirement listed in this Code. The Parking Determination application is established for determining the required number of off street parking spaces in advance of, or concurrent with, applying for approval of an application, development, permit, or other action. This Section is carried out by the approval criteria listed herein.

40.55.10. Applicability.

A Parking Determination may be requested in writing to establish a required off street parking ratio or specific number of off street parking spaces for use not specifically listed in Section 60.20 (Off Street Parking and Loading) of this Code, to share require parking spaces, and to determine the existence of excess required parking.

40.55.15. Application.

There are three (3) Parking Determination applications which are as follows: Parking Requirement Determination, Shared Parking, and Use of Excess Parking.

1. Parking Requirement Determination.

A. Threshold. An application for Parking Requirement Determination shall be required when the following threshold applies:

1. A request that the Director establish, in writing, an off street parking ratio or requirement for a use not listed or substantially similar to a use listed in Section 60.20 (Off Street Parking) of this Code.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Parking Requirement Determination. The decision making authority is the Director.

40.55.15.1.

- C. Approval Criteria. In order to approve a Parking Requirement Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Parking Requirement Determination application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The determination is consistent with Title 2 of Metro's Urban Growth Management Functional Plan.
 4. The determination will not create adverse impacts, taking into account the total gross floor area, number of employees, potential customer volume, and the hours of operation of the use.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Parking Requirement Determination shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Parking Requirement Determination application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Parking Requirement Determination application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Parking Requirement Determination application shall not be extended.

40.55.15.

2. Shared Parking.

- A. Threshold. An application for Shared Parking shall be required when one or more of the following thresholds apply:
1. The required off street parking for two or more uses will share required parking spaces.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Shared Parking. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Shared Parking application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Shared Parking application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The location of the shared off street parking is on an abutting property and is within 200 feet of the subject use in which the shared parking is intended to serve, except in Multiple Use zoning districts where the location may be at any distance.
 4. If multiple properties are involved, the owners of each of the properties has agreed to the shared parking by entering into a shared parking agreement.
 5. The time of peak parking demand for the various uses located on the subject properties occur at different times of the day.
 6. Adequate parking will be available at all times when the various uses are in operation.

40.55.15.2.C.

7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Shared Parking shall be made by the owners of the subject properties, or the owners' authorized agents, on a form provided by the Director and shall be filed with the Director. The Shared Parking application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Shared Parking application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Shared Parking application shall not be extended.

40.55.15.

3. Use of Excess Parking.

- A. Threshold. An application for Use of Excess Parking shall be necessary when one or more of the following thresholds apply:
1. A request to declare required off-street parking is in excess of the need for the use on the subject property.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Use of Excess Parking. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Use of Excess Parking application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Use of Excess Parking application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. Excess parking accounts for a minimum of 20% of the required parking for all uses of the site;
 4. Excess parking has existed for the previous 180 days;
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for Use of Excess Parking shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Use of Excess Parking application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.55.15.3.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Use of Excess Parking application to ensure compliance with the approval criteria.
- F. Appeal of Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Use of Excess Parking application shall not be extended.

40.60. SIGN**40.60.05. Purpose.**

The purpose for regulating signs is to promote the neat, clean, orderly, and attractive appearance of the community, balance the need of signs with avoiding potential nuisances to nearby properties and conflicts with other signage, ensure safe construction, location, installation, and maintenance of signage, prevent proliferation of signs and sign clutter, and minimize distractions for motorists on public highways and streets. This Section is carried out by the approval criteria listed herein.

40.60.10. Applicability

1. Unless otherwise authorized by this Code, no person shall erect, install, construct, place, alter, change, relocate, suspend or attach any sign, except for maintenance of signs without first obtaining a permit from the City.
2. The following signs do not require permits:
 - A. Traffic and other government authorized signs, such as railroad crossing signs and notices, as may be authorized by the City.
 - B. Signs of public utility companies indicating danger, or which serve as an aid to public safety, or which show the location of underground facilities or of public telephones.
 - C. Signs not visible from public right-of-ways.

40.60.15. Application.

There is a single Sign application which is subject to the following requirements.

1. **Sign.**
 - A. Threshold. An application for Sign permit shall be required when the following threshold applies:
 1. The erection, installation, construction, placement, alteration, relocation, suspension, attachment of any sign.

40.60.15.1.

- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for a Sign. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Sign application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Sign application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed sign is in conformance with all requirements specified in Section 60.40 (Sign Regulations) unless the applicable provision has been subject of a Variance approval.
 4. The proposed sign is in conformance with the vision clearance standards specified in Section 60.55.50 (Intersection Standards).
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Sign shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Sign application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.60.15.1.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Sign application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition, free from rust, corrosion, peeling paint or other surface deterioration.
 2. Any sign structure or supports that are no longer in use shall be removed at the time of the structure or supports cease to be used.
 3. Compliance with the conditions of approval shall be met as long as the sign exists on the property.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Sign proposal shall not be extended.

40.65. SOLAR ACCESS**40.65.05 Purpose.**

The purpose of Solar Access is to protect solar access to solar features on lots designated or used as a detached dwelling under some circumstances. It authorizes owners of such lots to apply for an approval that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site. This Section is carried out by the approval criteria listed herein.

40.65.10. Applicability.

The Solar Access application shall be applicable to detached dwellings in the City's standard and low density residential zoning districts.

40.65.15. Application.

There is a single Solar Access application which is subject to the following requirements.

1. Solar Access.

A Threshold. An application for Solar Access shall be required when the following threshold applies:

1. Protection of a solar feature from being shaded is requested.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Solar Access. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Solar Access application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Solar Access application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.65.15.1.C.

3. Non-exempt vegetation on the applicant's property does not shade the solar feature.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Solar Access shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Solar Access application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Solar Access application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. The party to whom the City grants a Solar Access approval shall cause to be recorded, the approval, legal descriptions of the properties affected by the approval, the solar access height limit, and the approved site plan in the office of the Washington County Recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing before the approval is effective.
 2. If not in place at the time off the Solar Access approval, the solar feature shall be installed within one (1) year of the approval after which time, unless installation has occurred, the approval shall expire.

40.65.15.1.E.

3. An owner of property restricted by a Solar Access approval shall be responsible for and pay all costs for keeping non-exempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the approved site plan, vegetation an owner shows was planted in the ground on or before the date an application for a Solar Access approval is filed, and solar friendly vegetation are exempt from the Solar Access approval.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Solar Access proposal shall not be extended.

40.70. STREET DESIGN MODIFICATION

40.70.05 Purpose.

The purpose of Street Design Modification application is to provide a mechanism where the City's street design standards can be modified to address existing conditions and constraints. This Section is carried out by the approval criteria listed herein.

40.70.10. Applicability.

The Street Design Modification application shall be applicable to all streets that have a specified street design standard as listed in Section 60.55 (Transportation Facilities) of this Code.

40.70.15. Application.

There is a single Street Design Modification application which is subject to the following requirements.

1. Street Design Modification.

A Threshold. An application for Street Design Modification shall be required when the following threshold applies:

1. Street design standards listed in Section 60.55.30.1.K of this Code are proposed to be modified.

B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Street Design Modification. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Street Design Modification application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Street Design Modification application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.70.15.1.C.

3. There exists local physical conditions which create unusual circumstances such as steep or unstable slopes, mixed land uses are to utilize the same street, a bicycle link is needed, reconstruction of a street in an existing neighborhood, reduction of excessive cuts and fills, reduction of excessive traffic speeds, reduction of right of way acquisition that would otherwise reduce yards, or reduction of tree removal.
 4. The services provided by the appropriate street design prototype can be achieved by the proposal.
 5. The proposal does not create additional maintenance costs or other burdens to the City without substantial additional benefit.
 6. The proposal conforms to the following policies of the Transportation Element of the Comprehensive Plan: 6.2.1.a), 6.2.1.e), 6.2.2.a), 6.2.2.b), 6.2.3.b), 6.2.3.d), 6.2.3.i), and 6.2.4.c).
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Street Design Modification shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Street Design Modification application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Street Design Modification application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Refer to Section 50.93.

40.75. STREET VACATION**40.75.05. Purpose.**

The purpose of Street Vacation is to recognize that changes to the City's existing street system are occasionally required. Therefore, the following application has been established to allow limited changes to the City's existing street system without adversely affecting safe and efficient circulation throughout the City. A Street Vacation is a legislative action which is not subject to the 120 day rule of ORS 227.178. This Section is carried out by the approval criteria listed herein.

40.75.10. Applicability.

Alteration to the City's existing streets that involve the vacation of streets, right-of-way, or both shall be reviewed by the City Council.

40.75.15. Application.

There is a single Street Vacation application which is subject to the following requirements.

1. Street Vacation.

- A. Threshold. An application for Street Vacation shall be required when the following threshold applies:
 1. Abandonment or otherwise vacation of an existing public transportation right-of-way or public easement that is within the City of Beaverton.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Street Vacation. The decision making authority is the City Council.
- C. Approval Criteria. In order to approve a Street Vacation application, the City Council shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Street Vacation application.

40.75.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed Street Vacation meets the eligibility provisions of ORS 271.080.
 4. The proposed Street Vacation will not adversely impact street connectivity as identified in the Transportation Element of the Comprehensive Plan.
 5. The proposed Street Vacation will not adversely impact police, fire, and emergency service in the area.
 6. That the vacation of the street will not hinder accessibility to any above ground or underground public facilities.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Street Vacation shall be made by the owner of property abutting the right-of-way or easement, or the owner's authorized agent, the City Council, Mayor, or their designee on a form provided by the Director and shall be filed with the Director. The Street Vacation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The City Council may impose conditions on the approval of a Street Vacation application to ensure compliance with the approval criteria.
- F. Appeal of a Decision. Refer to Section 50.45.18.B.

40.80. TEMPORARY USE**40.80.05. Purpose.**

The purpose of a Temporary Use application is to recognize that temporary uses serve a useful purpose in the life of the community. Such activity does not mandate application of the requirements relating to permanent activity, but there is the potential of adverse impact on surrounding property created by temporary activity; therefore, specific requirements are necessary. This Section is carried out by the approval criteria listed herein.

40.80.10. Applicability

Uses and activities that are determined to be temporary in nature shall be subject to the provisions of this section.

40.80.15. Application.

There are five (5) Temporary Use applications which are as follows: Temporary Mobile Sales, Temporary Non-Mobile Sales, Temporary Structure, Temporary Real Estate Office, and Non-Profit Event.

1. Temporary Mobile Sales.

- A. Threshold. An application for Temporary Mobile Sales shall be required when the following threshold applies:
 1. The sale of plants, flowers, books, crafts, produce, beverages, food, and other similar items in a single location for more than one (1) hour.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Mobile Sales. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Temporary Mobile Sales application.

40.80.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
4. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.
5. The proposal will not pose a threat to the public safety or convenience when the temporary use is proposed to be located on a public right-of-way.
6. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district.
7. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.50.
8. The proposal does not involve use of a permanent structure.
9. The proposal shall not obstruct or occupy permanent required parking spaces unless it can be demonstrated that the permanent required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.
10. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.

40.80.15.1.C.

11. The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use.
 12. The proposal has not been previously located on the same site in the same calendar year.
 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Temporary Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Mobile Sales application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. The Temporary Mobile Sales shall obtain a City Business License.
 2. Temporary Mobile Sales involving the sale of food products shall be licensed by the appropriate State and/or local agency.
 3. All Temporary Mobile Sales activities shall be conducted at the particular location authorized.
 4. The Temporary Mobile Sales shall not have hours of operation exceeding four (4) hours in a twenty four (24) hour period.

40.80.15.1.E.

5. Signage shall be permitted for Temporary Mobile Sales consistent with Section 60.30.15.12 of this Code.
 6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.
 7. Suitable receptacles for disposal of trash, as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the temporary use in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Mobile Sales. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Mobile Sales.
 8. Products for sale shall be removed at the end of each business day.
 9. The Director may impose conditions necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 10. The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Mobile Sales on the surrounding property and use.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 180 days of the date of approval.
- H. Extension of a Decision. Previous approvals of Temporary Mobile Sales shall not be extended.

40.80.15.

2. Temporary Non-Mobile Sales.

- A. Threshold. An application for Temporary Non-Mobile Sales shall be required when the following threshold applies:
1. The sales of holiday vegetation and fireworks, circuses, carnivals, animal rides and other similar activities.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Non-Mobile Sales. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Non-Mobile Sales application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Non-Mobile Sales application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is located entirely within private property in a commercial, multiple use, or industrial zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
 4. The applicant has written permission from the City if the proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts.
 5. The use in which the proposed temporary use is engaged is listed as a permitted use in the specific commercial or multiple use zoning district.

40.80.15.2.C.

6. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.50.
 7. The proposal does not involve use of a permanent structure.
 8. The proposal shall not obstruct or occupy permanent required parking spaces unless it can be demonstrated that the permanent required parking is not being used by the permanent use located on the subject site pursuant to Section 40.55.15.3 (Excess Parking) of this Code.
 9. The site of the proposal has safe vehicle and pedestrian circulation consistent with Section 60.55 (Transportation Facilities) of this Code.
 10. The proposal is not located within 500 feet of an established permanent business of a similar nature. The 500 feet shall be measured from the perimeter of the property on which the proposal is located to the perimeter of the property which contains the existing similar use.
 11. The site of the proposal has adequate parking facilities to accommodate the anticipated needs consistent with Section 60.30 (Off-Street Parking) of this Code.
 12. A Temporary Non-Mobile Sales use has not occurred more than twice on the same site in the same calendar year.
 13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Temporary Non-Mobile Sales shall be made by the owner of the proposed temporary use, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Non-Mobile Sales application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.80.15.2.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Non-Mobile Sales application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose one or more of the following conditions when appropriate:
1. The Temporary Non-Mobile Sales shall obtain a City Business License.
 2. Temporary Non-Mobile Sales involving the sale of food products shall be licensed by the appropriate State and/or local agency.
 3. Temporary Non-Mobile Sales involving the sale of fireworks shall be licensed by the appropriate State and/or local agency.
 4. All Temporary Non-Mobile Sales activities shall be conducted at the particular authorized location.
 5. Signage shall be permitted for Temporary Non-Mobile Sales consistent with Section 60.30.15.12 of this Code.
 6. During operation, the operator of a Temporary Mobile Sales shall maintain a copy of the City approval and present same for inspection upon request by City personnel.
 7. Suitable receptacles for disposal of trash as defined by the City of Beaverton Code 4.08.085, subsection C, must be provided and maintained by the permittee on the site of the Temporary Non-Mobile Sales in sufficient numbers, as determined by the Director, to accommodate all trash generated by the Temporary Non-Mobile Sales use. The permittee shall be responsible for disposal of accumulated trash and for clean-up of trash generated by the Temporary Non-Mobile Sales.

40.80.15.2.E.

8. The Director may impose conditions necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Non-Mobile Sales on the surrounding property and use.
- F. Appeal of a Decision. Refer to Section 50.60.
 - G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 45 days of the date of approval.
 - H. Extension of a Decision. Approvals of Temporary Non-Mobile Sales shall not be extended.

40.80.15.

3. Temporary Structure.

- A. Threshold. An application for Temporary Structure shall be required when the following threshold applies:
1. The placement of a temporary mobile structure while development is taking place.
 2. Placement of drop-off station for non-profit organizations.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Structure. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Structure application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Structure application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal will not be located within the vision clearance area of an intersection as specified under Section 60.55.25.
 4. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.
 5. The site of the proposal has adequate parking facilities to accommodate the anticipated needs of the uses on the site consistent with Section 60.30 (Off-Street Parking) of this Code.
 6. The proposal is for an approved development located within the City.

40.80.15.3.C.

7. The proposal would locate a temporary mobile structure within the boundaries of the subdivision where land is for sale or under development.
 8. Construction permit for the permanent development has been issued and has not expired.
 9. The Temporary Structure shall be located on the same lot or a lot abutting the activity. If the abutting lot is separately owned, written authorization from the owner must be provided.
 10. The Temporary Structure shall not block fire hydrants, storm drains, manholes, catch basins, or other similar infrastructure improvements.
 11. No connection of the temporary structure to any water, sanitary or storm sewer utility shall be allowed unless the system(s) are deemed substantially compete by the City.
 12. Occupancy for temporary sales trailers or sales offices shall not be allowed until substantial completion of the sanitary sewers is obtained, or portable toilets are available.
 13. If the proposal is a drop-off station, the proposal is located in a commercial, multiple use, or industrial zoning district.
 14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Temporary Structure shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Structure application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

40.80.15.3.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Structure application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. The occupant of the Temporary Structure shall obtain a City Business License.
 2. Signage shall be permitted for a Temporary Structure consistent with Section 60.30.15.12 of this Code.
 3. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 4. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the temporary use on the surrounding property and use.
 5. The Director may impose conditions as are necessary which establish a duration of time that the Temporary Structure may be located on the subject site.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval.
- H. Extension of a Decision. Refer to Section 50.93.

40.80.15.

4. Temporary Real Estate Office.

- A. Threshold. An application for Temporary Real Estate Office shall be required when the following threshold applies:
1. The use of a dwelling as a Temporary Real Estate Office during the development, lease or sale of lots or structures in a residential subdivision, condominium project, or residential Planned Unit Development.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Temporary Real Estate Office. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Temporary Real Estate Office application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Temporary Real Estate Office application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The applicant, if different from the property owner, has written permission from the property owner to utilize the property for a Temporary Real Estate Office.
 4. The Temporary Real Estate Office is located within the boundaries of the residential development.
 5. The property used for the Temporary Real Estate Office shall not be permanently improved for that purpose.
 6. The property used for the Temporary Real Estate Office shall be within close proximity to an arterial or collector or as acceptable to the City Engineer.

40.80.15.4.C.

7. All streets shall be curbed and paved (with a minimum first lift of asphalt or cement concrete) to the property used for the Temporary Real Estate Office.
 8. No connection of the Temporary Real Estate Office to any water, sanitary or storm sewer utility shall be allowed unless the system(s) are deemed substantially complete.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Temporary Real Estate Office shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Temporary Real Estate Office application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Temporary Real Estate Office application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. The Temporary Real Estate Office shall obtain a City Business License.
 2. All Temporary Real Estate Office activities shall be conducted at the particular location authorized.
 3. Signage shall be permitted for a Temporary Real Estate Office consistent with Section 60.30.15.12 of this Code.
 4. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.

40.80.15.4.E.

5. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the Temporary Real Estate Office on the surrounding property and use.
 6. The Director may impose conditions as are necessary which establish a duration of time that the Temporary Real Estate Office may be located on the subject site.
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval.
- H. Extension of a Decision. Refer to Section 50.93.

40.80.15.

5. Non-Profit Event.

- A. Threshold. An application for Non-Profit Event shall be required when the following threshold applies:
1. The temporary use of land in order to conduct an event operated by a non-profit organization.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Non-Profit Event. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Non-Profit Event application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Non-Profit Event application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal is a non-profit organization registered with the State of Oregon pursuant to Chapter 65 of the Oregon Revised Statutes.
 4. The proposal is located entirely within public or private property within a commercial, industrial, or multiple use zoning district and the applicant has written permission from the property owner to utilize the subject property for the proposal.
 5. The proposal is located on a public right-of-way within any of the Regional Center and Town Center Multiple Use Zoning Districts and the applicant has written permission from the City.
 6. Safe vehicle and pedestrian circulation is provided consistent with Section 60.55 (Transportation Facilities) of this Code.

40.80.15.5.C.

7. The proposal does not involve use of a permanent structure.
 8. The proposal operates not more than 2 days a week during the months of May through October.
 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Non-Profit Event shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Non-Profit Event application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Non-Profit Event application to ensure compliance with the approval criteria. In addition to imposing other conditions to ensure compliance with the approval criteria, the decision making authority may also impose the following conditions when applicable:
1. Signage shall be permitted consistent with Section 60.30.15.12 of this Code.
 2. The Director may impose conditions as are necessary to ensure that adequate parking exists and that vehicles entering or exiting the site do not create a safety hazard.
 3. The Director may impose conditions as are necessary to safeguard the public health and safety and to minimize potential adverse impact created by the temporary use on the surrounding property and use.
 4. The Director may impose conditions as are necessary which establish hours of operation.

40.80.15.5.E.

5. The Director may impose conditions as are necessary to ensure that noise levels meet the standards established by the State of Oregon Department of Environmental Quality
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. The use authorized by the decision making authority shall commence, operate, and conclude within 2 years of the date of approval.
- H. Extension of a Decision. Refer to Section 50.93.

40.85. TEXT AMENDMENT**40.85.05. Purpose.**

The purpose of a Text Amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in the law. This Section is carried out by the approval criteria listed herein.

40.85.10. Applicability.

The Text Amendment application shall apply to any change to Development Code text or diagrams.

40.85.15. Application.

There is a single Text Amendment application which is subject to the following requirements.

1. Text Amendment.

- A. Threshold. An application for Text Amendment shall be required when the following threshold applies:
 1. Any change to the Development Code, excluding changes to the zoning map.
- B. Procedure Type. The Type 4 procedure, as described in Section 50.50 of this Code, shall apply to an application for Text Amendment. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Text Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Text Amendment application.

40.85.15.1.C.

2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.
 4. The proposed text amendment is consistent with the City's Comprehensive Plan.
 5. The proposed text amendment is consistent with other provisions within the City's Development Code.
 6. The proposed amendment is consistent with all applicable City ordinance requirements and regulations.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for Text Amendment to the City's Development Code shall be initiated by the City Council, Mayor, the Director, or any interested person on a form provided by the Director and shall be filed with the Director. The Text Amendment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.75.

40.90. TREE PLAN**40.90.05. Purpose**

The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of significant and historic tree and grove, landscape tree, street tree, and community trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein.

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) community trees within an one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling may remove any number of community trees.
2. Removal of any hazardous tree or a portion of a hazardous tree when the tree is identified as such by the City Arborist and the removal is required by the City. The removal of the tree is subject to the mitigation requirements of Section 60.60 (Trees and Vegetation) of this Code.
3. Pruning of trees consistent with the Vision Clearance requirements of Section 60.55.50.
4. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.

40.90.15. Application.

There are four (4) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, Tree Plan Three, and Tree Plan Four.

40.90.15.

1. **Tree Plan One.**

- A. **Threshold.** An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:
1. Minor pruning of a Significant Tree, Significant Grove, Landscape Tree, tree within a Significant Natural Resource Area (SNRA), Historic tree, or Street Tree once within an one year period.
 2. Removal of up to and including five (5) Landscape Trees or Street Trees on a site within a one year period.
 3. Removal or pruning of a Significant Tree, Significant Grove, Landscape Tree, tree within a Significant Natural Resource Area (SNRA), a Historic Tree, a Street Tree, or part thereof, that constitutes or creates a hazardous condition. Pruning to eliminate a hazardous condition may exceed minor pruning.
 4. Removal of noxious vegetation, re-planting of trees and shrubs, or both within a SNRA, land designated as significant on the City's Local Wetland Inventory, or sensitive area as defined by Clean Water Services.
- B. **Procedure Type.** The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.
- C. **Approval Criteria.** In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

40.90.15.1.C.

3. If applicable, it is necessary to prune or remove a tree that poses a safety hazard to pedestrians, vehicular traffic, adjacent property, or the general public or that threatens to cause disruption of public service and at least one of the following exist:
 - a. The tree or portion of the tree is certified by a qualified professional as dead or dying.
 - b. A portion of the tree is only partially attached.
 - c. The tree or a portion of the tree has been damaged by a storm, fire, age, or accident and is physically lodged or leaning against a building, transportation facility, or overhead utility line or pole.
4. If applicable, pruning a tree will result in removal of no more than 20% of the tree's canopy or disturbance of no more than 10% of the root system. The pruning is needed to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
5. If applicable, removal of a landscape tree or street tree or pruning of a tree is necessary to accommodate development where variances to setback provisions of the Development Code will not allow the tree to be saved.
6. If applicable, emergency removal or pruning is necessary due to an immediate threat to public safety documented by photographic evidence supplied by the applicant.
7. Removal of a tree or grove shall not increase erosion or any resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
8. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.1.

- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.

40.90.15.

2. Tree Plan Two

- A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10 apply, none of the thresholds listed in Section 40.90.15.1 apply, and one or more of the following thresholds apply:
1. Major pruning of a non-hazardous Significant Tree, Significant Grove, Trees within a Significant Natural Resource Area (SNRA), Historic Trees, Landscape Trees, or Street Trees once within a one (1) calendar year period.
 2. Removal of more than five (5) and up to and including ten (10) Landscape Trees or Street Trees on a site within a one calendar year period.
 3. Removal of five (5) or more Community Trees within a one calendar year period on properties more than one-half acre in size developed with a detached dwelling.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to enhance the health of the tree, grove, group of trees, or an adjacent tree or to eliminate conflicts with structures or vehicles.

40.90.15.2.C.

4. If applicable, it is necessary to remove diseased of landscape, street, or community trees or trees weakened by age, storm, fire, or other condition.
5. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, pruning of any tree or removal of a landscape, street, or community tree is necessary to accommodate development where no reasonable alternative exists for the development at another location on the site, or where variances to setback provisions of this Code will cause other undesirable circumstances on the site or adjacent properties if the tree is saved.
7. If applicable, removal of a landscape tree or street tree or pruning of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.
8. If applicable, removal of landscape, street, or community tree is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. Removal of a tree or grove shall not increase erosion or any resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

40.90.15.2.

- D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.25 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.65.
- G. Expiration of a Decision. Refer to Section 50.90.
- H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.

40.90.15.

3. Tree Plan Three

- A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 or Section 40.90.15.2 apply and one or more of the following thresholds apply:
1. Removal of up to and including ninety five percent (95%) of trees within a Significant Natural Resource Area (SNRA).
 2. Removal of an individual Historic Tree, a tree within a Historic Grove, or a Historic Grove.
 3. Removal of a Significant Tree, Grove, or portion thereof.
 4. Removal of more than ten (10) Landscape or Street Trees.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Tree Plan Three. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.

40.90.15.3.C.

4. If applicable, removal is necessary to enhance the health of the tree, grove, or adjacent tree to reduce maintenance, or to eliminate conflicts with structures or vehicles.
5. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, removal is necessary to accommodate development where no reasonable alternative exists for the development at another location on the site, or where variances to setback provisions of the Development Code will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties.
7. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site, or that pruning in excess of 20 percent of the canopy is required to prevent damage to such improvements or property.
8. If applicable, removal is necessary to accomplish a public purposes, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. Removal of a tree or grove shall not increase erosion or resulting erosion shall be controlled consistent with City and Clean Water Services regulations.
10. If applicable, removal of a tree within a SNRA will not substantially reduce the significance of the natural resource.

40.90.15.3.C.

11. If applicable, removal of a Significant Tree or tree within a Significant Grove will not eliminate the significance of the grove based upon the original Significant Tree and Grove Inventory analysis.
 12. If applicable, removal of a tree or trees within a SNRA will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 13. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
 14. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
 15. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), any other information identified through a Pre-Application Conference, and by a report from a qualified professional.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).

40.90.15.3.

- F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of approval shall be met as long as the tree exist unless otherwise specified or until modified through a City approval process.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.

40.90.15.

4. Tree Plan Four

- A. Threshold. An application for Tree Plan Four shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 through Section 40.90.15.3 apply and when the following threshold applies:
1. Removal of more than ninety five percent (95%) of trees within a Significant Natural Resource Area (SNRA).
- B. Procedure Type. The Tree Plan Four application is a Comprehensive Plan Amendment application. The procedures and criteria specified in Chapter One of the Comprehensive Plan shall apply.

40.95. VARIANCE**40.95.05. Purpose.**

The purpose of a Variance application is to provide for the consideration of varying from the applicable provisions of this Code where it can be shown that, owing to special and unusual circumstances, the literal interpretation of these provisions would cause an undue or unnecessary hardship without a corresponding public benefit. This Section is carried out by the approval criteria listed herein.

40.95.10. Applicability.

A Variance application may only be requested for those proposals that request a variance of more than fifty percent (50%) from the numerical Site Development Requirements contained in Chapter 20 (Land Uses) or the numerical requirements contained in Section 60.30 (Off-Street Parking), Section 60.40 (Sign Regulations), and Section 60.55 (Transportation Facilities).

40.95.15. Application.

There is a single Variance application which is subject to the following requirements.

1. Variance.

- A. Threshold. An application for Variance shall be required when the following threshold applies:
 1. A change of more than fifty percent (50%) to the numerical standards specified in Section 40.95.10.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Variance. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Variance application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

40.95.15.1.C.

1. The proposal satisfies the threshold requirements for a Variance application.
2. All City application fees related to the application under consideration by the decision making authority have been submitted.
3. Special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same zoning district.
4. Strict interpretation of the provisions of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of this Code.
5. The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.
6. If more than one (1) variance is being requested, the cumulative effect of the variances result in a project which is still consistent with the overall purpose of the applicable zone.
7. Any variance granted shall be the minimum variance that will make possible a reasonable use of land, building, and structures.
8. For a proposal for a variance from sign regulations, no variance shall be granted unless it can be shown that there are special circumstances involving size, shape, topography, location or surroundings attached to the property referred to in the application, which do not apply generally to other properties in the same zoning district, and that the granting of the variance will not result in material damage or prejudice to other property in the vicinity and not be detrimental to the public safety and welfare. Variances shall not be granted merely for the convenience of the applicant or for the convenience of regional or national businesses which wish to use a standard sign.

40.95.15.1.C.

9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Variance shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Variance application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Variance application to ensure compliance with the approval criteria. When considering a Variance application to the numerical sign regulations in Section 60.40 (Sign Regulations), the decision making authority shall review all of the existing or proposed signs for the development. The decision making authority may also impose other conditions of approval to require:
1. Removal or alteration of conforming or nonconforming signs to achieve compliance with the standards contained in Section 60.40 (Sign Regulations).
 2. Removal or alteration of conforming or nonconforming signs in order to establish a consistent sign design throughout the development.
 3. Sign permit applications for signs erected without permits or removal of such illegal signs.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Refer to Section 50.93.

40.97. ZONE CHANGE**40.97.05. Purpose.**

The purpose of a Zone Change application is to provide for the consideration of legislative and quasi-judicial amendments to the zoning map. Legislative amendments to the zoning map are amendments of generally large size, diversity of ownership or of interest to a large geographic area. Quasi-judicial amendments to the zoning map are amendments that are generally small in size, single ownership or affect only a relatively small geographic area. Annexation related amendments to the zoning map are those amendments, whether legislative or quasi-judicial, which are associated with land being annexed into the City. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires. This Section is carried out by the approval criteria listed herein.

40.85.10. Applicability.

The provisions of this section shall apply to a change of the zoning designation for parcels of land within the City.

40.97.15. Application.

There are four (4) Zone Change applications which are as follows: Quasi-Judicial Zone Change, Legislative Zone Change, Non-Discretionary Annexation Related Zone Change and Discretionary Annexation Related Zone Change. The Director shall determine if a zone change is quasi-judicial or legislative. For annexation related zone change applications, the Director shall determine if the applications are discretionary or non-discretionary.

1. Quasi-Judicial Zone Change.

- A. Threshold. An application for Quasi-Judicial Zone Change shall be required when the following threshold applies:
 1. The change of zoning designation for a specific property or limited number of specific properties.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Quasi-Judicial Zone Change. The decision making authority is the Planning Commission.

40.97.15.1.

- C. Approval Criteria. In order to approve a Quasi-Judicial Zone Change application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Quasi-Judicial Zone Change application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal conforms with applicable policies of the City's Comprehensive Plan.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 5. In addition to the criteria stated in Section 40.97.15.1.C.1 through 4, above, the following criteria shall apply to Quasi-Judicial Zone Change which would change the zone designation to the Convenience Service (C-V) zoning district.
 - a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.
 - b. The public interest is best carried out by approving the proposal at this time.
- D. Submission Requirements. An application for Quasi-Judicial Zone Change to the City's zoning map shall be made by the owner of the subject property, or the owner's authorized agent, the City Council, Mayor, or their designee on a form provided by the Director. All Quasi-Judicial Zone Change applications shall be filed with the Director and shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.70.

40.97.15.

2. Legislative Zone Change.

- A. Threshold. An application for Legislative Zone Change shall be required when the following threshold applies:
1. The change of zoning designation for a large number of properties.
- B. Procedure Type. The Type 4 procedure, as described in Section 50.50 of this Code, shall apply to an application for Legislative Zone Change. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Legislative Zone Change application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Legislative Zone Change application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal conforms with applicable policies of the City's Comprehensive Plan.
 4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
 5. In addition to the criteria stated in Section 40.97.15.2.C.1 through 4, above, the following criteria shall apply to Quasi-Judicial Zone Change which would change the zone designation to the Convenience Service (C-V) zoning district.
 - a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.

40.97.15.2.C.5.

- b. The public interest is best carried out by approving the proposal at this time.
- D. Submission Requirements. An application for Legislative Zone Change to the City's zoning map may be initiated by the City Council, Mayor, or their designee. All Legislative Zone Change applications shall be filed with the Director and shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.75.

40.97.15.

3. Non-Discretionary Annexation Related Zone Change.

- A. Threshold. An application for Annexation Related Zone Change shall be required when one or more of the following thresholds apply:
1. The change of zoning to a City zoning designation as a result of annexation of land into the City.
 2. The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for discretion.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Non-Discretionary Annexation Related Zone Change to the City's zoning map. The decision making authority is the City Council.
- C. Approval Criteria. In order to approve a Non-Discretionary Annexation Related Zone Change application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zone Change application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.
 4. Applications and documents related to the request, which will require further City approval, have been submitted to the City in the proper sequence.

40.97.15.3.

- D. Submission Requirements. An application for a Non-Discretionary Annexation Related Zone Change shall be made by the City Council, Mayor, or their designee on a form provided by the Director. All Non-Discretionary Annexation Related Zone Change applications shall be accompanied by the information required by the application form and Section 50.25 (Application Completeness).

40.97.15.

4. Discretionary Annexation Related Zone Change.

- A. Threshold. An application for Discretionary Annexation Related Zone Change shall be required when the following threshold applies:
1. The change of zoning to a City zoning designation as a result of annexation of land into the City and the Urban Planning Area Agreement (UPAA) does not specify a particular corresponding City zoning designation and discretion is required to determine the most similar City zoning designation.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Discretionary Annexation Related Zone Change to the City's zoning map. The decision making authority is the Planning Commission.
- C. Approval Criteria. In order to approve a Discretionary Annexation Related Zone Change application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Discretionary Annexation Related Zone Change application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed zoning designation most closely approximates the density, use provisions, and development standards of the Washington County designation which applied to the subject property prior to annexation.
 5. The proposed zoning designation is consistent with any guidance contained within the UPAA concerning the application of non-specified zoning district designations.

40.97.15.4.C.

6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Discretionary Annexation Related Zone Change shall be made by the City Council, Mayor, or their designee on a form provided by the Director. All Discretionary Annexation Related Zone Change applications shall be accompanied by the information required by the application form and Section 50.25 (Application Completeness).
- E. Appeal of a Decision. Refer to Section 50.70.

CHAPTER 50 PROCEDURES

50.05. Initiation of an Application

1. An application subject to a Type 1, Type 2, or Type 3 procedure may be filed by:
 - A. The owner or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser.
 - B. The City Council, Mayor, or Director, as to property owned by the City, including public right of way and easements, or which the City intends to acquire.
 - C. Public agencies that own the property or have passed a resolution declaring that they intend to exercise their statutory authority to condemn the property.
2. A Text Amendment application subject to a Type 4 procedure may be filed by an interested person, City Council, Mayor, or Director.
3. A Zone Change application subject to a Type 4 procedure may be filed by the City Council, Mayor, or Director.

50.10. Withdrawal of an Application

1. An applicant may withdraw an application before the application is deemed complete.
2. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision if the Director determines that:
 - A. The owners or contract purchasers or the interest holders in the property consent in writing to withdraw the application.
 - B. No violation of this Code has been identified on the subject property and processing of the application would not correct the identified violation.
3. The Director may withdraw any City initiated application at any time.
4. If an application is withdrawn after public notice has been mailed, the Director shall send written notice stating the application has been withdrawn to all persons to whom notice of the application or hearing has been sent. This provision shall not apply to legislative applications that require Citywide mailed notice.
5. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
 - A. Application withdrawn prior to being deemed complete: 85%.
 - B. Application withdrawn prior to publication or distribution of public notice: 50%.
 - C. Application withdrawn after publication or distribution of public notice: 0%.
6. For withdrawal of appeals, refer to Section 50.89 of this Code.

50.15. Classification of Applications

1. An application shall be subject to the procedure type specified in the Code, if any. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.
 - A. A Type 1 procedure typically involves an application that is subject to non-discretionary criteria or criteria that require the exercise of professional judgment only about technical issues.
 - B. A Type 2 procedure typically involves an application that is subject to criteria that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest.
 - C. A Type 3 procedure typically involves an application that is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.
 - D. A Type 4 procedure typically involves the adoption, implementation or amendment of policy or law by ordinance. The subject of a Type 4 procedure generally applies to a relatively large geographic area containing many property owners.

50.15.

2. When an applicant submits more than one complete application for a given proposal, where each application addresses a separate set of code requirements and the applications are subject to different procedure types, all of the applications are subject to the procedure type of the application which requires the broadest notice and opportunity to participate. For example, a Type 2 application will be consolidated with a Type 3 application for the same proposal on the same site, in which case, the Type 2 application will be reviewed by the decision making authority of the Type 3 application. The decision making authority's action on the Type 2 application will be based on the approval criteria governing the Type 2 application. An appeal of the decision will be processed according to the provisions of Section 50.70 of this Code.

In the event that the completed applications involve applications where the decision making authority is a combination of either the Director, Board of Design Review, or Planning Commission, the decision making authority will be the Planning Commission.

3. The Director shall determine the appropriate decision making authority between the Planning Commission and the Board of Design Review for Adjustment, Text Amendment, Tree Plan, and Variance applications. Such determination will be based upon the characteristics of the proposal and the associated application, if any. The determination of the Director may be appealed directly to the City Council pursuant to Section 50.70 of this Code.
4. Notwithstanding the Director's determination of procedure type, Type 1, 2, or 3 but not Type 4, an applicant may choose to have an application at the time of submittal be subject to a procedure type requiring broader notice and opportunity to participate provided the applicant pays the appropriate fee for the selected procedure type and the Director determines that statutory timelines for reaching a final decision can be satisfied.
5. Notwithstanding any other provision, and, at no additional cost to the applicant, the Director may choose to process a Type 2 application under the Type 3 procedure in order to provide greater notice and opportunity to participate than would otherwise be required, or in order to comply with the time requirements for reviewing development applications pursuant to ORS 227.178. The decision making authority's action on the Type 2 application will be based on the approval criteria governing the Type 2 application.

50.20. Pre-Application Conference

1. With the exception of an application filed by the City, a pre-application conference shall be required for all proposals which require Type 2, Type 3, or Type 4 applications. A pre-application conference is optional for an applicant for proposals which require only Type 1 applications.
2. The purpose of the pre-application conference is to acquaint the City and outside agencies and service providers with a potential application, and to acquaint the applicant with the requirements of this Code, the Comprehensive Plan, and other relevant criteria and procedures. It is not an exhaustive review of all potential issues, and the conference does not bind or preclude the City from enforcing all applicable regulations or from applying regulations in a manner differently than may have been indicated in the pre-application conference.
3. The City will schedule and conduct the pre-application conference within twenty-one (21) calendar days of receipt of a request for a pre-application conference. Notwithstanding application completeness requirements, if a required pre-application conference is not conducted within the twenty-one day time period due to no fault of the applicant, the applicant may elect to proceed with an application without a pre-application conference.
4. To initiate the pre-application conference, an applicant shall submit a completed form provided by the Director for that purpose, the relevant fee, and copies of all information required by the relevant Section of the Code or specified in writing by the Director.

The Director shall coordinate the involvement of City staff responsible for planning, development review, roads, drainage, and other subjects, as appropriate, in the pre-application review process. The Director shall also invite outside agencies and service providers, as appropriate, to participate in the pre-application conference.

5. Within approximately fourteen (14) calendar days after a pre-application conference, the Director shall mail to the applicant, or the applicant's agent, a written summary of the conference. The Director shall mail a copy of the summary to any other person who requests one and pays the City's mailing and photocopying costs. The purpose of the written summary is to provide a preliminary assessment of a proposal and is not to be construed as a final recommendation or decision by the City or by any other outside agency or service provider on the merits of the proposal. The pre-application conference written summary shall:

50.20.5.

- A. Summarize the contemplated use and relevant characteristics of the proposal.
 - B. Identify necessary application submittal requirements.
 - C. Identify the relevant approval criteria and development regulations, with a disclaimer that the approval criteria and development regulations in effect at the time an application is received will control and that such approval criteria and development regulations may change.
 - D. Identify specific additional information that is needed to respond to the relevant criteria and development regulations or is recommended to respond to other issues.
 - E. Identify applicable application fees, with a disclaimer that fees are subject to change and that the fees in effect at the time a complete application is received will control.
 - F. Identify information that may be relevant to the proposal and that may be in the possession of the City or other agencies of which the City is aware, such as:
 1. Comprehensive Plan map designation and zoning on and adjacent to the property, which is the subject of the pre-application conference.
 2. Physical development limitations, such as steep or unstable slopes, wetlands, water bodies, or sensitive resource areas that exist on and in the vicinity of the subject property.
 3. Other applications of which the City is aware that have been approved or are pending for the property and in the vicinity of the property that may affect or be affected by a proposal.
6. If a complete application relating to a proposed development action that was the subject of a pre-application conference has not been submitted within one year of the conference, the applicant shall schedule a current pre-application conference.

50.25. Application Completeness

1. A complete application is one which contains the information required by the Director to address the relevant criteria, development requirements, and procedures of this Code. A complete application shall consist of the requisite number of copies of the following:
 - A. A completed original application form and application checklist, signed by:
 1. The applicant.
 2. If the applicant is not the owner, the owner of the property, or the authorized agent of the property owner. If an authorized agent, a written statement made by the owner of the property shall be submitted stating that the agent is authorized to sign on the owner's behalf.
 3. If the applicant is exercising its statutory authority to condemn property, the representative of the public agency accompanied by written documentation of such condemnation or intent to condemn the property.
 - B. A written statement, supported by substantial evidence, that identifies the criteria and development regulations considered relevant to the application, states the facts alleged to show that the application complies with applicable criteria and development regulations, and explains why the application should be approved based on the criteria and development regulations and facts set forth in the application.
 - C. The Director may require an applicant to submit information in addition to that required on the form to aid in deciding whether an application satisfies applicable criteria and development regulations. The Director shall attempt to identify additional necessary information in the pre-application conference.
 - D. The information required by Section 50.30.4 regarding Neighborhood Meeting requirements, if applicable.
 - E. For a Type 2, Type 3, or Type 4 application, a copy of the pre-application conference summary.

50.25.1.

- F. Documentation from Clean Water Services stating that water quality will not be adversely affected by the proposal.
 - G. The applicable fee in effect at the date of submittal.
2. To enable the Director to determine whether an application is complete, an applicant shall submit the requisite number of copies, as determined by the Director.
 3. The Director may defer collection of application fees during review of the application for completeness; provided, an application shall not be deemed complete until the City has received all required fees.
 4. The Director shall advise the applicant in writing whether an application is complete by sending a completeness notice by first class mail within thirty (30) calendar days after the City receives an application. To comply with this completeness notice requirement, the completeness notice must be postmarked by the thirtieth day.
 - A. If an application is incomplete, the completeness notice shall list what information is missing.
 - B. The completeness notice shall include a form, designed to be returned to the Director by the applicant indicating whether or not the applicant intends to amend or supplement the application, and instructing the applicant to mail, facsimile, or deliver the form or written equivalent to the Director so that the Director receives it before the thirty (30) calendar day completeness review period expires.
 5. Incompleteness shall be based solely on failure to pay required fees, failure to address the relevant criteria or development regulations, or failure to supply required information and shall not be based on differences of opinion as to quality or accuracy. Determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

50.25.

6. The Director may waive application requirements that in the Director's opinion are not necessary to show an application complies with relevant criteria and development regulations and may modify application requirements based on the nature of the proposed application, development, site, or other factors. The City shall specifically identify any such waiver in the pre-application conference written summary or other written correspondence.
7. The application will be deemed complete for the purpose of this section upon receipt by the Community Development Department of the missing information. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete for the purposes of this section thirty-one (31) calendar days after the date of submittal, provided the applicant has paid all application fees.
8. Pursuant to ORS 227.178, the City will reach a final decision on an application within 120 calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the 120 calendar day time line or unless State law provides otherwise.
9. The 120 calendar day time line specified in Section 50.25.8 may be extended by the applicant for a period not to exceed 180 calendar days from the date the application was deemed complete.
10. The applicant may amend the application up to and including fourteen (14) calendar days after the application has been deemed complete. Amendments to an application submitted more than fourteen (14) calendar days after the application is deemed complete may be determined by the Director to be so substantial that the application should be treated as having been refiled. In such a case, the Director shall provide the applicant with the following options: provide the City with a waiver of the 120-day timeframe set forth in ORS 227.178 to correspond with the number of days more than the fourteen-day timeframe in this section that the amendment was submitted; treat the application as having been refiled as of the date the amendment was submitted; or, decide the application on the basis of the applicant's materials without the amendment.

50.25.

11. Pursuant to Section 50.25.3, an application will not be complete until the required fee has been received by the City. For any application which has been on file with the City for more than 180 calendar days and the applicant has not paid the required fee, the application will be deemed withdrawn.

50.30. Neighborhood Review Meeting

1. The purpose of the Neighborhood Review Meeting is to allow neighbors, representatives from the Neighborhood Association Committee (hereinafter referred to as NAC), and interested persons an opportunity to become familiar with the proposal and to identify any associated issues. The Neighborhood Review Meeting is intended to assist in producing applications that are responsive to neighborhood concerns, and to reduce the likelihood of delays and appeals. The City expects an applicant to take into consideration the reasonable concerns and recommendations of the neighborhood when preparing an application. The City expects the neighbors and NAC to work with the applicant to provide reasonable concerns and recommendations.
2. Prior to submittal of an application subject to a Type 3 procedure, the applicant shall provide an opportunity to meet with neighboring property owners, residents and businesses (hereinafter collectively referred to as “neighbors”) as well as representatives from the NAC within whose boundaries the site is located or within the notice radius to review the proposal. The applicant shall not be required to hold more than one Neighborhood Review Meeting provided such meeting is held within six-months prior to submitting an application for one specific site. This requirement does not apply to applications for Quasi-Judicial Zone Change (Section 40.97.15.1) or Discretionary Annexation Related Zone Change (Section 40.97.15.4).
3. Procedures.
 - A. Except as otherwise provided in this section, the applicant shall select the meeting time and place according to the preference indicated by the relevant NAC. Preference should be given to a regularly scheduled meeting time of the NAC in which the project is located. The starting time selected shall be limited to a weekday evening after 6:00 p.m. or a weekend at any reasonable time and shall not occur on a National holiday. The meeting shall be held at a location open to the public and in compliance with the Americans with Disabilities Act within the boundaries of the NAC or at a similar location within the City of Beaverton. A sign at least 22” x 28” in size with minimum 2” lettering shall be placed at the main entrance of the building where the meeting will take place at least one hour prior to the meeting. Such sign will announce the meeting, that the meeting is open to the public and that interested persons are invited to attend. This sign shall be removed upon conclusion of the meeting by the applicant.

50.30.3.

- B. The applicant shall send by regular mail a written notice announcing the Neighborhood Review Meeting to: the Director, property owners within 500 feet of the property involved in the anticipated application and to representatives of all NACs whose boundaries are within 500 feet of the subject property. The notice shall include the date, time and location of the meeting and briefly discuss the nature and location of the proposal. The notice shall be mailed not less than 20 calendar days prior to the meeting date. The Director shall maintain on file in the Community Development Department, current addresses of NAC Officers and/or representatives and related NAC information, including regularly scheduled or monthly meeting dates, times and locations.

The mailing list shall be based on the most recent property tax assessment rolls of the Washington County Department of Assessment and Taxation. At the request of the applicant, and upon payment of the applicable fee, the City will provide the required mailing list.

- C. Not less than 20 calendar days prior to the Neighborhood Review Meeting, the applicant shall post a notice on the property which is subject of the proposed application. The notice shall be posted within 50 feet of an adjoining public right-of-way in a manner that can be read from the right-of-way. The notice shall state that the site may be subject to a proposed development and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the Neighborhood Review Meeting.

Standard signs are available from the City upon payment of a fee. The City will not be responsible for posting of any signs.

- D. At the Neighborhood Review Meeting, the applicant shall describe the proposed application to persons in attendance. The attendees may identify any issues that they believe should be addressed in the proposed application and recommend that those issues be submitted for City consideration and analysis.

At the request of the applicant and upon payment of a fee, the City will provide a facilitator for the Neighborhood Review Meeting.

50.30.3.

- E. At the Neighborhood Review Meeting, the applicant shall take notes of the discussion on the proposed application. After the meeting and before submitting an application to the City, the applicant shall send a copy of the meeting notes to the Chairperson of the NAC in which the project is to be located by certified mail.
4. To comply with this section, an applicant shall submit the following information with the application:
- A. A copy of the notice sent to surrounding property owners and the NAC Representatives as described in Section 50.30.3.B.
 - B. A copy of the mailing list used to send out meeting notices as described in Section 50.30.3.B.
 - C. A written statement containing the information posted on the property as described in Section 50.30.3.C.
 - D. An affidavit of mailing and posting notices as described in Sections 50.30.3.A through C.
 - E. Copies of written materials and 8.5" x 11" size plans presented at the Neighborhood Review Meeting.
 - F. Notes of the meeting, including the meeting date, time, and location, the name and address of those attending, and a summary of oral and written comments received.
 - G. A certified mail receipt indicating mailing of the meeting notes to the Chairperson of the NAC.
 - H. If responses to the meeting notice were not received by the applicant and no one attended the Neighborhood Review Meeting or persons in attendance made no comments, the applicant shall submit evidence as indicated above, with the notes reflecting the absence of comment, attendance, or both.
5. Failure of a property owner to receive notice shall not invalidate the Neighborhood Review Meeting proceedings.

50.35. Type 1

1. Except for Non-Discretionary Annexation Related Zone Change applications, the decision making authority for all Type 1 applications shall be the Director. For Non-Discretionary Annexation Related Zone Change applications, the decision making authority shall be the City Council.
2. Except for Non-Discretionary Annexation Related Zone Change applications, the decision making authority shall approve, approve with conditions, or deny an application subject to a Type 1 procedure within twenty eight (28) calendar days after the date the application was deemed or determined to be complete. In the case of a Type 1 application for a site that is identified on the Local Wetland Inventory (LWI), the decision shall be made within forty (40) calendar days. In either case, an applicant may request in writing a continuance of the time for decision by the Director, not to exceed a total of 180 calendar days from the date the application was deemed or determined to be complete. The decision making authority shall issue a decision prior to the conclusion of the continuance of time. The decision making authority may consider new evidence the applicant introduces with or after such request for continuance.
3. The written notice of decision for Type 1 applications, except for Non-Discretionary Annexation Related Zone Change applications, shall be mailed to the applicant and include the following information:
 - A. A brief summary of the proposal and the application which is the subject of the decision, the decision and any conditions of approval.
 - B. A description of the site reasonably sufficient to inform the reader of its location including site address, if available, map and tax lot number, site zoning, and name of the NAC in which the proposal is located.
 - C. A statement of the facts upon which the decision making authority relied to determine whether the application satisfied or failed to satisfy each applicable approval criterion.
 - D. The decision to approve or deny the application, and, if approved, any conditions of approval necessary to ensure compliance with the applicable criteria.

50.35.3.

- E. A statement that the decision is final, unless appealed as provided in Section 50.60 within twelve (12) calendar days after the date of the notice or may be modified pursuant to Section 50.95. The notice shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision.
 - F. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list when and where the case file is available and the name and telephone number of the City representative to contact about reviewing the case file.
- 4. If an applicant does not intend to appeal the decision, the applicant may complete a form stating such intention. Upon submittal of said form to the City, the decision shall be final and no further appeal period shall be necessary.
 - 5. In the case of Non-Discretionary Annexation Related Zone Change applications, if the Council intends to adopt an ordinance to change a zoning designation, the City Attorney shall prepare same. Ordinances shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings which demonstrate that the approval complies with applicable approval criteria.
 - 6. In the case of Non-Discretionary Annexation Related Zone Change applications, the written notice of decision shall include the following:
 - A. A statement that no discretion was exercised in the assignment of the zoning district designation and that the assigned zoning district designation is consistent with the Washington County - Beaverton Urban Planning Area Agreement (UPAA) in effect at the time of application.
 - B. A statement that the decision is final but may be appealed to the Land Use Board of Appeal as provided in ORS 197.805 through ORS 197.860.
 - C. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

50.40. Type 2

1. The decision making authority for a Type 2 application shall be the Director.
2. Approximately seven (7) calendar days after the application has been determined to be or deemed complete, the Director shall mail a written notice to:
 - A. The applicant and the property owner.
 - B. The NAC in which the subject property is located and any other NAC whose boundaries are within three hundred (300) feet of the subject property.
 - C. Owners of property within three hundred (300) feet of any property line that is the subject of the application. The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.
3. The written notice of the pending application shall include the following information:
 - A. The case file number for the application.
 - B. The name and address of the applicant.
 - C. A description of the site reasonably sufficient to inform the reader of its location including map and tax lot number, and if available, site address, site zoning, and name of the NAC in which the proposal is located.
 - D. A map showing the subject property in relation to other properties.
 - E. A summary of the application.
 - F. A listing of the applicable approval criteria by Development Code section number.

50.40.3.

- G. When and where information about the application may be examined and the name and telephone number of the City representative to contact about the application.
 - H. A statement that a meeting of the Facilities Review Committee will occur on a specified date with the applicant to discuss technical issues associated with the application and the date of such meeting.
 - I. A statement that interested parties can submit written comments, but, to be considered, the City must receive those comments no later than the comment closing date, which is a specific date established by the Director and which is approximately twenty eight (28) calendar days from the date the application is determined to be or deemed complete. The comment closing date shall be listed in boldface type.
 - J. A statement that the decision shall be made after the comment closing date.
- 4. Within approximately seven (7) calendar days after the application has been determined to be or deemed complete and in no case less than twenty (20) calendar days before the decision making authority's decision, the Director shall publish in a newspaper of general circulation in the City of Beaverton a summary of the application, the comment closing date on the application, the date of the Facilities Review Committee technical meeting with the applicant, and the date on which a decision will be made on the application.
 - 5. Not more than ten (10) calendar days after the application has been determined to be or deemed complete, the applicant shall post on the site at least one (1) notice signboard provided by the Director for that purpose. The signboard shall be posted in a conspicuous place visible to the public on or in the vicinity of the property subject to the application. The signboard shall state with minimum two (2)-inch high letters the case file number and the telephone number where City staff can be contacted for more information.
 - 6. Subject to the limitations set forth in Section 50.25.10, the applicant may amend the application during a period of time of up to and including fourteen (14) days after the application has been determined to be or deemed complete.

50.40.

7. Approximately twenty eight (28) calendar days after the application has been determined to be or deemed complete, the Director shall convene the Facilities Review Committee to review technical aspects of the application with the applicant.
8. Within approximately thirty five (35) calendar days after the application has been determined to be or deemed complete, the applicant shall submit to the Director an affidavit certifying where and when the notices referred to in Section 50.40.5 were posted.
9. Within approximately seven (7) calendar days after the Facilities Review Committee technical meeting, the Facilities Review Committee shall forward a written report to the Director.
10. Within approximately fourteen (14) calendar days after the Facilities Review Committee technical meeting, the Director shall issue a written decision on the application; provided,
 - A. The decision making authority shall consider the application, the applicant's supplement to or amendment of the application, if any, and the timely and relevant comments on the application. The decision making authority may consider comments and responses received from the applicant, the public, or both after the comment closing period on the proposal; and
 - B. An applicant may request in writing a continuance of time, not to exceed a total of 180 calendar days from the date the application was determined to be or deemed complete. The decision making authority shall issue a decision prior to the conclusion of the continuance of time. Consistent with Section 50.25.10.B, the decision making authority may consider new evidence the applicant introduces with or after such request for continuance.
11. A decision shall include:
 - A. A brief summary of the proposal and the application which is the subject of the decision, the decision, and any conditions of approval.

50.40.11.

- B. A description of the site reasonably sufficient to inform the reader of its location including site address, and if available, map and tax lot number, site zoning, and the NAC in which the proposal is located.
- C. A statement of the facts upon which the decision making authority relied to determine whether the application satisfied or failed to satisfy each applicable approval criterion and assurance of compliance with the approval criteria.
- D. The decision to approve or deny the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.
- E. A statement that the decision is final, unless appealed as provided in Section 50.65 within twelve (12) calendar days after the date of the decision or may be modified pursuant to Section 50.95. The notice shall state in boldface type the date and time by which an appeal must be filed. The statement shall describe the requirements for filing an appeal of the decision.
- F. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list when and where the case file is available and the name and telephone number of the City representative to contact about reviewing the case file.

50.45. Type 3

1. Except for Street Vacation application, the decision making authority for all Type 3 applications shall be either the Planning Commission or Board of Design Review. For Street Vacation application, the decision making authority shall be the City Council.
2. Within approximately seven (7) calendar days after the application has been deemed complete, the Director shall mail a written notice to:
 - A. The applicant and the property owner.
 - B. The NAC in which the subject property is located and to any other NAC whose boundaries are within five hundred (500) feet of the subject property.
 - C. Owners of property within five hundred (500) feet of the property that is the subject of the application. The most recent property tax assessment rolls of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.
3. The written notice of the pending application shall include the following information:
 - A. The case file number for the application.
 - B. A description of the site reasonably sufficient to inform the reader of its location including map and tax lot number, and if available, site address, site zoning, and name of the NAC in which the proposal is located.
 - C. A map depicting the subject property in relation to other properties.
 - D. The nature of the application and the proposed use. In the case of a zone change, the nature of the uses which could be authorized.
 - E. A listing of the applicable approval criteria by Development Code section number.

50.45.3.

- F. When and where information about the application may be examined and the name and telephone number of the City representative to contact about the application.
 - G. A statement that a meeting of the Facilities Review Committee will occur on a specified date with the applicant to discuss technical issues associated with the application and the date of such meeting.
 - H. The date, time and location of the hearing before the decision making authority, and a statement that the hearing will be conducted in accordance with the adopted rules of procedure.
 - I. A statement that the decision will be made after the hearing closes.
 - J. A statement that failure to raise an issue in a hearing, by testifying in person or by letter, or failure to provide statements or evidence with sufficient specificity to afford the decision making authority an opportunity to respond to such issue, precludes appeal to the Land Use Board of Appeals on that issue.
 - K. A statement that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days before the hearing, and a copy will be provided at reasonable cost.
 - L. A statement that a copy of the pre-application conference comments, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
4. Within approximately seven (7) calendar days after the application has been determined to be or deemed complete and in no case less than twenty (20) calendar days before the decision making authority's initial hearing, the Director shall publish in a newspaper of general circulation in the City of Beaverton a summary of the application, a date by which public comment on the application should be submitted to the Director, the date of the Facilities Review Committee technical meeting with the applicant, and the place, date, and time of the decision making authority's hearing on the application under review.

50.45.

5. In addition to the provisions of Sections 50.45.2, 50.45.4, and 50.45.8, the following noticing timelines shall apply for the following applications:
 - A. If the proposal is a Quasi-Judicial Zone Change application (Section 40.97.15.1), the Director shall send the notice outlined in Section 50.45.3 by certified mail to the owner of property as shown on the current records of the Washington County Department of Assessment and Taxation which are subject to the proposed zone change at least thirty (30) days prior to the public hearing.
 - B. For any Zone Change application which includes all or part of a mobile home or manufactured dwelling park, as defined in ORS 446.003, the Director shall mail the notice outlined in Section 50.45.3 to each existing mailing address for tenants of the mobile home or manufactured dwelling park at least twenty (20) days but not more than forty (40) calendar days before the date of the initial hearing on the application. The applicant for such a zone change shall pay the costs of such notice, which shall be in addition to fees otherwise applicable to the application.
6. In addition to the noticing procedural requirements contained in Sections 50.45.2 through 50.45.4, a Street Vacation proposal shall be subject to the following procedures:
 - A. The newspaper notice of the proposed ordinance for street vacation described in Section 50.45.4 shall be published for at least two consecutive weeks prior to the public hearing.
 - B. A copy of the hearing notice described in Section 50.45.3 shall be made available in City Hall and the City Library.
 - C. At least fifteen (15) calendar days before the hearing for the street vacation, the applicant shall post a signboard, provided by the City at cost, at each terminus of the proposed street vacation. The sign shall contain the legend with minimum two inch (2") high letters "NOTICE OF STREET VACATION", the case number, the telephone number where City staff can be contacted for more information, and a statement that includes the date, time and place of the hearing of the City Council before whom the public may testify. The applicant is responsible for assuring that the sign is posted for a continuous period of at least fifteen (15) days.

50.45.

7. In addition to the noticing procedural requirements contained in Sections 50.45.2 through 50.45.4, an application for the demolition of a historic building or structure shall be subject to the following procedures:
 - A. The applicant has advertised such building for sale and/or removal from the site, with such advertisement to run once per week over two consecutive weeks, no less than seven days apart, in a newspaper of general circulation in the City of Beaverton.
 - B. The applicant has posted a sign on the property for a continuous period of at least thirty (30) calendar days prior to the hearing. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the building is located, and shall contain the legend "THIS HISTORIC BUILDING TO BE DEMOLISHED", together with a statement that includes the date, time and place of the hearing of the decision making authority before whom the public may testify. The applicant is responsible for assuring that the sign is posted for a continuous period of at least thirty (30) days.
 - D. If after 30 calendar days no party interested in purchasing or moving the property has come forward to the property owner, the City, or both, the decision making authority shall hold a hearing.
 - E. None of the preceding procedures listed in Section 50.45.7.A through D shall apply to the demolition of a historic building or structure if the Building Official has ordered the removal or demolition of such building because the Building Official has determined the building or structure to be dangerous to life, health or property.
8. Not less than twenty (20) calendar days before the decision making authority's hearing, the applicant shall post at least one (1) signboard provided by the Director for that purpose. The signboard shall be posted in a conspicuous place visible to the public on or in the vicinity of the property subject to the application. The signboard shall state with minimum two (2)-inch high letters the case number; the telephone number where City staff can be contacted for more information.

50.45.

9. All documents and evidence relied upon by the applicant shall be submitted to the City and made available to the public at least seven (7) days prior to the hearing. Documents and evidence relied upon by the applicant which is submitted later than seven (7) days prior to the hearing shall be received, provided however, upon request of any interested person, the decision making authority shall continue the hearing to a date and time certain which is not less than seven (7) days later and permit persons to present and rebut new evidence, argument or testimony in response to the documents and evidence submitted by the applicant later than seven days prior to the hearing.
10. Within approximately twenty eight (28) calendar days after the application has been determined to be or deemed complete, the Director shall convene the Facilities Review Committee to review technical aspects of the application with the applicant.
11. Within approximately thirty five (35) calendar days after the application has been determined to be or deemed complete, the applicant shall submit to the Director an affidavit certifying where and when the notices were posted.
12. Within approximately seven (7) calendar days after the Facilities Review Committee technical meeting, the Facilities Review Committee shall forward a written report to the Director.
13. Approximately twenty-one (21) calendar days after the Facilities Review Committee technical meeting, the decision making authority's initial hearing on the application shall take place.
14. At least seven (7) calendar days before the date of the initial hearing on the application, the Director shall make available to the public a copy of the staff report for review and inspection, and shall provide a copy of the staff report and recommendation to the decision making authority and to the applicant and property owner. The Director shall provide a copy of the staff report to the public at reasonable cost upon request.
15. Hearings before the Planning Commission or Board of Design Review shall be conducted in accordance with Section 50.55 through 50.58 of this Code. Hearing before the City Council shall be conducted in accordance with Section 50.85 through 50.88 of this Code. Hearings shall be recorded on audio only or audio and video tape.

50.45.

16. At the conclusion of the hearing on each application, the decision making authority shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of date, time and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Deny the application, approve the application, or approve the application with conditions.
 1. If the decision making authority takes action pursuant to Section 50.45.16.B, the decision making authority shall announce a brief summary of the basis for the decision, and that a land use order will be issued as provided in Section 50.45.17; provided, the proceedings may be continued for the purpose of considering such land use order without taking new testimony or evidence.
 2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
 - C. In the case of Street Vacation, Quasi-Judicial Zone Change, Discretionary Annexation Related Zone Change applications, if the Council intends to adopt an ordinance to vacate a street or change a zoning designation, the City Attorney shall prepare same. An ordinance shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings which demonstrate that the approval complies with applicable approval criteria.
17. After the public record closes, a written decision in the form of a land use order shall be prepared regarding the application. The land use order shall include:
 - A. A listing of the applicable approval criteria by Development Code section number.

50.45.17.

- B. A statement or summary of the facts upon which the decision making authority relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The decision making authority may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the land use order to satisfy this requirement.
 - C. A statement of conclusions based on the facts and findings.
 - D. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.
18. Within approximately seven (7) calendar days from the date that the decision making authority adopts a land use order, the Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the NAC in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The land use order shall be accompanied by a written notice which shall include the following information:
- A. Except for a Street Vacation application, a statement that the decision is final but may be appealed as provided in Section 50.70 within ten (10) calendar days after the date of the signed notice is dated and mailed. The appeal closing date, which is ten (10) days after the date the signed notice is dated and mailed, shall be set forth in boldface type. The statement shall generally describe the requirements for filing an appeal.
 - B. In the case of a Street Vacation application, a statement that the decision is final, but may be appealed to the Land Use Board of Appeal as provided in ORS 197.805 through ORS 197.860.
 - C. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

50.50. Type 4

1. The initial decision making authority for Type 4 applications shall be either the Planning Commission or the Board of Design Review. The Commission's or Board's decision on a Type 4 application shall be a written recommendation, which is forwarded to the City Council. The City Council shall make the final decision on Type 4 applications as set forth in this Section.
2. Not more than forty (40) nor less than twenty (20) calendar days before the date of the initial hearing of the decision making authority on an ordinance that proposes to legislatively change the zoning map or to amend the text of the Development Code, the Director shall mail notice of the hearing to:
 - A. The applicant if other than the City.
 - B. All NAC in whose area there is property that in the Director's opinion could be affected by the proposed ordinance, if adopted.
 - C. Owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land.
 1. The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.
 2. If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.
3. The notice of the initial hearing in a Type 4 procedure shall include at least the following information:
 - A. If required by ORS 227.186, a statement in bold type across the top of the first page of the notice that reads as follows: "This is to notify you that the City shall consider a proposed land use regulation that will affect the permissible uses of your land."
 - B. The date, time, and location of the hearing.

50.50.3.

- C. The nature and purpose of the hearing.
 - D. The case file number, title, or both of the proposed ordinance to be considered at the hearing.
 - E. A listing of the applicable approval criteria by Development Code and Comprehensive Plan section numbers.
 - F. A statement that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days before the hearing, and a copy will be provided at reasonable cost, and the name and telephone number of a City representative to contact about the ordinance.
 - G. A statement that failure to raise an issue in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision making authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.
 - H. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
 - I. If applicable, a statement that the ordinance is a result of an order of the Land Conservation and Development Commission or Metro.
4. At least ten (10) calendar days before the Planning Commission or Board of Design Review's initial hearing in a Type 4 procedure, the Director shall:
- A. Publish in a newspaper of general circulation in the City of Beaverton a summary of the hearing notice, including the date, time, and location of the hearing and the number and nature of the ordinance to be considered.
 - B. Make copies of the hearing notice available in at least City Hall and the City Library.

50.50.

5. At least seven (7) calendar days before the initial hearing in a Type 4 procedure, the Director shall publish a written staff report and recommendation regarding the ordinance and shall make available to the public a copy of the staff report for review and inspection. The Director shall provide a copy of the staff report at reasonable charge to members of the public upon request.
6. Initial hearings shall be conducted in manner specified in Section 50.55 through 50.58 of this Code. Hearings shall be recorded on audio or audio and video tape.
7. At the conclusion of the initial hearing in a Type 4 procedure, the decision making authority shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is not continued to a date, time, and location certain in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Hold open the public record for the receipt of additional evidence, argument, or both to a date and time certain which is not less than seven (7) calendar days after the hearing. The decision making authority shall state where additional written evidence and testimony may be sent, and shall announce any limits on the nature of the evidence that will be received while the hearing record remains open.
 - C. Recommend that the City Council reject or adopt the ordinance with or without certain changes, conditions, or both, together with a written justification for the recommendation; provided, the hearing may be continued to a date, time, and location certain for the purpose of considering such a written recommendation without receiving new evidence or argument.
8. After the public record closes, a written decision in the form of a land use order shall be prepared regarding the application.

50.50.

9. Within approximately seven (7) calendar days from the date that the decision making authority adopts a land use order, the Director shall cause the order to be signed, dated, and mailed to the persons who appeared orally or in writing before the decision making authority prior to the closing of the public record ("persons of record"). The land use order shall be accompanied by a written notice which shall include the following information:
 - A. A statement that the recommendation may be appealed as provided in Section 50.75 within ten (10) calendar days after the date the signed notice is dated and mailed. The appeal closing date, which is ten (10) days after the date the signed notice is dated and mailed, shall be listed in boldface type. The statement shall generally describe the requirements for filing an appeal.
 - B. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.
10. Not more than thirty (30) calendar days after the decision making authority issues its land use order and not less than ten (10) calendar days before the date of City Council consideration of the decision making authority's recommendation if the decision making authority's land use order was not appealed, the Director shall mail notice to the persons of record. The notice shall contain at least the following information:
 - A. The date, time, and location of the City Council meeting.
 - B. The nature and purpose of the City Council meeting.
 - C. The case file number, title, or both of the land use order to be considered at the City Council meeting.
 - D. A statement that a copy of the land use order is available for inspection at no cost at least (7) days prior to Council consideration, and a copy will be provided at reasonable cost, and the telephone number of a City representative to contact about the ordinance.

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11. Consideration by the City Council of the Planning Commission's or the Board of Design Review's recommendation on a land use order shall be conducted in accordance with the rules of procedure adopted by the Council, except as otherwise required by statute. The process for filing an appeal to City Council from the decision making authority's land use order is set forth in Section 50.75.
12. In the absence of an appeal from the Planning Commission's or the Board of Design Review's recommendation, at the conclusion of the City Council consideration of the decision making authority's land use order in a Type 4 procedure, the Council shall take one of the following actions:
 - A. Continue the matter to a date, time, and location certain. Notice of the date, time, and location certain of the continued matter is not required to be mailed, published or posted, unless the matter is not continued to a date, time, and location certain, in which case notice of the continued matter shall be given.
 - B. Remand the matter back to the Planning Commission, or as appropriate, to the Board of Design Review.
 - C. Approve the proposal, with or without certain changes. If Council approval indicates an intention to adopt one or more ordinances to amend the zone map, text, or both, then the City Attorney shall prepare the ordinance with findings. Ordinances shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings which demonstrate that adoption will comply with applicable approval criteria.
 - D. Reject the proposed ordinance.
 - E. The City Council shall adopt or approve written findings which demonstrate that adoption of the proposed ordinance will or will not comply with applicable approval criteria.
13. Not more than five (5) calendar days after the date of the adoption or rejection of an ordinance, the Director shall mail or otherwise submit notice to the Department of Land Conservation and Development (DLCD) on DLCD forms provided for such notice.

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14. Not more than seven (7) calendar days after the date of the adoption or rejection of an ordinance, the Director shall mail or otherwise submit notice to persons who testified orally or in writing to the Planning Commission, Board of Design Review, or City Council while the public record was open regarding the proposed ordinance. The notice shall include at least the following information:
 - A. A brief summary of the ordinance.
 - B. The date of the decision on the ordinance.
 - C. The place where and the time when the ordinance and related findings may be reviewed.
 - D. A summary of the requirements for appealing the City decision on the ordinance under ORS 197.830 to 197.845.

50.53. Expedited Land Division

An application for and any appeal of an expedited land division shall be subject to the process provisions in ORS 197.360 through ORS 197.380.

50.55. Conduct of Planning Commission and Board of Design Review Hearing

1. At the beginning of a hearing an announcement shall be made to those in attendance that:
 - A. Lists the applicable approval criteria by Development Code section number and Comprehensive Plan section number.
 - B. Testimony, arguments and evidence must be directed toward the applicable criteria or other criteria in the Comprehensive Plan or Development Code which the person believes to apply to the application.
 - C. Failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the decision making authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
 - D. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.
 - E. The decision making authority must be impartial and that members of the decision making authority shall not have any bias or personal or business interest in the outcome of the application. Prior to the receipt of any testimony, members of the decision making authority must announce any ex parte contacts. The decision making authority shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest, or ex parte contacts.
 - F. States that if any member of the decision making authority has visited the site, they should describe generally what was observed.
 - G. Summarizes the procedure of the hearing.
2. After the announcements described in Section 50.55.1, the Chair shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

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3. After the presentation of the staff report, the Chair shall call for the applicant's testimony.
4. After the applicant's testimony, the Chair shall call for other evidence or testimony in the following sequence unless the decision making authority consents to amend the sequence of testimony:
 - A. First, evidence or testimony in support of the application.
 - B. Second, evidence or testimony in opposition to the application.
 - C. Finally, evidence or testimony that is neither in support nor in opposition to the application.
5. The Chair shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.
6. The Chair shall offer staff an opportunity to make final comments and answer questions.
7. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.

50.57. Time Limits on Planning Commission and Board of Design Review Hearing Testimony

1. The purpose of time limits on testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that hearings conducted by the Planning Commission and the Board of Design Review are conducted in an efficient and expeditious manner. Time limits on testimony shall not be placed on staff presentations. The following time limits on testimony shall be observed during a hearing conducted by the decision making authority unless the decision making authority consents to adjust the time limits in a particular instance:
 - A. Up to and including 20 minutes for the applicant's presentation.
 - B. Up to and including 10 minutes for a representative of a recognized NAC, government or government agency, or other organized group recognized by the Planning Commission or Board of Design Review.
 - C. Up to and including 5 minutes each for other persons.
 - D. Up to and including 5 minutes for rebuttal.
2. The time limits set forth in Section 50.57.1 shall not include time taken by questions from or response to questions of the decision making authority.

50.58. Testimony, Exhibits, and Other Evidence before the Planning Commission and Board of Design Review.

1. Any person may present evidence at hearing before the decision making authority on a Type 3 or Type 4 proposal.
2. Any person may submit exhibits or written comments prior to the hearing. All submittals which are more than two (2) letter sized pages must include no fewer than ten (10) complete copies of the materials being submitted. Written comments or exhibits submitted prior to the hearing to be submitted by staff at the hearing must be received by the Director no later than 4:30 p.m. on the day of the scheduled hearing.
3. In order to be made part of the record, written comments or exhibits submitted at the hearing must be filed with the recording secretary and offered to the decision making authority as part of the record. No fewer than ten (10) copies of written comments or exhibits must be provided if those materials are submitted at the hearing.
4. Exhibits or written comments that are merely referred to in testimony but which are not offered to the decision making authority as part of the record in accordance with this Section shall not become part of the record of the proceedings.

50.60. Appeal of a Type 1 Decision

1. The decision making authority's decision on a Type 1 application may be appealed only by the applicant. The appeal must be received by the Community Development Department within twelve (12) calendar days after signed written notice of the decision was dated and mailed.
2. Within seven (7) calendar days after an appeal has been filed, the Director shall determine whether it contains at least the following information:
 - A. The case file number designated by the City,
 - B. The name and signature of the applicant as appellant.
 - C. Specification of evidence or written testimony provided with the application to which the decision under appeal is contrary.
 - D. The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to prove the error.
 - E. The appeal fee, as established by resolution of the City Council.
3. Failure to comply with the requirements of Sections 50.60.1 and 50.60.2 is jurisdictional and deprives the appellant of an opportunity for the appellate decision making authority to hear an appeal.
4. The appellate decision making authority on appeal of Type 1 decisions shall be the Planning Commission or Board of Design Review. The Director shall determine the appropriate appellate decision making authority for Type 1 decision appeals based upon the nature and characteristics of the proposal under appeal and any associated application. The appeal hearing shall be *de novo*, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in the manner specified in Section 50.80 through 50.83. The decision of the designated appellate decision making authority for appeals of Type 1 decisions shall be the final decision and shall not be subject to further appealed to the City Council.

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5. For appeals of Type 1 decisions filed under Section 50.60, the Director shall mail written notice of an appeal hearing to the appellant not less than twenty (20) calendar days prior to the appeal hearing, but need not post or publish the notice in a newspaper.
6. Not less than seven (7) calendar days before the date of the appeal hearing, the Director shall prepare and make available to the public, for review and inspection, a copy of the staff report regarding the appeal and shall provide a copy of the staff report and recommendation to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to the public at reasonable cost upon request.
7. Appeal hearings before the Planning Commission or Board of Design Review shall be conducted in accordance with Section 50.80 through 50.83 of this Code. Appeal hearings shall be recorded on audio only or audio and video tape.
8. At the conclusion of the hearing on the appeal, the appellate decision making authority shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Reverse or affirm the decision under appeal, with or without conditions or changes.
 1. If the decision making authority takes action pursuant to Section 50.60.8.B, the decision making authority shall announce a brief summary of the basis for the decision, and that a land use order will be issued as provided in Section 50.60.9; provided, the proceedings may be continued for the purpose of considering such land use order without taking new testimony or evidence.

50.60.8.B.

2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
9. After the public record on the appeal closes, a written decision in the form of a land use order regarding the application shall be prepared and contain the following:
 - A. A statement of the facts that the appellate decision making authority has relied on which demonstrate the decision under appeal is reversed or affirmed based on the criteria relevant to the appeal.
 - B. A statement of conclusions based on the findings.
 - C. If the appellate decision making authority changes conditions of approval, changes denial to approval, changes denial to approval subject to conditions, or changes approval to denial, the order shall include findings explaining the basis for such change and condition.
10. Within approximately seven (7) calendar days from the date that the appellate decision making authority adopts a land use order, the Director shall cause the order to be signed, dated, and mailed to the appellant and other persons who appeared orally or in writing before the public record closed.
11. A decision on an appeal is final on the date the signed land use order is dated and mailed.
12. Only one appeal of a Type 1 decision is permitted before the City. Therefore, the notice of a Type 1 decision on appeal shall indicate the decision may be appealed to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.

50.60.

13. If a decision of the appellate decision making authority is remanded to the City by the State of Oregon Land Use Board of Appeals (LUBA), the appellate decision making authority shall either:
 - A. Hold a hearing on the issue upon which LUBA remanded the decision without opening the record for additional evidence. Notice of the hearing on remand shall be given to all persons who testified either orally or in writing before the appellate decision making authority at the hearing that led to the decision remanded by LUBA. The notice shall set forth issues on remand that will be considered by the appellate decision making authority. Testimony shall be allowed at the hearing before the appellate decision making authority, except that testimony shall be limited to the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the appellate decision making authority based its decision regarding an issue or issues not remanded, testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the appellate decision making authority shall render a written decision; or
 - B. Hold a hearing on the issue upon which LUBA remanded the decision and open the record for additional evidence. Notice of the hearing on remand shall be given in the same manner in which the original hearing notice was provided. The notice shall list the applicable approval criteria and state that testimony will be limited to the criteria or the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the appellate decision making authority based its decision regarding an issue or issues not remanded, the notice shall list the applicable approval criteria and state that testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the appellate decision making authority shall render a written decision. A decision of the appellate decision making authority on remand may be appealed to LUBA.

50.65. Appeal of a Type 2 Decision

1. The decision making authority's decision on a Type 2 application may be appealed only by the applicant or by any other person who submitted written evidence prior to the decision of the Director. The appeal must be received within twelve (12) calendar days after written notice of the decision was dated and mailed.
2. Within seven (7) calendar days after an appeal has been filed, the Director shall determine whether an appeal contains at least the following information:
 - A. The case file number designated by the City.
 - B. The name and signature of each appellant.
 - C. Reference to the written evidence provided to the decision making authority by the appellant that is contrary to the decision.
 - D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
 - E. The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
 - F. The appeal fee, as established by resolution of the City Council.
3. Failure to comply with the requirements of Sections 50.65.1 and 50.65.2 is jurisdictional and deprives the appellant of an opportunity for the appellate decision making authority to hear an appeal.

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4. Except for the appeals of Director's Interpretation (Section 40.55), the appellate decision making authority on appeal of Type 2 decisions shall be the Planning Commission or Board of Design Review. The Director shall determine the appropriate appellate decision making authority for Type 2 decision appeals based upon the nature and characteristics of the proposal under appeal and any associated application. The appeal hearing for Type 2 decisions shall be *de novo*, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in the manner specified in Section 50.80 through 50.83. The decision of the designated appellate decision making authority for appeal of Type 2 decisions shall be the final decision and shall not be subject to further appeal to the City Council.
5. The appellate decision making authority for Director's Interpretation (Section 40.55) shall be the City Council. The appeal hearing for Director's Interpretation shall be *de novo*, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in accordance with Section 50.85 through 50.88 except as otherwise required by statute.
6. For appeals of Type 2 decisions filed under Section 50.65, the Director shall mail written notice of an appeal hearing to parties listed in Section 50.65.1 not less than twenty (20) calendar days prior to the appeal hearing, but need not post or publish the notice in a newspaper.
7. Not less than seven (7) calendar days before the date of the appeal hearing, the Director shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to members of the public at reasonable cost upon request.
8. Appeal hearings before the Planning Commission or Board of Design Review shall be conducted in accordance with Section 50.80 through 50.83 of this Code. Appeal hearings shall be recorded on audio only or audio and video tape.

50.65.

9. At the conclusion of the hearing on the appeal, the appellate decision making authority shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Reverse or affirm the decision under appeal, with or without conditions or changes.
 1. If the decision making authority takes action pursuant to Section 50.65.9.B, the decision making authority shall announce a brief summary of the basis for the decision, and that a land use order will be issued as provided in Section 50.65.10; provided, the proceedings may be continued for the purpose of considering such land use order without taking new testimony or evidence.
 2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
10. After the public record on the appeal closes, a written decision in the form of a land use order regarding the application shall be prepared and contain, at a minimum, the following:
 - A. A statement of the facts that the appellate decision making authority has relied on which demonstrate the decision under appeal is reversed or affirmed based on the criteria relevant to the appeal.
 - B. A statement of conclusions based on the findings.
 - C. If the appellate decision making authority changes conditions of approval, changes denial to approval, changes denial to approval subject to conditions, or changes approval to denial, the order shall include findings explaining the basis for such change and condition.

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11. Within approximately seven (7) calendar days from the date that the appellate decision making authority adopts a land use order, the Director shall cause the order to be signed, dated, and mailed to the appellant and other persons who appeared orally or in writing before the public record closed.
12. A decision on an appeal is final on the date the signed land use order is dated and mailed.
13. Only one appeal of a Type 2 decision is permitted before the City. Therefore the notice of a Type 2 decision on appeal shall indicate the decision may be appealed to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.
14. If a decision of the appellate decision making authority is remanded to the City by the State of Oregon Land Use Board of Appeals (LUBA), the appellate decision making authority shall either:
 - A. Hold a hearing on the issue upon which LUBA remanded the decision without opening the record for additional evidence. Notice thereof shall be given to all persons who testified either orally or in writing before the appellate decision making authority at the hearing that led to the decision remanded by LUBA. The notice shall set forth issues on remand that will be considered by the appellate decision making authority. Testimony shall be allowed at the hearing before the appellate decision making authority, except that testimony shall be limited to the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the appellate decision making authority based its decision regarding an issue or issues not remanded, testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the appellate decision making authority shall render a written decision; or

50.65.14.

- B. Hold a hearing on the issue upon which LUBA remanded the decision and open the record for additional evidence. Notice of the hearing on remand shall be given in the same manner in which the appeal hearing notice was provided. The notice shall list the applicable approval criteria and state that testimony will be limited to the criteria or the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the appellate decision making authority based its decision regarding an issue or issues not remanded, the notice shall list the applicable approval criteria and state that testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the appellate decision making authority shall render a written decision.

50.70. Appeal of a Type 3 Decision

1. The decision making authority's decision on a Type 3 application may be appealed only by the applicant or any other person who participated by providing either oral or written evidence on the record leading to the decision by the decision making authority. The appeal must be received within ten (10) calendar days after the signed written land use order of the decision making authority was dated and mailed.
2. Within seven (7) calendar days after an appeal has been filed, the Director shall determine whether an appeal contains at least the following information:
 - A. The case file number designated by the City.
 - B. The name and signature of each appellant.
 - C. Reference to the oral or written evidence provided to the decision making authority by the appellant that is contrary to the decision.
 - D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
 - E. The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
 - F. The appeal fee, as established by resolution of the City Council.
3. Failure to comply with the requirements of Sections 50.70.1 and 50.70.2 is jurisdictional and deprives the City Council of authority to consider the appellant's submittal and the appellant of an opportunity for the appellate decision making authority to hear an appeal.

50.70.

4. The appellate decision making authority on appeal of Type 3 decisions shall be the City Council. The appeal hearing shall be *de novo*, which means new evidence and argument can be introduced in writing, orally, or both.
5. The record shall consist of the following:
 - A. All staff reports and memoranda prepared regarding the proposal that were presented to the decision making authority.
 - B. All written testimony and all exhibits, maps, documents or other written materials presented to and not rejected by the decision making authority during the proceedings on the proposal.
 - C. The land use order of the decision making authority.
 - D. The minutes of the decision making authority proceedings regarding the proposal.
 - E. The appellant may request, and the City Council may allow, the appeal hearing be conducted on the record established at the decision making authority public hearing. If such a request is made and granted, a transcript of the decision making authority proceedings is required. The appellant shall remit a fee to cover the cost of the transcript of the decision making authority's proceedings within five days after the Planning Director estimates the cost of the transcript. Within ten days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a *de novo* hearing, the transcript fee may be refunded. If the transcription estimate exceeds the transcription cost, the balance shall be refunded to the appellant.
6. The appeal hearing shall be conducted in accordance with Section 50.85 through 50.88 except as otherwise required by statute.
7. For appeals of Type 3 decisions filed under Section 50.70, the City shall mail written notice of an appeal hearing to parties described in Section 50.45.2 not less than ten (10) calendar days prior to the appeal hearing, but need not post or publish the notice in a newspaper.

50.70.

8. Not less than seven (7) calendar days before the date of the appeal hearing, the Director shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to members of the public at reasonable cost upon request.
9. At the conclusion of the hearing on the appeal, the appellate decision making authority shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Chair. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Reverse or affirm the decision under appeal, with or without conditions or changes.
 1. If the decision making authority takes action pursuant to Section 50.70.11.B, the decision making authority shall announce a brief summary of the basis for the decision, and that a land use order will be issued as provided in Section 50.70.12; provided, the proceedings may be continued for the purpose of considering such land use order without taking new testimony or evidence.
 2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
 - C. Remand the decision to the decision making authority for further proceedings consistent with the decision on appeal provided that the appellate decision making authority first determines whether the remand would conflict with the City's obligation under ORS 227.178 to issue a timely final decision. If the decision is to remand, the purpose of the remand, including any specific procedures or subjects to be addressed shall be directed to the decision making authority.

50.70.

10. After the public record on the appeal closes, a written decision in the form of a land use order regarding the application shall be prepared and contain the following:
 - A. A statement of the facts that the appellate decision making authority finds show the decision under appeal is reversed or affirmed based on the criteria relevant to the appeal.
 - B. A statement of conclusions based on the findings.
 - C. If the appellate decision making authority changes conditions of approval, changes denial to approval, changes denial to approval subject to conditions, or changes approval to denial, the order shall include findings explaining the basis for such change and condition.
11. Within approximately seven (7) calendar days from the date that the appellate decision making authority votes on the motion regarding the appeal, the Director shall cause a land use order to be signed, dated, and mailed to the appellant and other persons who appeared orally or in writing before the Planning Commission, Board of Design Review, City Council, or all while the public record on the appeal was open.
12. A decision on an appeal is final on the date the signed land use order is dated and mailed. A land use order may consist of an ordinance where appropriate. The Mayor or designee shall sign the land use order.
13. If a decision of the City Council is remanded to the City by the State of Oregon Land Use Board of Appeals (LUBA), the City Council shall either:

50.70.13.

- A. Hold a hearing on remand if the issue upon which LUBA remanded the decision can be resolved by the City Council without reopening the record for additional evidence. Notice thereof shall be given to all persons who testified either orally or in writing before the City Council at the hearing or hearings that led to the decision remanded by LUBA. The notice shall set forth issues on remand that will be considered by the City Council. Testimony shall be allowed at the hearing before the City Council, except that testimony shall be limited to the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded, testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the City Council shall render a written decision; or
- B. Remand the application, ordinance, or both to the decision making authority if the issue upon which LUBA remanded the decision requires reopening the record for additional evidence. Notice of the hearing on remand shall be given in the same manner in which the initial public hearing notice was provided. The notice shall list the applicable approval criteria and state that testimony will be limited to the criteria or the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded, the notice shall list the applicable approval criteria and state that testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the decision making authority shall render a written decision. A decision of the decision making authority on remand may be appealed to the City Council pursuant to Section 50.70.

50.75. Appeal of a Type 4 Decision

1. The decision making authority's recommendation on a Type 4 application may be appealed only by the applicant or any other person who participated by providing either oral or written evidence leading to the decision of the decision making authority. The appeal must be received within ten (10) calendar days after the signed written land use order of the decision making authority was dated and mailed.
2. The Director shall determine whether an appeal contains at least the following information:
 - A. The case file number designated by the City.
 - B. The name and signature of each appellant.
 - C. Reference to the oral or written evidence provided to the decision making authority by the appellant that is contrary to the decision.
 - D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
 - E. The specific approval criteria, condition, or both being appealed, the reasons why the finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
 - F. The appeal fee, as established by resolution of the City Council.
3. Failure to comply with the requirements of Sections 50.75.1 and 50.75.2 is jurisdictional and deprives the appellant of an opportunity for the appellate decision making authority to hear an appeal.

50.75.

4. The appellate decision making authority on appeal of Type 4 decision shall be the City Council. The appeal hearing shall be *de novo*, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in the manner specified in Section 50.85 through 50.88 except as otherwise required by statute.
5. For appeals filed under Section 50.75, the City shall mail written notice of an appeal hearing to parties described in Section 50.75.1 not less than twenty (20) calendar days prior to the appeal hearing, but need not post or publish the notice in a newspaper.
6. Not less than seven (7) calendar days before the date of the appeal hearing, the Director shall prepare and make available to the public, for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to the public at reasonable cost upon request.
7. At the conclusion of the City Council hearing in the appeal of a Type 4 decision, the Council shall take one of the following actions:
 - A. Continue the hearing to a date, time, and location certain, which shall be announced by the Mayor. Notice of the date, time, and location certain of the continued hearing is not required to be mailed, published, or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
 - B. Remand the decision to the decision making authority for further proceedings consistent with the Council's decision unless the remand would conflict with the City's obligation under ORS 227.178 to issue a timely final decision. If the decision is to remand, the purpose of the remand, including any specific procedures or subjects to be addressed shall be directed to the decision making authority.
 - C. Reverse or affirm the decision being appealed, with or without changes.

50.75.7.C.

1. If Council indicates an intention to adopt one or more ordinances to amend the zone map, text, or both pursuant to Section 50.75.7.D, then the City Attorney shall prepare the ordinance. Ordinances shall thereafter be adopted pursuant to the City Charter. The City Council shall adopt or approve written findings which demonstrate either that approval will comply with applicable approval criteria or that in the case of denial, the approval criteria gave not been satisfied.
2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763 (6) shall apply under this Ordinance in a manner consistent with state law.
8. After the public record on the appeal closes, a written decision in the form of a land use order.
9. Within approximately seven (7) calendar days from the date that the appellate decision making authority adopts a final decision under appeal, the Director shall cause a land use order to be signed, dated, and mailed to the appellant and other persons who appeared orally or in writing before the Planning Commission, Board of Design Review, City Council, or all while the public record on the appeal was open.
10. A decision on an appeal is final on the date the signed land use order is dated and mailed. A land use order may include an ordinance.
11. Only one appeal of a decision is permitted before the City. Therefore the notice of a decision on appeal shall indicate the decision may be appealed to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.
12. If a decision of the City Council is remanded to the City by the State of Oregon Land Use Board of Appeals (LUBA), the City Council shall either:

50.75.12.

- A. Hold a hearing on remand if the issue upon which LUBA remanded the decision can be resolved by the City Council without reopening the record for additional evidence. Notice thereof shall be given to all persons who testified either orally or in writing before the City Council at the hearing or hearings that led to the decision remanded by LUBA. The notice shall set forth issues on remand that will be considered by the City Council. Testimony shall be allowed at the hearing before the City Council, except that testimony shall be limited to the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded, testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the City Council shall render a written decision; or
- B. Remand the application, ordinance, or both to the decision making authority if the issue upon which LUBA remanded the decision requires reopening the record for additional evidence. Notice of the hearing on remand shall be given in the same manner in which the initial public hearing notice was provided. The notice shall list the applicable approval criteria and state that testimony will be limited to the criteria or the issues upon which LUBA remanded the decision to the City. If the application on remand is amended in a manner which changes the applicable criteria or the factual basis on which LUBA or the City Council based its decision regarding an issue or issues not remanded, the notice shall list the applicable approval criteria and state that testimony may be provided on the full scope of the amended application. At the conclusion of the hearing, the decision making authority shall render a written decision. A decision of the decision making authority on remand may be appealed to the City Council pursuant to Section 50.75.

50.80. Conduct of Planning Commission or Board of Design Review Appeal Hearing

1. The Planning Commission and the Board of Design Review shall conduct appeal hearings pursuant to the requirements of this Section.
2. At the beginning of the appeal hearing, an announcement shall be made to those in attendance that:
 - A. States the general nature of the appeal.
 - B. Lists the applicable approval criteria.
 - C. Testimony, arguments, and evidence must be directed toward the applicable criteria or other criteria in the Comprehensive Plan or Development Code which the person believes to apply to the decision.
 - D. Failure to raise an issue accompanied by statements or evidence sufficient to afford the appellate decision making authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
 - E. Failure of the applicant, applicant as appellant, or appellant to raise constitutional or other issues relating to the proposed condition of approval with sufficient specificity to allow the City or its designee to respond to the issue precludes an action for damages in circuit court.
 - F. The appellate decision making authority must be impartial and that members of the appellate decision making authority shall not have any bias or personal or business interest in the outcome of the application. Members of the appellate decision making authority must announce any ex parte contacts. The appellate decision making authority shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest, or ex parte contacts.
 - G. States that if any member of the appellate decision making authority has visited the site, they describe generally what was observed.
 - H. Summarize the procedure of the hearing.

50.80.

3. The Chair shall next ask if there is any challenge to a member of the appellate decision making authority right to consider the appeal. Unless the challenge is based upon information disclosed pursuant to Section 50.80.2.F. and G, a challenging party must deliver a written document stating the reasons and authority for such challenge to the member challenged and the City at least 24 hours prior to the hearing.
4. After the announcements and statements of Sections 50.80.2 and 50.80.3 are concluded, the Chair shall call for presentation of the staff report. Staff shall describe the proposal and explain the reasons behind the Director's decision.
5. The Chair shall invite testimony on the appeal to take place in the following order unless the appellate decision making authority consents to amend the order of testimony:
 - A. The applicant, if not the appellant.
 - B. The applicant as appellant.
 - C. The appellant, if not the applicant.
 - D. Testimony in support of the appeal.
 - E. Testimony in opposition to the appeal.
 - F. Testimony that is neither in support nor in opposition to the appeal.
 - G. Rebuttal testimony by the appellant, if the appellant is the applicant. The appellant's rebuttal is limited to responding to testimony previously submitted and shall be based solely on the evidence in the record.
6. The Chair shall allow for final comments from staff.
7. The appellate decision making authority shall deliberate and make a decision. Deliberations may include questions to or testimony by City staff regarding the criteria, evidence and testimony in the record.

50.82. Time Limits on Planning Commission or Board of Design Review Appeal Hearing Testimony

1. The purpose of time limits on testimony at an appeal hearing before the Planning Commission or Board of Design Review is to provide all interested persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that the hearing can be conducted in an efficient and expeditious manner. Time limits on testimony shall not be placed on staff presentations. The following time limits on testimony shall be observed during a hearing conducted by the appellate decision making authority unless the appellate decision making authority consents to adjust the time limits in a particular instance:
 - A. Up to and including 20 minutes for the applicant, if not the appellant, or the applicant as appellant's presentation.
 - B. Up to and including 20 minutes for the appellant's, if not the applicant, presentation.
 - C. Up to and including 10 minutes for a representative of a recognized NAC, government or government agency, or other organized group recognized by the appellate decision making authority.
 - D. Up to and including 5 minutes each for other persons.
 - E. Up to and including 5 minutes of rebuttal for the applicant, if not the appellant, or the appellant who is the applicant.
2. The time limits set forth in Section 50.82.1 shall not include time taken by questions from or response to questions of the appellate decision making authority.

50.83. Testimony, Exhibits, and Other Evidence before the Planning Commission and Board of Design Review.

1. Any person may present testimony at a hearing before the appellate decision making authority on an appeal of a Type 1 or Type 2 decision.
2. Any person may submit exhibits or written comments prior to the hearing. All submittals which are more than two (2) letter sized pages must include of no fewer than ten (10) complete copies of the materials being submitted. Written comments or exhibits submitted prior to the hearing to be submitted by staff at the hearing must be received by the Director no later than 4:30 p.m. on the day of the scheduled hearing.
3. Written comments or exhibits submitted at the hearing must be filed with the recording secretary and offered into the record before the appellate decision making authority. No fewer than ten (10) copies of written comments or exhibits must be provided if those materials are submitted at the hearing.
4. Exhibits or written comments that are merely referred to in testimony but which are not offered into the record before the appellate decision making authority in accordance with this Section shall not become part of the record of the proceedings.

50.85. Conduct of the City Council Appeal Hearing

1. The City Council shall conduct a hearing on appeal pursuant to the requirements of this Section and the Municipal Code except as otherwise required by statute. At the beginning of the appeal hearing, the Chair shall make an announcement to those in attendance that:
 - A. States the general nature of the appeal.
 - B. Lists the applicable approval criteria.
 - C. Testimony, arguments, and evidence must be directed toward the applicable approval criteria or other criteria in the Comprehensive Plan or Development Code which the person believes to apply to the decision.
 - D. Failure to raise an issue accompanied by statements or evidence sufficient to afford the appellate decision making authority and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.
 - E. Failure of the applicant to raise constitutional or other issues relating to the proposed condition of approval with sufficient specificity to allow the City or its designee to respond to the issue precludes an action for damages in circuit court.
 - F. The appellate decision making authority must be impartial and that members of the appellate decision making authority shall not have any bias or personal or business interest in the outcome of the application. Members of the appellate decision making authority must announce any ex parte contacts. The appellate decision making authority shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest, or ex parte contacts.
 - G. States that if any member of the appellate decision making authority has visited the site, they describe generally what was observed.
 - H. Summarizes the procedure of the hearing.

50.85.

2. The Chair shall next ask if there is any challenge to the Mayor's or a Councilor's right to consider the appeal. Unless the challenge is based upon information revealed pursuant to Section 50.85.2.F and G, a challenging party must deliver a written document at least 24 hours prior to the hearing setting forth the reasons and authority for such challenge to the member challenged and the Mayor.
3. After the announcements and statements of Sections 50.85.1 and 2 are made, the Chair shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.
4. If the appeal hearing for a Type 3 decision is an *on the record* hearing, the Chair shall state that City Council review is confined to the record established before the decision making authority, that only persons who testified either orally or in writing before the decision making authority may testify before the City Council, and that the only arguments that may be raised before the City Council are arguments that were raised in the letter of appeal and those arguments raised before the decision making authority with sufficient specificity to enable the decision making authority to respond.
5. If the appeal hearing is to consider an appeal of a Type 4 decision, the Chair shall state that City Council review is not confined to the arguments that were raised in the letter of appeal.
6. The Chair shall invite testimony on the appeal to take place in the following order unless the appellate decision making authority consents to amend the order of testimony:
 - A. The applicant, if not the appellant.
 - B. The appellant, if not the applicant.
 - C. Testimony in support of the appeal.
 - D. Testimony in opposition to the appeal.
 - F. Testimony that is neither in support nor in opposition to the appeal.

50.85.6.

- G. Rebuttal testimony by the appellant, if the appellant is the applicant. The appellant's rebuttal is limited to responding to testimony previously submitted and shall be based solely on the evidence in the record.
- 7. The Chair shall allow final comments from staff.
- 8. The Council shall deliberate and make a decision. The Council deliberations may include questions to or testimony by City staff regarding the criteria, evidence and testimony in the record.

50.87. Time Limits on City Council Appeal Hearing Testimony.

1. The purpose of time limits on testimony at an appeal hearing before the City Council is to provide persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that the hearing can be conducted in an efficient and expeditious manner. Time limits on testimony shall not be placed on staff presentations. The following time limits on testimony shall be observed during a hearing conducted by the appellate decision making authority unless the appellate decision making authority, subject to the right of the Mayor, with Council consent, waive or extend the time limits in a particular instance:
 - A. Up to and including 15 minutes for the applicant, if not the appellant, or applicant as appellant's presentation.
 - B. Up to and including 15 minutes for the appellant's presentation, if not the applicant.
 - C. Up to and including 10 minutes for a representative of a recognized NAC, homeowner association, government or government agency, or other organized group recognized by the City Council.
 - D. Up to and including 5 minutes each for other persons.
 - E. Up to and including 5 minutes of rebuttal for the applicant, if not the appellant, or the appellant who is the applicant.
2. The time limits set forth in Section 50.87.1 shall not include time taken up by questions from Council or responses thereto.

50.88. Testimony, Exhibits, and Other Evidence before the City Council.

1. For appeal hearings which are conducted on the record, only those persons who testified either orally or in writing before the decision making authority may testify either orally or in writing before the Council on appeal. Such testimony shall be limited to argument regarding issues raised before the decision making authority. The only issues that may be raised in an appeal hearing are the issues in the written appeal and shall be based solely upon the record of the proceedings before the decision making authority. Enlargements, illustrations, maps or other exhibits may be submitted as long as they are part of the record or are entirely derived from evidence in the record.
2. For appeal hearings which are conducted *de novo*, any interested person may testify either orally or in writing before the Council on appeal. Such testimony shall be limited to addressing the applicable approval criteria or other criteria in the Comprehensive Plan or Development Code which the person believes to apply to the decision.
3. Subject to the limitations in Sections 50.88.1 and 50.88.2, written testimony may be submitted prior to the hearing. All submittals which are more than two (2) letter sized pages must include no fewer than ten (10) complete copies of the materials being submitted. Written testimony submitted prior to the hearing must be received by the City Recorder by 5:00 p.m. on the day of the scheduled hearing.
3. Subject to the limitations in Sections 50.88.1 and 50.88.2, written testimony submitted at the hearing must be filed with the recording secretary and offered into the record before the City Council. No fewer than ten (10) copies of written comments or exhibits must be provided if those materials are submitted at the hearing.
4. Written evidence that is merely referred to in testimony but which is not provided to the City Council pursuant to this section shall not become part of the record of the proceedings.
5. At appeal hearings which are conducted on the record, written material that attempts to present new evidence or raises new issues which were not presented or raised before the decision making authority shall be rejected.

50.89. Withdrawal of an Appeal.

1. Before the close of an appeal hearing in front of any appellate decision making authority, any appellant may withdraw his appeal.
2. Withdrawal of an appeal is subject to the following:
 - A. The party may withdraw the appeal on its own motion, which may be submitted to the appellate decision making authority orally or in writing.
 - B. No part of the appeal fee will be refunded.
 - C. No one may re-file a withdrawn appeal.
 - D. Where multiple people or parties sign and file a single appeal document, all must consent to the withdrawal of the appeal.
3. In addition to all the requirements of Section 50.89.1 and 2, if all appeals in a matter are withdrawn, the appellate decision making authority loses jurisdiction over the action. The underlying decision is automatically re-instated under its original date of final decision.

50.90. Expiration of a Decision

1. Except as otherwise specifically provided in a specific decision or in this Code, a final decision made pursuant to this Chapter shall expire automatically on the following schedule unless the approval is enacted either through construction or establishment of use within the specified time period.
 - A. Five (5) years from the effective date of decision: Final Planned Unit Development (40.15.15.5) where phasing of the development is proposed.
 - B. Two (2) years from the effective date of decision: Accessory Dwelling Unit (40.05.15.1), Minor Adjustment (40.10.15.1), Minor Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.2), Major Adjustment (40.10.15.3), Major Adjustment - All Regional Center zones and South Tektronix Station Community Major Pedestrian Routes (40.10.15.4), Minor Modification of a Conditional Use (40.15.15.1), Major Modification of a Conditional Use (40.15.15.2), Administrative Conditional Use (40.15.15.3), Conditional Use (40.15.15.4), Preliminary Planned Unit Development (40.15.15.5), Final Planned Unit Development (40.15.15.6) when there is no phasing to the development, Design Review One (40.20.15.1), Design Review Two (40.20.15.2), Design Review Three (40.20.15.3), Flexible Setback for Individual Lot With Endorsement (40.30.15.1), Flexible Setback for Individual Lot Without Endorsement (40.30.15.2), Flexible Setback for a Proposed Residential Land Division (40.30.15.3), Flexible Setback for a Proposed Annexation (40.30.15.4), Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division (40.30.15.5), Zero Side Yard Setback for a Proposed Non-Residential Land Division (40.30.15.6), Alteration of a Landmark (40.35.15.1), Emergency Demolition of a Landmark (40.35.15.2), Demolition of a Landmark (40.35.15.3), New Construction in a Historic District (40.35.15.4), Lot Line Adjustment (40.45.15.1), Preliminary Partition (40.45.15.2), Preliminary Subdivision (40.45.15.3), Preliminary Fee Ownership Partition (40.45.15.4), Preliminary Fee Ownership Subdivision (40.45.15.5), Final Land Division (40.45.15.6), Expedited Land Division (40.45.15.7), Street Design Modification (40.70.15.1), and Variance (40.95.15.1).

50.90.1.

- C. One (1) year from the effective date of the decision: Home Occupation One (Section 40.40.15.1), Home Occupation Two (Section 40.40.15.2), Loading Determination (Section 40.50.15.1), Parking Requirement Determination (Section 40.55.15.1), Shared Parking (Section 40.55.15.2), Use of Excess Parking (Section 40.55.15.3), Signs (Section 40.60.15.1), Solar Access (Section 40.65.15.1), Tree Plan One (Section 40.90.15.1), Tree Plan Two (Section 40.90.15.2), and Tree Plan Three (Section 40.90.15.3)
 - D. No expiration date: Director's Interpretation (40.25.15.1), Street Vacation (40.75.15.1), Text Amendment (40.58.15.1), Tree Plan Four (40.90.15.4), Quasi-Judicial Zone Change (40.97.15.1), Legislative Zone Change (40.97.15.2), Non-Discretionary Annexation Related Zone Change (40.97.15.3), Discretionary Annexation Related Zone Change (40.97.15.4).
2. The effective date of the decision for Type 1, Type 2, or Type 3 applications shall be the date that the signed land use order is dated and mailed, unless appealed. If a Type 1, Type 2, or Type 3 application is appealed, the effective date of the decision shall be the date of the appellate decision making authority's signed land use order is dated and mailed. The effective date of decision for a Type 4 application is thirty (30) calendar days after the Mayor signs the ordinance, unless an emergency is declared in which case the ordinance is effective immediately upon signature of the Mayor.
 3. A decision shall expire according to Section 50.90.1 unless one of the following occurs prior to the date of expiration:
 - A. An application for an extension is filed pursuant to Section 50.93; or
 - B. The development authorized by the decision has commenced as defined herein.
 1. The use of the subject property has changed as allowed by the approval;
 2. In the case of development requiring construction, a construction permit has been issued and substantial construction pursuant thereto has taken place; or

50.90.3.B.

3. In the case of development authorized to be done in phases, each phase must be commenced within the time specified in the approval, or within two (2) years of completion of the prior phase if no time is specified.
4. The 45 day to five (5) year time begins from the effective date of the decision. Appeal of a decision to LUBA does not extend the time.

50.93. Extension of a Decision

1. An application to extend the expiration date of a decision made pursuant to this Code may be filed only before the decision expires as provided in Section 50.90 or before the decision expires as provided in the appropriate subsection of the specific application contained in Chapter 40 (Applications).
2. Except for Home Occupation (Section 40.35), Parking Determination (Section 40.50), Loading Determination (Section 40.45), Parking Requirement Determination (Section 40.50.15.1), Shared Parking (Section 40.50.15.2), Use of Excess Parking (Section 40.50.15.3), Director's Interpretation (Section 40.55), Sign (Section 40.60), Solar Access (Section 40.65), Temporary Mobile Sales (Section 40.80.15.1), Temporary Non-Mobile Sales (Section 40.80.15.2), all Tree Plan (Section 40.90), and all Zone Change (Section 40.97) applications, not more than one extension may be granted for a maximum of two (2) years.
3. An application for an extension is subject to a Type 2 procedure.
4. An application for an extension shall be granted if the applicant demonstrates that it complies with the following:
 - A. It is not practicable to commence development within the time allowed for reasons beyond the reasonable control of the applicant.
 - B. There has been no change in circumstances or the applicable regulations or Statutes likely to necessitate modification of the decision or conditions of approval since the effective date of the decision for which the extension is sought.

50.95. Modification of a Decision

1. An applicant or successor in interest may file with the Director an application to modify a prior decision that was the subject of a Type 1, Type 2 or Type 3 procedure. In addition to other requirements, such an application to modify a prior decision shall describe the nature of the proposed change to the original decision and the basis for that change, including the applicable facts and law, together with the fee prescribed for that application type necessary to modify the prior decision. Such an application to modify a prior decision shall be subject to the approval criteria and development regulations in effect when the Director receives a complete application for the modification.
2. An application for modification is subject to pre-application conference and completeness review; provided, the Director shall only require an application for modification to contain information that is relevant or necessary to address the requested change or the facts and regulations on which it is based. An application for modification is not subject to the neighborhood review meeting requirement.
3. An application for modification does not extend the deadline for filing an appeal and does not stay appeal proceedings. An application for modification is subject to the 120 day requirement pursuant to ORS 227.178.
4. Only a decision that approves or conditionally approves an application can be modified. A decision denying an application cannot be modified. Refer to Section 50.99.
5. An application for modification shall be subject to a Type 1, Type 2, or Type 3 procedure as determined by the Director.
6. The process type for an application to modify a decision shall be based upon the thresholds for the appropriate application listed in Chapter 40. In all cases, regardless of the thresholds listed in Chapter 40, when a proposed modification involves a condition of approval, that condition of approval can be modified or removed only by the same decision making authority that issued the original decision and through the same procedure that was followed to establish the condition to be modified. Modification or removal of a condition of approval shall only be granted if the decision making authority determines any one of the following:

50.95.6.

- A. The applicant or owner has demonstrated that a mistake of law or fact occurred, and that the mistake was substantial enough to warrant modification or removal of condition to correct the mistake.
- B. The condition could not be implemented for reasons beyond the control of the applicant and the modification will not require a significant modification of the original decision.
- C. The circumstances have changed to the extent that the condition is no longer needed or warranted.
- D. New or modified condition would better accomplish the purpose of the original condition.

50.99. Re-Application or Supplemental Application After Denial

1. If an application is denied by the decision making authority and no appeal taken, or upon appeal the appellate decision making authority affirms the denial of the decision making authority or denies the appeal, no new request for the same or substantially similar proposal shall be filed within one year after the date of the final decision unless the denial is specifically stated by the decision maker to be without prejudice.
2. Only a person whose application is denied following completion of all local procedures, including local appeals allowed by right, may submit to the City a supplemental application to allow any or all other uses allowed under the existing comprehensive plan map designation for the property, pursuant to ORS 227.184.
 - A. Such an application shall include a request for any zone change, conditional use, or variance that may be required for approval of each proposal.
 - B. Such an application shall be subject to pre-application conference, a neighborhood review meeting, completeness review, and a Type 3 procedure, provided:
 1. The City shall issue a final decision regarding such an application, including all local appeals, not more than 240 days after the City finds or deems the application to be complete.
 2. The City decision shall include findings describing the reasons for approving or denying a use for which approval is sought under this section and for any zone change or variance requested in the application.
 - C. The fee for an application under this section shall be the sum of the separate fees for each review sought pursuant to the application.

APPENDIX "E"

Section 1: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.05 (FLOODPLAIN REGULATIONS) is hereby renumbered to Section 60.10, and the following text is hereby added to read as follows:

60.05. Drive-Up Window Facilities.

60.05.05 Purpose. Drive-up window facilities shall be designed to provide safe, convenient and efficient traffic flow.

60.05.10 Standards. The decision making authority shall review proposed drive-up window facilities to determine that the following standards are addressed in the design:

1. Restaurants providing drive-up window service shall have sufficient parking and seating to accommodate anticipated customer volume.
2. Restaurants providing drive-up window service shall provide at least two (2) designated parking spaces immediately beyond the service window, or provide other satisfactory methods, to allow customers requiring excessive waiting time to receive their food while parked.
3. Financial and other commercial establishments providing drive-up window facilities which do not provide for walk-in customer service (i.e., not allowing transactions within the structure) shall provide for safe, convenient and readily accessible exterior walk-up window service, such as an automatic teller machine, at any time during regular business hours. Additionally, at a minimum, two parking spaces shall be provided allowing convenient access to the walk-up service window.
4. The design of the stacking area shall allow customers' vehicles to leave the stacking line for emergency reasons.
5. On-site parking for walk-in customers shall be designed to be readily accessible to all public entrances to the building and to provide safe, convenient access.
6. Establishments having drive-up window facilities shall have sufficient stacking area to insure that public rights-of-way and shared access driveways are not obstructed.

7. Communication's sound system shall not exceed a measurement of 55 decibels at the adjoining property line.

60.05.15. Abatement. Drive-up window facilities shall be a public nuisance to be abated pursuant to 5.05.115A of the Municipal Code, or its successors, if the traffic at the facility causes obstruction or interference with the right-of-way or flow of pedestrian or vehicular traffic as described in Section 5.05.115A of the Municipal Code. Abatement methods may include summary abatement, closure or redesign of the drive up-window facility. The Beaverton Police shall have the authority to issue citations to drivers of motor vehicles obstructing the public right-of-way or interfering with traffic flow. (ORD 3218; July 1981)

Section 2: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.10.10, as renumbered by Section 1 above, is hereby amended to read as follows:

60.10.10. Floodplain District Establishment.

3. The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Large floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Code or any administrative decision lawfully made hereunder. (ORD 3563)
4. Uncontained areas of hazardous materials, as defined by the Department of Environmental Quality, are prohibited in the flood plain. Any storage or placement of materials in the floodplain that would obstruct the flow of water or reduce the available flood holding capacity of a site is prohibited. (ORD 3441) [ORD 4093; March 2000] [ORD 4155; April 2001]

Section 3: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.10.20.3, as renumbered by Section 1 above, is hereby amended to read as follows:

60.10.20. Commercial and Industrial Uses in the Floodway Fringe. All commercial and industrial uses, if allowed in the primary zone are allowed in the floodway fringe if the proposed development:

3. Meets the requirements of the Clean Water Services Design and Construction Standards Manual based on affirmative statements in documentation from CWS; and

Section 4: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.10.25.2, as renumbered by Section 1 above, is hereby amended to read as follows:

60.10.25. Residential Uses in the Floodway Fringe.

2. All other residential uses, if allowed in the primary zone, are allowed only as conditional uses in the floodway fringe. The request for a Conditional Use Permit shall be processed and reviewed in the manner set forth in this ordinance. In addition to all other findings of fact required to be made in order to grant the Conditional Use Permit, the following findings shall also be made: [ORD 4155; April 2001]
 - A. The proposed development meets the site and building design standards and requirements of the Beaverton Code Section 9.05; and [ORD 4155; April 2001]
 - B. The proposed development meets the building design standards and requirements of the Clean Water Services Design and Construction Standards based on affirmative statements in documentation from CWS. [ORD 4155; April 2001]

Section 5: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.10. HISTORIC PRESERVATION, is hereby deleted in its entirety.

Section 6: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.15 MOBILE AND MANUFACTURED HOME REGULATIONS, is hereby renumbered to Section 60.20.

Section 7: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.15 LAND DIVISION STANDARDS, is hereby added to read as follows:

60.15. LAND DIVISION STANDARDS.

60.15.05. Purpose. It is the purpose of this section to establish uniform design and development standards and requirements for all land division applications in Section 40.35 of this Code.

60.15.10. General Provisions.

1. Easements.

A. The minimum public utility and drainage easements for residential subdivisions shall be as follows:

1. A six-foot (6) public utility easement along all front lot lines.
2. A three-foot (3) utility and drainage easement along all side and rear lot lines.

B. Public water, sanitary sewer, and storm drainage lines on private property shall be centered within a permanent easement granted to the City, with a minimum width of fifteen feet (15) along its entire length. The actual required width of an easement may be greater than the minimum required as the required easement width shall be measured from both outside edges of the pipe zone outward to the catch points where the theoretical lines at a 1:1 slope would daylight unless permanent soil reinforcements or other measures are provided to the satisfaction and approval of the City Engineer. No encroachment within a public utility easement of any private

utility or structure shall be allowed without prior itemized approval. Under no circumstances, shall these items be placed within the pipe zone. Private utilities that cross public utility easements shall do so as close as practical to right angles with the public utility. The City can not approve any encroachment location which would adversely affect the ability of the City to maintain City utilities. Such easements, when directed by the City, shall be accompanied by temporary easements granted to the City of adequate width to allow construction of water and sewer. The Engineer or developer's surveyor shall provide the City with documents necessary to record the easements. The width of combination easements is evaluated at the site development permit stage on a case-by-case basis.

Upon issuance of a Site Development Permit and Final Land Division application, the Director will notify the Washington County surveyor that a cadastral review of the Final Land Division may begin. It is within the authority of the City Engineer or designee to refuse to approve or sign any land partition, partition plat, or subdivision plat for a development that has not installed the necessary public utilities to serve the proposed and affected existing lots. Such approval may be withheld until it can be verified that the location and width of proposed rights of way and easements are adequate for the completed utilities.

C. Where a land division is traversed by a water course, drainage way, channel, or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose, may be required. Streets or parking ways parallel to water courses may be required.

2. **Building Lines.** The Director may approve special setbacks based upon the consideration for safety, topography, geology, solar access or other such reasons. If special building setback lines are to be established in the land division that are greater than required by this Code, they shall be shown on the final land division and included in the deed restriction.

3. **Dedications.** Public streets, sidewalks, pedestrian ways, bikeways, multi-use paths, parks, open space, and other public rights-of-way required as mitigation for on site or off site impacts in proportion to the identified impacts of the proposed development and reasonably

related to the development, shall be dedicated or otherwise conveyed to the City or the appropriate jurisdiction for maintenance. Dedication of any land for park or open space purposes must be approved by the jurisdiction to whom the park or open space is being dedicated prior to Final Land Division approval.

4. **Homeowner Associations and Declarations.** When a Homeowner's Association Agreement or other restrictive covenants are to be recorded with the development, a copy of the appropriate documents shall be submitted with the final plat. The City shall review such documents to ensure that common areas are properly maintained and that other restrictions required by the City are included.

60.15.15. Compliance With Land Division Approvals.

1. **Requirements Prior to Commencement of Work.** Prior to any construction, improvements or land development, the developer shall perform the following:
 - A. The developer shall file detailed plans and specifications for all public improvements and land development together with a detailed cost estimate to complete such improvements for approval by the City Engineer or designee.
 - B. The developer shall enter into a contract with the City of Beaverton to make, install and complete within the time fixed, but in no case more than two years from the date of execution of said contract without written approval by the City Engineer, City Attorney and the Director, all improvements (Section 60.10.15.3.), land development, or both in accordance with the approved plans. The developer shall cause to be filed with the City Recorder a security acceptable to the City Attorney payable to the City of Beaverton in a principal sum determined from the approved estimate of the costs of said improvements, land development, or both of this section. The security shall assure the performance of the said contract and the completion of the said improvements, or land development, free of liens.
 - C. In cases where both land development and public improvements are to be made, the security required shall be cumulative.

D. The amount of the security shall be based on an estimate of the cost of the work approved by the City Engineer in accordance with the following schedule:

1. Public Improvements = 100% of cost estimate.
2. Land Development = 100% of cost estimate.

2. **Improvement Procedures.** All improvements shall conform to the requirements of this Code and any other improvements standards or specifications adopted by ordinance of the City Council and shall be installed in accordance with the following procedure:

- A. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the land division proposal, such plans may be required before Final Land Division approval.
- B. Improvement work shall not be commenced until the developer has secured a site development permit. If work has been discontinued for any reason for a period of time exceeding thirty (30) calendar days, it shall not be resumed until the City has been notified and consented in writing.
- C. All required improvements shall be constructed to the satisfaction of the City Engineer according to Beaverton Code 9.04-010 through .120 and 9.05.005 through .170, the Engineering Design Manual and Standards Drawings, and any amendments thereto. The City may require changes in typical sections and details if unusual conditions arise during construction to warrant such change in the interests of the City or the developer. Upon acceptance of the required improvements, the City Engineer shall notify the developer that the improvements are acceptable pursuant to the Beaverton Code. Acceptance shall be in writing.
- D. All public and private underground utilities installed in streets in accordance with Section 60.65 (Private Utility Undergrounding), shall be constructed prior to the surfacing of such streets. Stubs for service connections for all public and private underground utilities shall be extended such that future connections thereto will not require cutting above ground street improvements.

E. Plans showing all public improvements as built shall be filed with the City Engineer upon completion of said improvements.

3. Improvement Requirements. The improvements that are reasonably related and roughly proportional to the impacts of the proposed development that shall be installed at the expense of the developer are as follows:

A. Streets:

1. All streets, including alleys, within the land division.
2. Streets adjacent to the land division.
3. The extension of the land division streets to the intercepting paving line of existing streets with which the land division streets intersect.
4. Streets which intersect with streets within the development that provide ingress or egress to the development or on which there are traffic impacts reasonably related to the development.
5. All streets shall be built or improved to City standards.

B. Catch basins. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways.

C. Monuments and bench mark.

D. Surface drainage and storm sewer system. Drainage facilities including, but not limited to, conveyance, detention, and water quality facilities, shall be provided within the land division to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage shall be in accordance with the standards established by the City Engineer and shall allow for the extension of the system to serve other areas.

E. Sanitary sewers. Sanitary sewers shall be installed to serve the land division and to connect the land division to existing mains.

F. Water system. Water lines with valves and fire hydrants serving the land division, connecting the land division to City

mains, shall be installed in conformance with the City specifications. The design and construction by the developer shall provide for extension beyond the land division, for extensions to adequately grid the City system, and for proper connection of adjoining pressure zones, where required.

G. Street Trees. Street trees shall be planted along street frontages in accordance with the following:

1. For detached dwelling land divisions, the Developer shall pay a fee to the City. The City shall be responsible for tree purchase and planting, and maintenance for one year, consisting of pruning, disease control and watering. The fee shall be based upon a standard of one tree per thirty (30) lineal feet of street frontage, with standard rounding methods applied for fractions thereof. The fee to be charged and collected shall be established and from time to time amended by Resolution of the City Council.
2. For all other land divisions, trees shall be planted in accordance with an approved street tree plan.
3. Trees shall be planted in accordance with the City's Tree Planting and Maintenance Policy.

H. Bike and pedestrian ways. Bike and pedestrian ways shall be constructed according to City Engineering Design Manual and Standard Drawings.

I. Other improvements reasonably related to the impacts of the development which may be required in rough proportion to the impacts of the proposed development at the partial or total expense of the developer.

1. Improvement of streets providing primary access to land division streets.
2. Signals, traffic control devices, and traffic calming devices.
3. Intersection improvements.
4. Fences, privacy screens, retaining walls, and sound walls.
5. Slope stabilization and erosion control.

- 6. Parks and open space shall be improved as required by the City and appropriate jurisdiction.
- J. Street Lights. Street lights shall be installed in accordance with City standards.
- K. Curb cuts and driveway installations are not required of the developer but, if installed, shall comply with City standards.
- 4. **Maintenance Security.** The developer shall enter into a contract with the City of Beaverton to ensure the continued maintenance of all required improvements in a manner consistent with Section 9.05 Site Development of the Municipal Code.

Section 8: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.20.15.1.O, as renumbered by Section 5 above, is hereby amended to read as follows:

60.20.15. Mobile Home Park Regulations.

1. *****

- O. The internal street system shall conform to the standards specified by the City Engineering Design Manual and Standard Drawings.

Section 9: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.20 OFF-STREET PARKING AND LOADING, is hereby renumbered to Section 60.30.

Section 10: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.25 OFF-STREET LOADING, is hereby added to read as follows:

60.25. Off-Street Loading Requirements.

60.25.05. Applicability. No building or structure subject to the off-street loading requirements of this section shall be erected, nor shall any such existing building or structure be altered so as to increase its gross floor area to an amount exceeding 25% more than its existing gross floor area, without prior provisions for off-street loading space in conformance with the requirements of this section.

60.25.10. Loading Berth Design. Required off-street loading space shall be provided in berths which conform to the following minimum specifications:

1. Type A berths shall be at least 60 feet long by 12 feet wide by 15 feet high, inside dimensions with a 60 foot maneuvering apron.
2. Type B berths shall be at least 30 feet long by 12 feet wide by 14 feet 6 inches high, inside dimensions with 30 feet maneuvering apron.

60.25.15 Number of Required Loading Spaces. The following numbers and types of berths shall be provided for the specified uses. The uses specified below shall include all structures designed, intended or arranged for such use. In the case of a use not specifically mentioned, the requirements for off-street loading facilities shall be the same as a use which is most similar.

	USE	AGGREGATE FLOOR AREA (SQ. FT.)	BERTHS REQUIRED	TYPE
1.	Freight terminals, Industrial plants, Manufacturing or wholesale establishments, Warehouses.	12,000 - 36,000	1	A
		36,001 - 60,000	2	A
		60,001 - 100,000	3	A
		each additional 50,000 or fraction thereof	1 additional	A
2.	Auditoria, Motel, Convention Halls, or Sports Arenas. (ORD 3293; Nov. 1982)	25,000 - 150,000	1	B
		150,001 - 400,000	2	B
		each additional	1 additional	B

		250,000 or fraction thereof		
3.	Hospitals, Residential Care Facilities. [ORD 4036; March 1999]	10,000 - 100,000 over 100,000	1 2	B B
4.	Department stores, retail establishments, funeral homes, restaurants, and commercial establishments not otherwise specified.	7,000 - 24,000 24,001 - 50,000 50,001 - 100,000 each additional 50,000 or fraction thereof	1 2 3 1 additional	B B B B
5.	Hotels, Extended Stay Hotels or Office Buildings. [ORD 3958; June 1996]	25,000 - 40,000 40,001 - 100,000 each additional 100,000 or fraction thereof	1 2	B B
6.	Schools	over 14,000	1	B
7.	<u>Concurrent different uses.</u> When any proposed structure will be used concurrently for different purposes, final determination of loading requirements will be made by the decision making authority but in no event shall the loading requirements be less than the total requirement for each use based upon its aggregate floor area.			

60.25.20 Loading Facilities Location.

1. The off-street loading facilities required for the uses mentioned in this Code shall be in all cases on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements.
2. No space for loading or unloading vehicles shall be so located that a vehicle using such loading space projects into any public street. Loading space shall be provided with access to any alley, or if no alley adjoins the lot, with access to a street. Any required front, side or rear yard may be used for loading unless otherwise prohibited by this Code.

60.25.25 Loading Determination. Off-Street loading requirements may be modified pursuant to Section 40.50. (Loading Determination)

Section 11: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.30, as renumbered by Section 8 above, is hereby amended to read as follows:

60.30. OFF-STREET PARKING

60.30.05. Off-Street Parking Requirements.

60.30.10. Number of required Parking Spaces. Except as otherwise provided under Section 60.30.10.10, off-street vehicle, bicycle, or both parking spaces shall be provided as follows:

4. Uses Not Listed. For uses not specifically mentioned in this section, the requirements for off-street parking facilities for vehicles and bicycles shall be determined with a Parking Requirement Determination (Section 40.50).

5. Parking Tables. The following tables list the required minimum and maximum vehicle and bicycle parking requirements for listed land use types.

PARKING RATIO REQUIREMENTS FOR MOTOR VEHICLES

Land Use Category	Required Parking Spaces		Maximum Permitted Parking Spaces	
	Multiple Use Zones	All Other Zones	Zone A	Zone B
Residential Uses				
Detached dwellings (per unit)	1.0	1.0	n/a	n/a
Attached dwellings				
One bedroom (per unit)	1.0	1.25	1.8	1.8
Two bedroom (per unit)	1.0	1.50	2.0	2.0
Three or more bedrooms (per unit)	1.0	1.75	2.0	2.0

Places of Assembly				
Places of Worship (per seat at maximum occupancy)	0.25	0.25	0.6	0.8

Library, museum, art gallery	2.5	2.5	4.0	6.0

PARKING RATIO REQUIREMENTS FOR BICYCLES

Land Use Category	Minimum Required Bicycle Parking Spaces	
	Short Term	Long Term
Residential Uses		
Detached dwellings	Not required	Not required
Two and three attached dwellings	Not required	Not required
4 or more attached dwellings	2 spaces or 1 space per 20 dwellings	1 space per dwelling

6. Exceeding Parking Ratios. More parking spaces for motor vehicle and bicycle parking may be required as a condition of a Conditional Use Permit. Variation from the specified minimum or maximum number of required motor vehicle and bicycle parking spaces may be approved by the City subject to Section 40.95 (Variance) of this Code. However, if the maximum permitted number of parking spaces and any parking in excess of the maximum permitted is located in a parking structure, the parking ratios may be exceeded without requiring an approval of a Variance for parking.

Any parking in excess of the number of required parking spaces may be designed to any of the City standards for off-street parking lot design. The Facilities Review Committee may recommend approval of parallel parking spaces or other non-standard designs for excess parking in any zone.

9. Location of Required Vehicle Parking

- A. All parking spaces provided shall be on the same lot upon which the use requiring the parking is located. Upon demonstration by the applicant that the required parking cannot be provided on the same lot upon which the use is located, the Director may permit the required parking spaces to be located on any lot within 200 feet of the lot upon which the use requiring the parking is located. [ORD 4107; May 2000]

11. **Compact Cars.** Compact car parking spaces may be allowed as follows:

- A. For residential uses, required vehicle parking spaces shall be provided at standard size pursuant to Section 60.30.10.7. Parking in excess of the required parking may be provided as compact parking subject to Section 60.30.10.6.
- B. For uses other than residential uses, twenty percent (20%) of the required vehicle parking spaces for long term or designated employee parking lots may be compact spaces. The Facilities Review Committee may recommend allowing more than twenty percent (20%) of the required parking spaces to be used for compact car parking when the applicant shows that more compact car spaces are appropriate.
- C. The Facilities Review Committee may recommend allowing the required parking spaces for short term parking to include spaces for compact cars if the applicant shows that there will be adequate parking for non-compact cars and a method of enforcing the compact car parking is available.

60.30.15. Off-Street Parking Lot Design.

60.30.20 Off-Street Parking Lot Construction

- 1. Every parcel of land hereafter developed for use as a parking area for one to five vehicles shall conform to the following requirements. (ORD 3293; November 1982)

- B. For other than single detached dwelling development, parking areas for one to five vehicles shall be reviewed as per Section 40.20.15. (ORD 3739)

2. Every parcel of land hereinafter developed for use as a parking area for more than five vehicles shall conform to the requirements of this subsection.

A. For other than single detached residential development, parking areas for more than five vehicles shall be reviewed as per Section 40.20.15. Parking areas shall be effectively screened from public right-of-way and surrounding property by a sight-obscuring fence, hedge, or planting.

C. Parking access ways shall not be more than 50 feet in width. Access grades shall not exceed 20% unless approved by the City, after receiving a recommendation by the Facilities Review Committee. In instances where grades exceed 20%, it must be demonstrated to the City Engineer or designee that the access grade will allow a standard automobile to pass the grade (ORD 3700). In the case of a corner lot, access ways shall not be located closer than 40 feet to the intersecting street right-of-way. Access ways shall be located not closer than 5 feet to a side lot line, except that a common access way to two adjacent properties (width not exceeding 50 feet) may be provided at the common lot line.

60.30.25. Enforcement. The Director is authorized to suspend any permit if the usage of parking by the original use or temporary use or both increases beyond the capacity of the on-site parking or that the use is causing a nuisance to the public or surrounding properties. The Director shall notify the applicant of the Director's intent to suspend the permit and shall provide an opportunity for a hearing prior to suspension. However, in any case where the Director, or any Code Enforcement Officer designated by the Mayor, finds a serious danger to the public health or safety, the Director or Code Enforcement Officer may suspend the permit without a hearing. Upon suspension of a permit, the Director or Code Enforcement Officer may require that the temporary use or structure vacate the site within five working days or can require the use to discontinue operation. The Director shall notify the applicant of the reasons for the action, and the Director shall afford the applicant the opportunity for a hearing within five days from the date of the suspension. The Director may reinstate a suspended permit upon a showing by the applicant that the cause of the suspension has been corrected. Appeal of any decision of the Director shall be pursuant to Section 50.75 of this Code.

Section 12: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.25 PRESERVATION OF TREES AND VEGETATION, is hereby deleted in its entirety.

Section 13: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.35 PLANNED UNIT DEVELOPMENT, is hereby added to read as follows:

60.35. PLANNED UNIT DEVELOPMENT

60.35.05 Purpose. It is the purpose of these provisions to allow a planned unit development (PUD) in any City zoning district except Residential-Agricultural (R-A). Uses or combinations of uses may be developed as a single, integral, functional unit or entity. The planned unit development provisions are intended to encourage more creative approaches for developing land, while enhancing and preserving the value, spirit, character, and integrity of surrounding areas which have developed or are developing under conventional district regulations. This is to be accomplished by:

1. Utilizing advances in technology and design.
2. Creating a comprehensive development plan which is equal to or better than that resulting from traditional lot-by-lot land development.
3. Employing design flexibility for locating structures, open spaces, circulation facilities, off-street parking areas, and other improvements.
4. Retaining and protecting special topographic, natural, or environmentally sensitive features on the site.
5. Encouraging innovative design techniques.
6. Utilizing design flexibility afforded by the planned unit development provisions to improve compatibility of the development with surrounding properties and uses.
7. Change from specific site development requirement and combinations of uses is allowable, subject to the provisions of this Code.

60.35.10 Modification of Base Zoning Standards

1. Dimensional Standards

The dimensional standards for the applicable zoning district as listed in Chapter 20 may be modified through approval of a Planned Unit Development, except for the following situations:

- A. Required setbacks shall continue to apply to the parent parcel upon which the proposed PUD will be located.
- B. The intersection standards in Section 60.55.50 shall continue to be satisfied.
- C. All building setbacks shall continue to meet applicable building and fire code requirements.
- D. Maximum building height standards may be increased up to twelve feet (12') when the applicable building setback distance along the perimeter of the parent parcel is increased at a ratio of 1.5 additional feet of setback for every foot of building height over the base zone standard for building height.

2. Allowed Uses.

- A. Except as provided in Section 60.35.10.2.B. below, the uses in a PUD shall comply with the permitted and conditional use requirements of the base zoning district.
- B. Detached and attached dwellings shall be allowed in any PUD provided the overall residential density satisfies the applicable residential density provisions of this Code.
- C. In addition to the accessory uses and structures typical of the uses authorized in the subject zoning district in which the PUD is located, accessory uses approved as a part of a PUD may include the following:
 - 1. Private park, lake or waterway.
 - 2. Recreation area.
 - 3. Recreation building, clubhouse or social hall.

4. Other accessory use or structure which the decision making authority finds is designed to serve primarily the residents of the PUD, and is compatible with the neighborhood and to the design of the PUD.

60.35.15 Common Open Space.

1. A PUD shall be required to provide common open space according to the following rates:
 - A. An area equal to at least twenty percent (20%) of the subject site when the site is up to and including 10 acres in size.
 - B. An area equal to at least fifteen percent (15%) of the subject site when the site is more than 10 acres and up to and including 50 acres in size.
 - C. An area equal to at least ten percent (10%) of the subject site when the site is more than 50 acres in size.
2. Land required to be set aside as setbacks or buffers shall not be included in the calculation of required open space.
3. Land shown on the final development plan as common open space, and landscaping and/or planting contained therein shall be permanently maintained by and conveyed to one of the following:
 - A. An association of owners or tenants, created as a non-profit corporation under the laws of the state which shall adopt and impose articles of incorporation and bylaws and adopt and impose a declaration of covenants and restrictions on the common open space that is acceptable to the City Attorney as providing for the continuing care of the space. Such an association shall be formed and continued for the purpose of maintaining the common open space and shall provide for City intervention and the imposition of a lien against the entire planned unit development in the event the association fails to perform as required; or
 - B. A public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.

Section 14: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.30 SIGN REGULATIONS, is hereby renumbered to Section 60.40.

Section 15: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.35 SOLAR ACCESS PROTECTION, is hereby renumbered to Section 60.45.

Section 16: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.40 SPECIAL USE REGULATIONS, is hereby renumbered to Section 60.50.

Section 17: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.50.03, as renumbered by Section 18 above, is hereby amended to read as follows:

60.50. SPECIAL USE REGULATIONS

60.50.03 Accessory Dwelling Unit [ORD 4048; June 1999]

1. **Purpose.** Accessory dwelling units are intended to increase the City's housing stock while minimizing neighborhood impacts, respecting the scale and design of detached dwelling residential neighborhoods, and maintaining their character. At the same time, accessory dwelling units are not intended to apply toward any minimum density requirements in other sections of this Code.
2. **Design Standards.** The following design standards are specific to the construction of an accessory dwelling unit. The standards are intended to ensure that the accessory dwelling units are compatible in scale, architectural design, and accessory to the primary residence. Where development standards are absent in this section, the development standards of the underlying zone apply.
 - A. An accessory dwelling unit may be created in the following manner:
 1. Conversion of existing living area, attic, basement or required parking;
 2. Adding floor area, subject to the limitations of the zoning district in which it is located;

3. Constructing a new structure, attached structure, or manufactured home with an internal or detached accessory dwelling unit.
- B. Parking.
1. Where the accessory dwelling unit is built on parking areas required for the primary dwelling, the required parking shall be replaced on site.
 2. One additional parking space is required on site.
- C. Location.
1. Accessory dwelling units must be attached by the floor, ceiling, wall, or portion thereof to the primary unit or must be separated by 8-feet from the primary unit.
 2. Accessory dwelling units shall be built in accordance with state and local codes.

Section 18: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.50.05.3, as renumbered by Section 18 above, is hereby amended to read as follows:

60.50.05. Accessory Uses and Structures. (Other than Accessory Dwelling Units) [ORD 4048; June 1999]

3. All accessory buildings must comply with the following provisions:
 - A. They shall have no more than 700 square feet of floor area; (ORD 3162)
 - B. They shall not exceed one story;
 - C. They shall not be allowed in a required front yard;
 - D. They shall not be located within eight (8) feet of main building or other accessory building;
 - E. They shall be located no closer than three (3) feet to any lot line nor built over an easement, whichever is the most restrictive; (ORD 3293; November 1982);

Section 19: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.50.15.2, as renumbered by Section 18 above, is hereby amended to read as follows:

60.50.15. Projections into Required Yards and Public Right-of-Way. (ORD 3162; March 1980)

2. Buildings lying within the Regional Center District (RC-TO, RC-OT, RC-E) zones may have the following projections into the public right-of-way; (ORD 3352) [ORD 4058, August 1999]
 - A. Planters;
 - B. Awnings and Canopies; [ORD 4107; May 2000]
 - C. Ornamental and architectural features.

The type, size and other features of the projections may be approved by the appropriate decision making authority after receiving a recommendation from the Facilities Review Committee. The decision making authority may also impose reasonable conditions. (ORD 3162; March 1980)

Section 20: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.50.25, as renumbered by Section 18 above, is hereby amended to read as follows:

60.50.25. Uses Requiring Special Regulation. In addition to other standards and requirements by this ordinance, all uses included in this section shall comply with the provisions stated herein. Should a conflict arise between the requirements of this section and other requirements of this Code, the more restrictive provision shall control.

8. Nursery Schools, Day or Child Care Facilities. Nursery schools and day or child care facilities shall provide and thereafter maintain outdoor play areas with a minimum area of 100 square feet per 1/3 the total licensed capacity of children. The Director may approve reduction of this requirement if the facility cares only for infants up to

6 months in age. In all districts, a fence of at least five (5) feet but not more than six (6) feet in height shall be provided separating the outdoor play area from abutting lots.

Facilities licensed for 40 or more children may be required to have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children. The Facilities Review Committee may recommend whether the special driveway design is required, or not.

9. Portable Classrooms. Public and private schools shall be permitted to maintain no more than two portable classrooms per school site for a period of no more than one calendar year. The governing body of the school shall obtain a Conditional Use prior to placing any additional portable classrooms on a site occupied by two portables, or if the portables allowed on a site are to remain on the site for a period longer than one calendar year. (ORD 3293; November 1982)

13. Park and Ride Facilities. Approved off-street parking lots connected with a non-residential use may be used jointly as park and ride lots if, by determination of the Director after receiving a recommendation from the Facilities Review Committee, the park and ride use will not conflict with the parking needs of the site's principal use both in terms of traffic volume and hours of use, and as long as there are no specific conditions placed on the site by the Director, Planning Commission, Board of Design Review, or the City Council which would preclude such use. Park and ride lots as principal uses are permitted in those zones allowing parking structures and surface parking lots. (ORD 3204; January 1981)

Section 21: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.45 TEMPORARY USE PERMITS, is hereby deleted in its entirety.

Section 22: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.60 TRANSPORTATION FACILITIES, is hereby renumbered to 60.55. and amended to read as follows:

60.55. TRANSPORTATION FACILITIES [ORD 4061; September 1999]

60.55.05. Purpose and Intent. It is the purpose and intent of this section to establish design standards and performance requirements for all streets and other transportation facilities constructed or reconstructed within the City of Beaverton.

60.55.10. General Provisions.

60.55.15. General Street Design Requirements.

1. Where a general street alignment is specified in the Comprehensive Plan, the provisions of Section 60.55.45. (Dedication) shall not be waived.
2. The location, width and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by such streets. Where location is not shown in the Comprehensive Plan, the arrangement of the streets shall provide for the continuation or appropriate projection of existing principal streets in surrounding areas
3. All private streets internal to a development, and streets internal to a non-residential development which are dedicated to the public, shall be designed to meet the on and off-site vehicular, transit, pedestrian, and bicycle circulation needs affected by the development. These streets shall also meet standard engineering principles in all aspects of design. Regular street elements, including, but not limited to, planting strips, trees, curbs, bicycleways, and sidewalks shall be identified on submitted plans.
4. Extension of Facilities. To provide for orderly development of the adjoining property or to provide an adequate grid of the City system, the City Engineer or designee shall require extension of water lines, sanitary and storm sewer lines and may require extension of streets through applicant's property to the property line of the adjoining or abutting property. Facilities required in accordance with this section

shall be consistent with the standards established by the Engineering Design Manual and Standard Drawings. Street extensions shall not be required where a cul-de-sac has been approved per Section 60.55.30.1.G.2. of this code. Where physical or topographic conditions make the extension of a facility or facilities impracticable to be constructed by the applicant, the City Engineer or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension under more suitable conditions. [ORD 4103; April 2000]

60.55.20. Street Design Performance Standards.

60.55.25. Level of Service Standards.

60.55.30. Street Design Standards.

1. **Streets.** All streets in the City shall be designed to comply with the standards of this code and the Engineering Design Manual and Standard Drawings.
 - A. The street standards shall be considered minimum design requirements under ideal circumstances. Approval of the appropriate street prototype shall be by the appropriate decision making authority after receiving a recommendation from the Facilities Review Committee as part of the development review process as provided in this Code and shall be based on the following considerations:
 1. Street function needed within the existing, proposed and future developing area and City circulation networks.
 2. Estimated daily traffic volume.
 3. Individual property access requirements.
 4. Topographic variations and other field conditions.
 - B. Existing Streets. Whenever existing streets adjacent to or within a parcel of land are of inadequate width, additional right-of-way shall be provided at the time of development of the subject parcel.

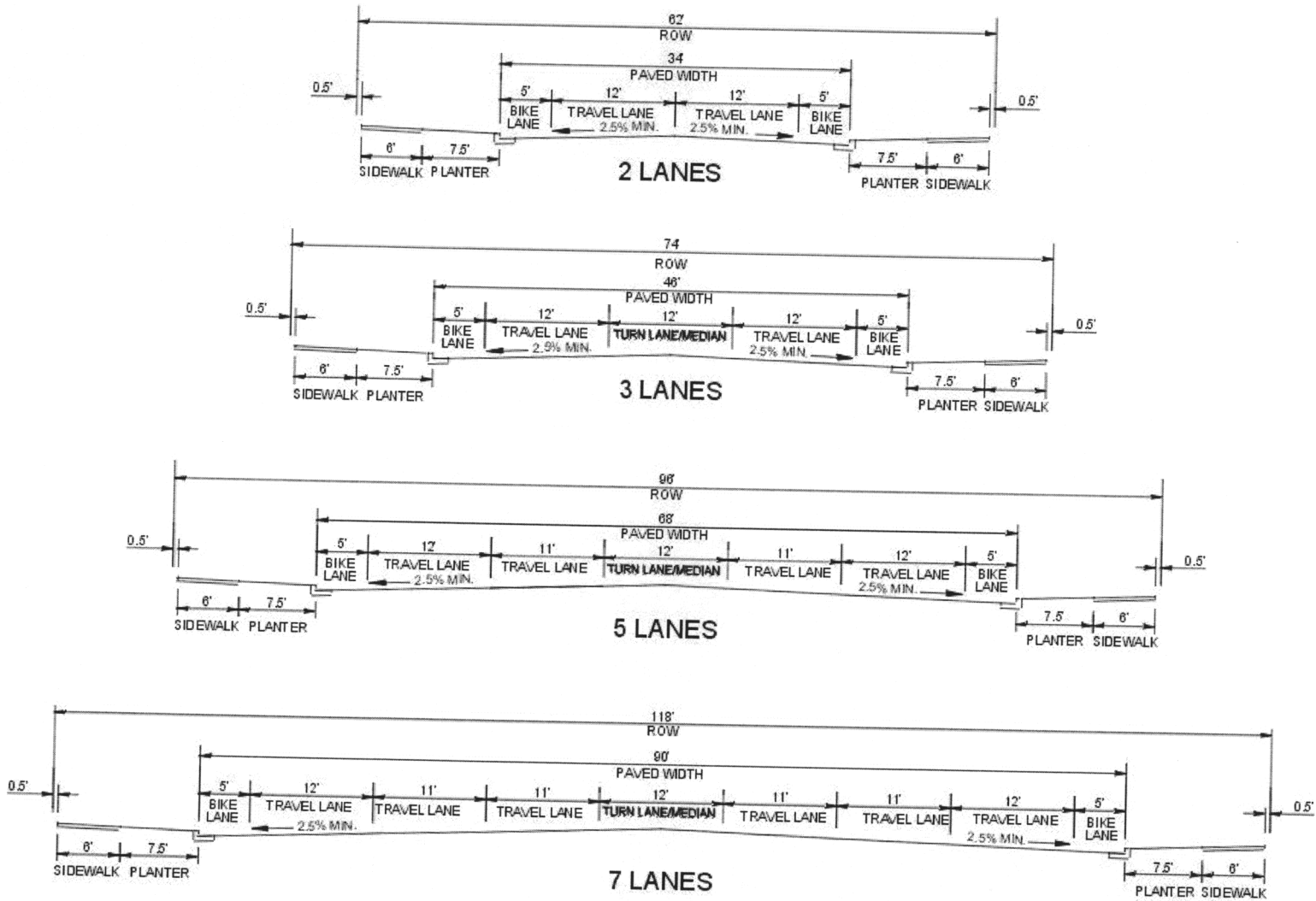
- C. Future extension of streets. Where necessary to give access to or permit a satisfactory future development of adjoining property, streets shall extend to the boundary of the parcel under development. The resulting dead-end street may be approved with a temporary design. Reserve strips including street plugs may be required to preserve the objectives of street extensions.
- D. Intersection Angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practical except where topography requires a lesser angle, such as for special intersection design. Requirements of Section 60.55.50 (Intersection Standards) shall also apply.
- E. Reserve strips. Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in such cases they may be required. The control and disposal of the land composing of such strips shall be placed within the jurisdiction of the City under conditions approved by the City.
- F. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subject property when in conformity with the other requirements of Section 60.55, and when the City finds it will be practical to require the dedication of the other half when the adjoining property is the subject of a development proposal. Up to an additional 10 feet of right-of-way and improvements may be required to provide for a safe travel surface. Whenever a half street is adjacent to a tract to be the subject of a land division proposal, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
- G. Cul-de-sacs. Proposed cul-de-sacs shall be as short as possible and shall not be more than 200 feet long. The modified infill cul-de-sac shall not be more than 150 feet long as measured along the center line of the roadway from the near side right-of-way of the nearest through traffic intersecting street to the farthest point of the cul-de-sac right-of-way, or as approved by the Fire Marshal, whichever is longer. All cul-de-sacs shall terminate with a circular turn around. In proposed development or where redevelopment potential exists, and a

street connection is not proposed, one or more accessways may be required to connect a cul-de-sac to public streets, to other accessways, or to property lines to allow for future connections per Section 60.55.70 (Accessways). No more than 25 dwelling units may be located on a closed-end street system except where topography, barriers such as railroads or freeways, or environmental constraints such as major streams or rivers, prevent street extension.

Redevelopment potential exists when assessed building value per square foot is less than 50 percent of the mean value per square foot of surrounding buildings on lots within a 500 foot distance as measures from any point of the property line.

- H. Grades and curves. Street grade and curves shall be consistent with the Engineering Design Manual and Standard Drawings. As such, maximum street gradients shall be fifteen (15) percent for local streets and neighborhood routes, and ten (10) percent for all other streets. Grades in excess of fifteen (15) percent must be approved by the City Engineer or designee on an individual basis. Minimum tangent street gradients shall be one-half (0.5) percent along the crown and curb.
- I. Lots abutting arterial streets. Where a development proposal abuts or contains an existing or proposed arterial street, the City may require frontage roads, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be part of an approved street design plan or may be necessary for adequate protection of residential properties, to provide separation of through and local traffic, and be aesthetically pleasing.
- J. Traffic calming. Traffic calming may be required in a design of the proposed street through the development review process. Traffic calming devices shall be designed to the standards of the Engineering Design Manual and Standard Drawings.
- K. Minimum Street Design Standards are depicted in the following diagrams and are included in the Engineering Design Manual and Standard Drawings. Application to modify the minimum street standards may be filed pursuant to Section 40.70 (Street Modification) of this code.

Drawing 1. Minimum Arterial Standards

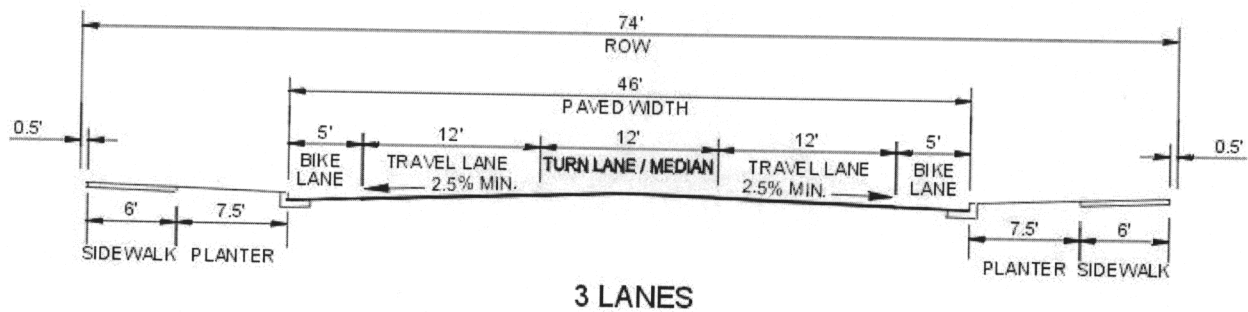
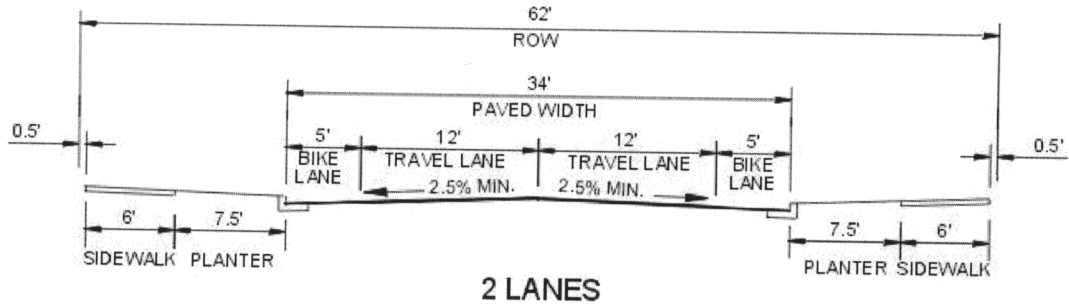


NOTES:

1. A planter strip is required on all Arterials.
2. Paved width and planter strip are measured to face of curb.
3. Provide 0.5 feet from right-of-way line to the back of sidewalk for maintenance and survey monument protection.
4. Street trees and street lights shall be located within the planter strip as required.

60.55.30.1.

Drawing 2. Minimum Collector Standards

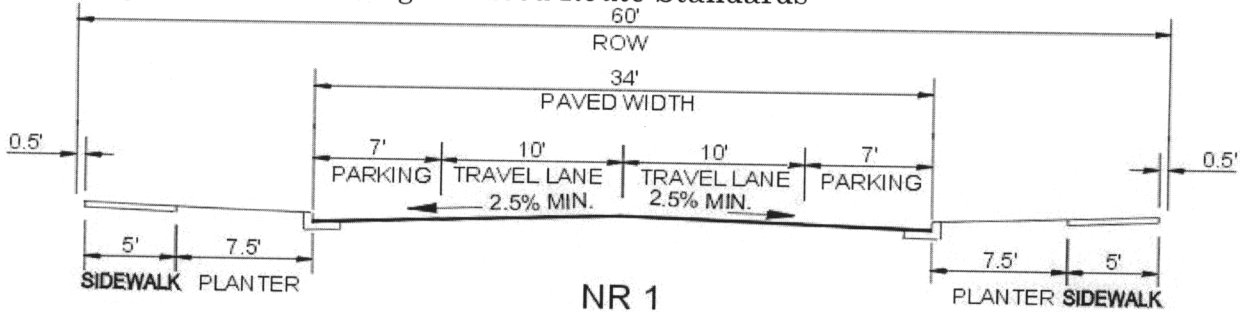


NOTES:

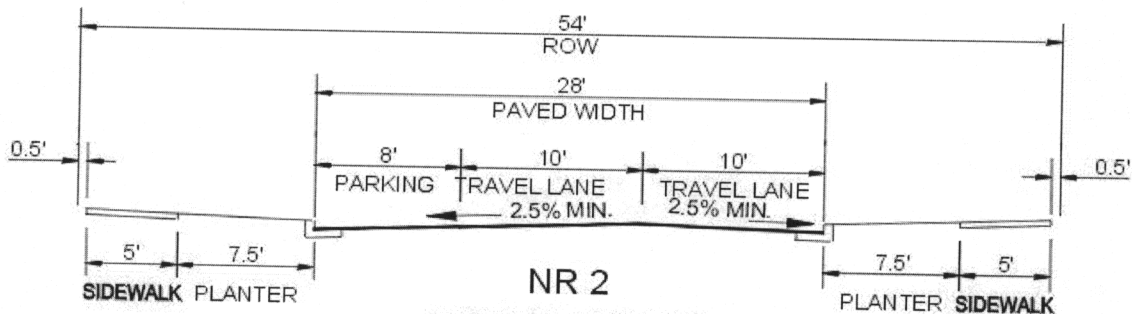
1. A planter strip is required on all Collectors.
2. Paved width and planter strip are measured to face of curb.
3. Provide 0.5 feet from right-of-way line to the back of sidewalk for maintenance and survey monument protection.
4. Street trees and street lights shall be located within the planter strip as required.

60.55.30.1.

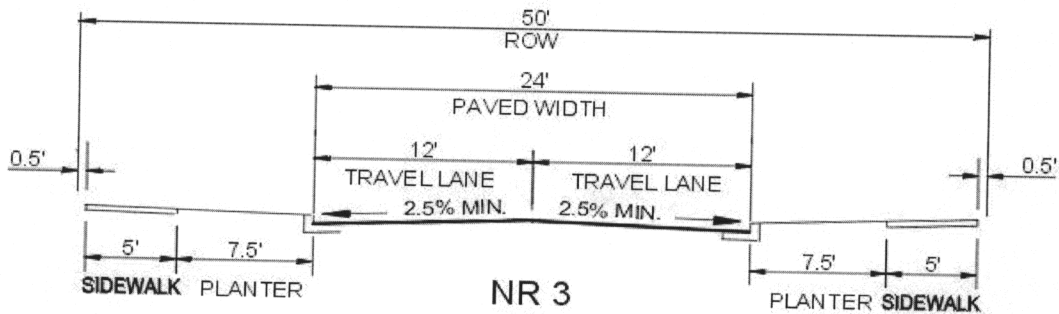
Drawing 3. Minimum Neighborhood Route Standards



NR 1
PARKING BOTH SIDES



NR 2
PARKING ONE SIDE



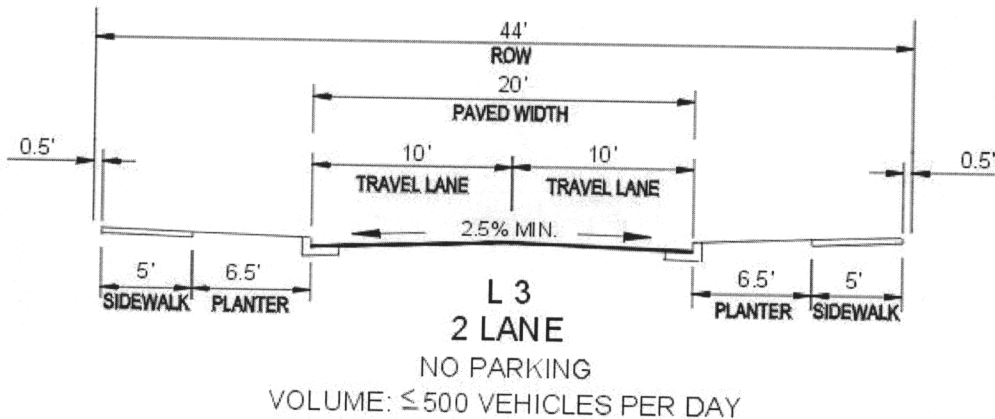
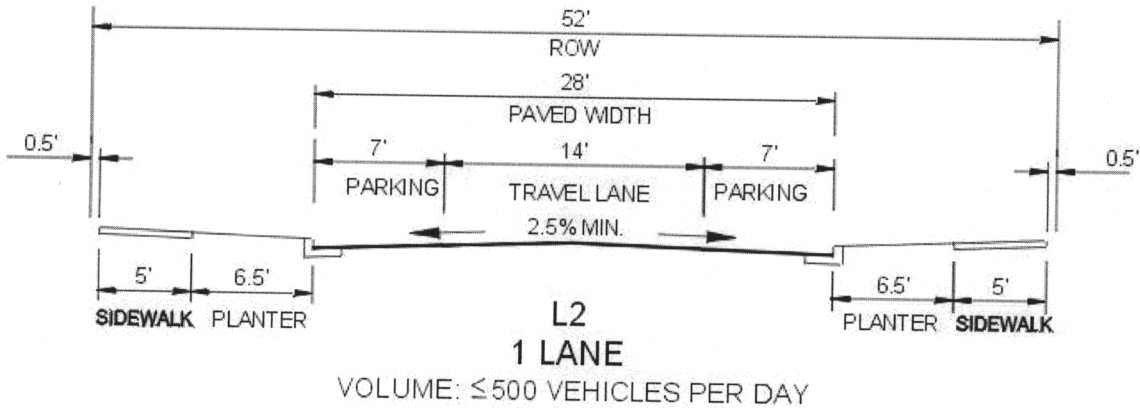
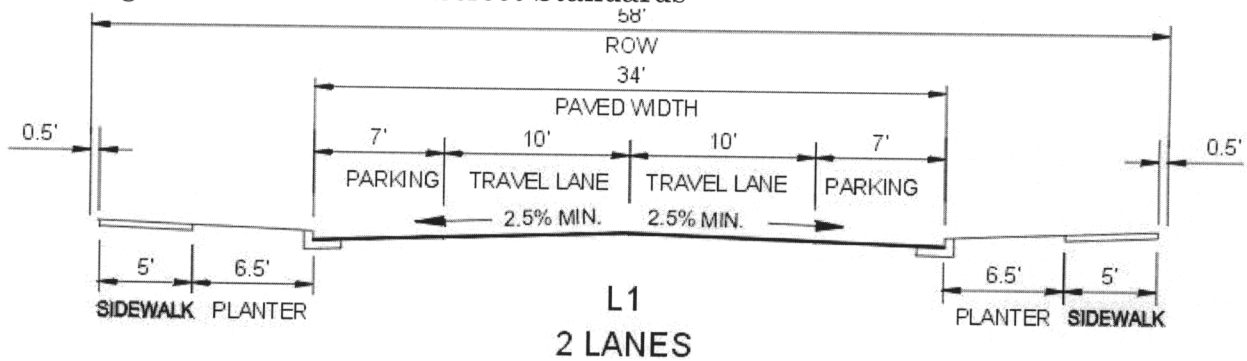
NR 3
NO PARKING

NOTES:

1. Traffic volumes of 1,000 to 5,000 vehicles per day.
2. A planter strip is required on all Neighborhood Routes.
3. Paved width and planter strip are measured to face of curb.
4. Provide 0.5 feet from right-of-way line to the back of sidewalk for maintenance and survey monument protection.
5. Street trees and street lights shall be located within the planter strip as required.

60.55.30.1.

Drawing 4. Minimum Local Street Standards

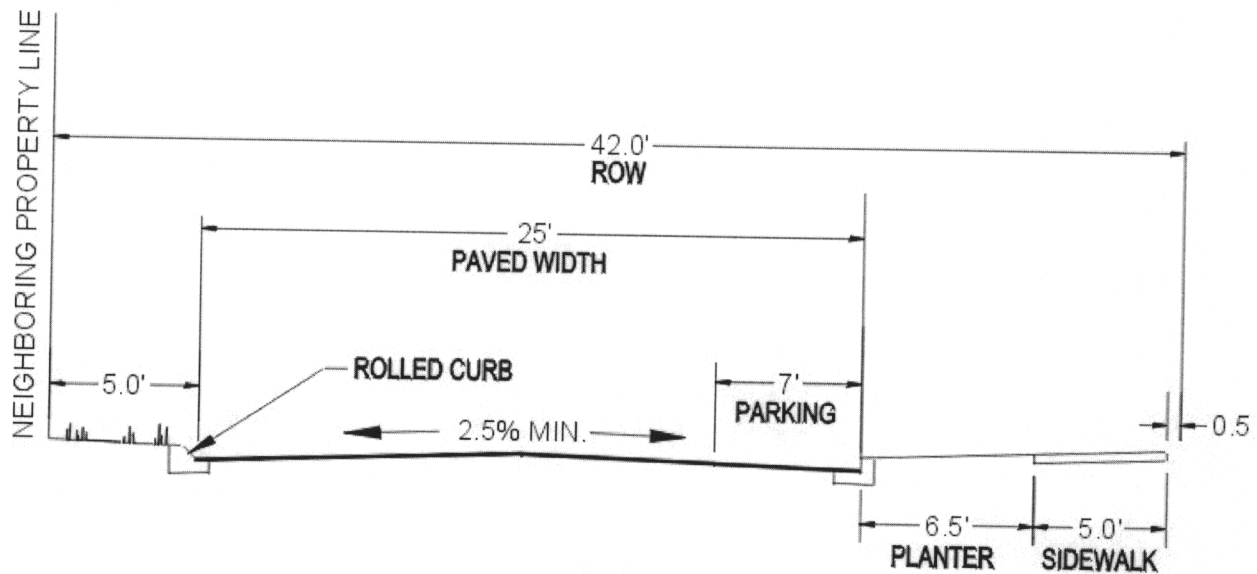


NOTES:

1. A planter strip is required on all Local Streets.
2. Paved width and planter strip are measured to face of curb.
3. Provide 0.5 feet from right-of-way line to the back of sidewalk for maintenance and survey monument protection.
4. Street trees and street lights shall be located within the planter strip as required.

60.55.30.1

Drawing 5. Minimum Infill Local Street Standards



L 4

INFILL STREET

PARKING ONE SIDE

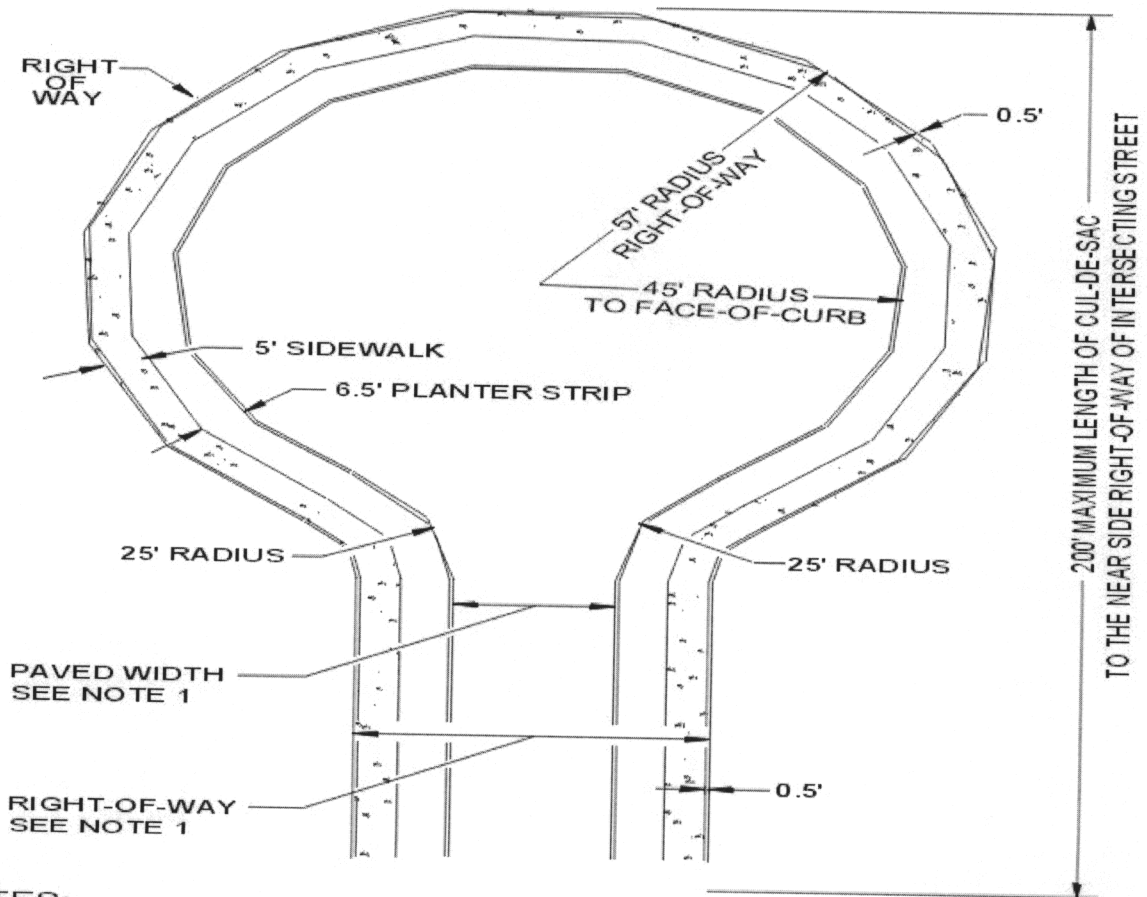
VOLUME: ≤ 200 VEHICLES PER DAY

NOTES:

1. See *Beaverton Development Code* Sec 60.55.30.L for Infill Street requirements.
2. A planter strip is required on all local streets.
3. Paved width and planter strip are measured to face of curb.
4. Provide 0.5 feet from right-of-way line to the back of sidewalk for maintenance and survey monument protection.
5. Street trees and street lights shall be located within the planter strip as required.
6. Rolled curb shall be able to support 50,000 lbs.

60.55.30.1.

Drawing 6. Minimum Cul-De-Sac Standards

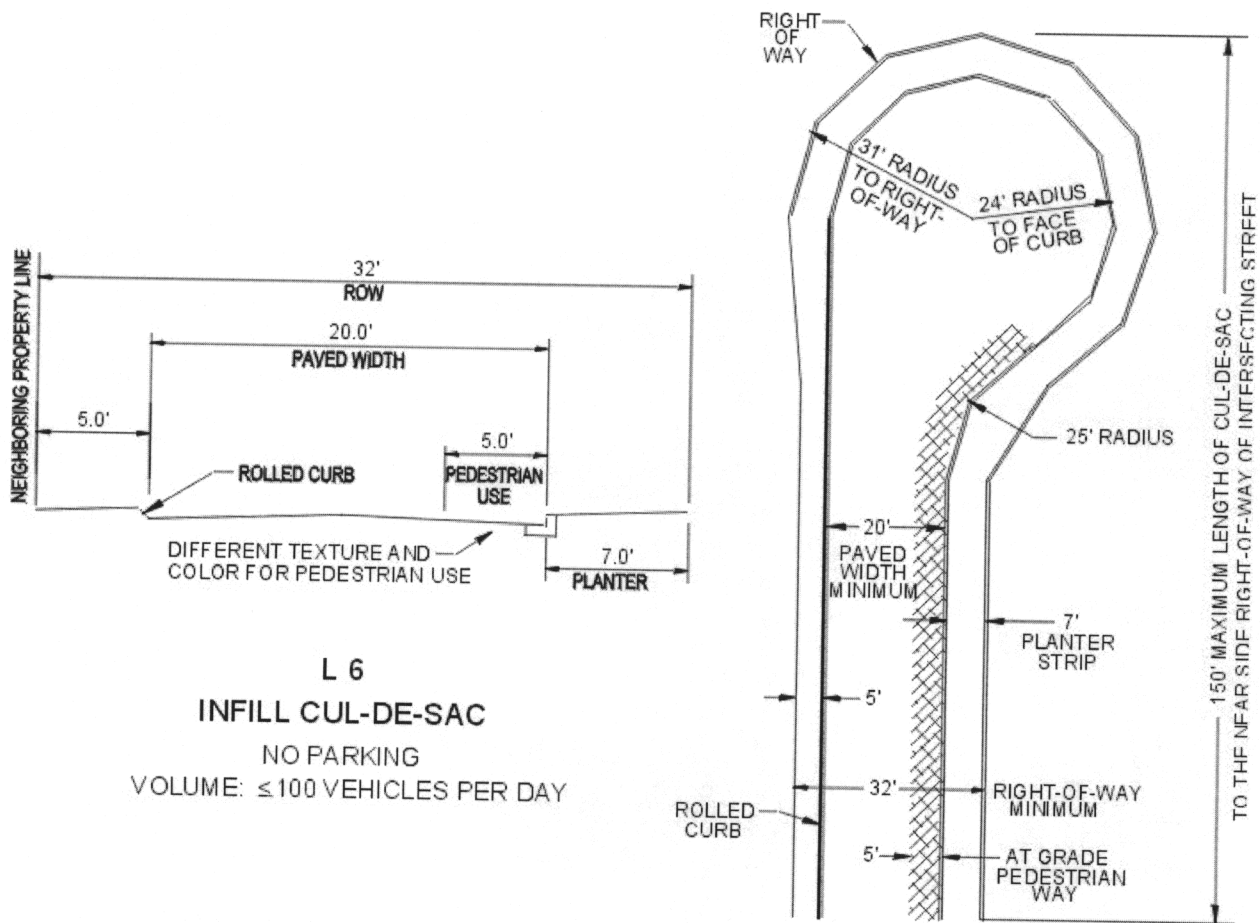


NOTES:

1. See *Beaverton Standard Dwg 103* for Local Street right-of-way and paved width standards.
2. A planter strip is required on all Cul-de-sacs.
3. Paved width and planter strip are measured to face of curb.
4. Provide 0.5 feet from right-of-way line to back of sidewalk for maintenance and survey monument protection.
5. Street trees and street lights shall be located within the planter strip as required.

60.55.30.1.

Drawing 7. Minimum Infill Cul-De-Sac Standards



NOTES:

1. See *Beaverton Development Code* Sec 60.55.30.L for Infill Street requirements.
2. A planter strip is required on all Local Streets.
3. Paved width and planter strip are measured to face of curb.
4. For use when no vehicle connectivity is possible due to existing development or topographic constraint.
5. Street trees and street lights shall be located within the planter strip as required.
6. Rolled curb shall be able to support 50,000 lbs.

2. Street Connection Hindrances

- A. Physical or topographic conditions may make a general street alignment impracticable. Such conditions include but are not limited to the alignments of existing connecting streets, freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water where a connection could not reasonably be provided;
- B. Existing buildings or other development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
- C. Where streets would violate provisions of leases, easements, covenants, or restrictions written and recorded as of May 1, 1995.

60.55.35. Street Connectivity Standards.

- 1. The Comprehensive Plan Functional Classification plan and Local Connectivity maps in the Transportation System Plan shall be used to identify potential street and accessway connections. The City may require additional connections to adjacent areas identified through the development review processes. Development shall include street plans, consistent with the requirements of this Code, that provide for the following:
 - A. In new residential, commercial and multiple use development, local street connections shall be spaced at intervals of no more than 530 feet as measured from the near side right-of-way line, except where impractical due to physical or topographic constraints such as the spacing of existing adjoining streets, freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water. Local street connections at intervals of no more than 330 feet shall be considered in areas planned for the highest density multiple use development.
 - B. Accessways shall be provided as required by this code for pedestrians, bicycles and/or emergency vehicles on public easements or rights-of-way where full street connections are not possible, with spacing between full street or accessway connections of no more than 330 feet, except where impractical due to physical or topographic constraints such as freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water.

2. For redevelopment of existing land uses, streets and accessways shall be provided as identified in the Comprehensive Plan and as required by this Code through the development review process.

60.55.40. Access Standards.

1. All lots shall abut a public street for a distance of at least 20 feet.
2. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of driveways common to more than one development and interior circulation design which furthers this requirement.
3. No new driveways for detached dwellings shall be permitted to have direct access onto an arterial or collector street except in unusual circumstances where access to a local residential street is not practicable. The decision making authority, after considering a recommendation of the Facilities Review Committee, may approve detached dwelling access to an arterial or collector.
4. Neighborhood routes and local streets shall primarily provide driveway access in residential areas. Driveway access onto collector streets shall only be allowed for existing development and is discouraged in residential areas. On neighborhood routes and local streets that intersect with a collector or arterial, driveway access to the neighborhood route or local street shall not be allowed within 50 feet of the intersection with the arterial or collector street as measured from the near side right-of-way line of the intersecting collector or arterial to the near side edge of the driveway.
5. For development of land zoned R4, R3.5, R2, and R1, and the commercial, multiple use, and industrial zones, access points shall minimize traffic congestion and minimize directing traffic onto local streets through areas zoned R10, R7, or R5. If a site can access a neighborhood route or a street of higher functional classification, one or more additional access points to residential local streets may be allowed. Direct connections to residential local streets may be allowed within 300 feet of an intersection of the local street and a collector or arterial roadway, or where a parcel abuts only residential local streets. If an access point is proposed more than 300 feet from an intersection with a collector or arterial roadway, an exception to this 300 foot standard may be approved by the City, based on an access and circulation report prepared by a registered professional engineer. Whenever feasible, access to the public street system shall serve more

than one site, taking into account at a minimum, property ownership, surrounding land uses, and physical characteristics of the area. Reciprocal access easements between adjacent lots may be required.

6. Access street spacing shall be provided at the following standards:

STREET CLASSIFICATION	DISTANCE BETWEEN ACCESS POINTS SHALL BE AT LEAST:	DISTANCE BETWEEN ACCESS POINTS SHALL NOT EXCEED:
Arterial	660 feet	1000 feet
Collector	220 feet	440 feet
Neighborhood Route	100 feet	660 feet
Local	100 feet	530 feet

Access is measured from the near side right-of-way line.

60.55.45. Dedication.

1. Except as provided in Section 60.55.45.2, all streets and necessary accompanying right-of-way, including those internal to any development, shall be dedicated to the public for street purposes, and such dedication amount shall meet the requirements of this Code and the Comprehensive Plan. The Comprehensive Plan Street Improvement Master Plan identifies the number of lanes for selected streets. Dedication for additional lanes may be required at intersections for intersection improvements identified in the Comprehensive Plan.
2. The requirements of Section 60.55.45.1, may be waived by the City, after considering a recommendation of the Facilities Review Committee, when the impacts of traffic generated by the development do not significantly affect off-site traffic flow. The decision to require additional lanes shall be made in the appropriate development approval process.
3. Where a general street alignment is specified in the Comprehensive Plan, dedication shall not be waived.
4. In addition to all streets and necessary accompanying right-of-way, all sidewalks, pedestrianways, accessways, bike ways, multi-use paths, and other public rights-of-way required by or reasonably related to the development shall be dedicated or located within dedicated public rights-of-way or easements.

60.55.50. Intersection Standards.

1. Visibility at Intersections. All work adjacent to public streets and accessways shall comply with the standards of this section. In addition, work within the public right-of-way shall comply with the intersection sight distance standards of the Engineering Design Manual Section 210.5.

- C. The requirements of visibility at intersections (Subsections A. and B.) for the Regional Center - East zoning district shall be determined on a case by case basis by the decision making authority, after considering a recommendation of the Facilities Review Committee. In making its determination, the decision making authority shall consider the safety of the users of the intersection (including pedestrians, bicyclists and motorists), design speeds, the intersection sight distance standards of the Engineering Design Manual, and other applicable criteria. [ORD 4111; June 2000]

- D. The requirement specified in Subsections A. and B., above, may be lessened or waived by a finding by the decision making authority, after considering a recommendation of the Facilities Review Committee, that the lessening or waiving of these requirements will not create an unsafe traffic situation. In making its determination, the decision making authority shall consider the safety of the users of the intersection (including pedestrians, bicyclists and motorists), design speeds, the intersection sight distance standards of the Engineering Design Manual, and other applicable criteria.

60.55.55. Special Setbacks and Reservations.

60.55.60. Transit Facilities.

60.55.65. Bicycle and Pedestrian Facilities

1. Bicycle and Pedestrian Connection Design Standards.
 - A. Bicycle and pedestrian connections shall conform to the design guidelines and standards delineated in the latest editions of the Oregon Bicycle and Pedestrian Plan and the AASHTO Guide for the Development of Bikeway Facilities. Signs shall be in conformance with the Manual of Uniform Traffic Control Devices (MUTCD), as supplemented and adopted by the Oregon Transportation Commission.
 - B. Bicycle and pedestrian connections shall be constructed to the requirements and standards of this code and the Engineering Design Manual and Standard Drawings.
2. When street improvements on arterials and collectors are required as a condition of development approval, they shall include bike lanes and sidewalks constructed in accordance with City standards.
3. For all bicycle and pedestrian connections located within wetlands, stream corridors, and Significant Natural Resource Areas, the City shall meet with the appropriate state and federal resource agencies to review and assess site-specific development compatibility issues prior to selecting any alternative for development. The review shall assess all potential and reasonable alternatives and the level to which impacts can or cannot be mitigated.
 - A. Bicycle and pedestrian connections through natural resource areas and/or significant wildlife habitat shall be intended for day use only and shall have no provisions for night illumination. If a natural resource is so delicate that any degree of human intrusion will irreparably destroy it, preservation of the resource will take precedence over the proposed bicycle and pedestrian connection.
 - B. Bicycle and pedestrian connections shall converge at traffic controlled intersections for safe crossing wherever possible. New construction of bicycle and pedestrian connections along residential rear lot lines shall not be encouraged unless no comparable substitute alignment is possible in the effort to connect common attractors or existing segment links. When bicycle and pedestrian connections do follow rear lot lines, design treatments defined in the Engineering Design Manual and Standard Drawings will be followed to minimize the impacts to private property.

4. Bicycle Parking. Bicycle parking in development, which is proposed for approval after November 7, 1996, shall be provided in accordance with City standards and the requirements of Section 60.30. Off-Street Parking. Bicycle parking facilities should be provided at both the trip origin and the trip destination, and should offer protection from weather, theft, and damage.

A. Bicycle parking facilities shall be able to accommodate a wide range of bicycle shapes and sizes, and should be designed to meet the users' needs. Bicycle parking facilities fall into one of two user group categories: short and long-term parking.

2. Long-Term Parking. Long-term bicycle parking spaces are meant to accommodate employees, students, residents, commuters, and other persons that can be expected to leave their bicycle parked longer than two hours.

a. Location. In the case of residential use, long-term parking shall be especially secure and protected because it may be unattended for hours at a time, overnight, or possibly longer. Employee and residential bicycle parking that is intended for long-term use shall offer a high level of security (e.g., bicycle lockers, a locked cage, an indoor locked area, or, in the case of attached housing, an individual unit). Long-term bicycle parking may be provided within a building, however the location should be easily accessible for bicycles and shall meet all building fire accessway codes. Long-term bicycle parking for attached housing can be located within individual residential units. Bicycle parking facilities shall be separated from motor vehicle parking and maneuvering areas by a barrier or sufficient distance to prevent damage to parked bicycles.

60.55.70. Accessways.

1. Accessways shall be provided in accordance with City standards and shall be required for all development proposed after November 7, 1996 that meet the following:
 - A. In all zoning districts, any block which is longer than 750 feet or where indicated by the Comprehensive Plan, an accessway shall be provided through or near the middle of the block.
 - B. If any of the conditions described in Section 60.55.70.1.M result in block lengths longer than 1200 feet, then two or more accessways may be required.
 - C. In any zoning district where a street connection is not feasible pursuant to Section 60.55.70.1.M, a new accessway to an existing transit stop, a planned transit route, as identified by Tri-Met and the City, a school, shopping center, or neighborhood park shall be provided as a component of a development proposal if the addition of an accessway would reduce walking or bicycling distance by at least 50 percent over other available accessways and that the reduced walking or bicycling distance is greater than 400 feet.
 - D. In any zoning district, a new accessway to a school shall be provided as a component of a development proposal if the addition of an accessway would reduce walking or bicycling distance by at least 50 percent over other available accessways and that the reduced walking or bicycling distance is greater than 200 feet.
 - E. In any residential or industrial zoning district, a new accessway to an existing transit stop, a planned transit route, as identified by Tri-Met and the City, a shopping center, or neighborhood park shall be provided as a component of a development proposal if the addition of an accessway would reduce walking or bicycling distance by at least 50 percent over other available accessways and that the reduced walking or bicycling distance is greater than 400 feet.
 - F. In any commercial and multiple use zoning district, a new accessway to an existing transit stop, a planned transit route, as identified, by Tri-Met and the City, a shopping center, or neighborhood park shall be provided as a component of a

development proposal if the addition of an accessway would reduce walking or bicycling distance by at least 50 percent over other available accessways and that the reduced walking or bicycling distance is greater than 200 feet.

- G. For purposes of subsections A through F above, other available pedestrian connections include public sidewalks and walkways within shopping centers and planned developments. Connections may cross parking lots on adjoining properties if the connection is open to the public for pedestrian use, is a paved surface and is unobstructed.
- H. For retail, office, and institution development at or near a major transit stop, pedestrian connections shall be provided to connect building entrances with streets adjoining the site. Pedestrian connections to adjoining properties shall be provided except where such a connection is impracticable as provided for in this Code. Pedestrian connections shall connect the on-site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where abutting properties are undeveloped or have potential for redevelopment, streets, accessways, or both on site shall be stubbed to the property line to allow a future extension on to the adjoining property.
- I. The City may require an accessway to connect from one cul-de-sac to an adjacent cul-de-sac or street.
- J. Accessway connections shall be as short as possible and, wherever practical, straight enough to allow one end of the path to be visible from the other. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.
- K. Accessways through parking lots shall be physically separated from adjacent vehicle parking and parallel vehicle traffic by curbs or similar devices, including landscaping, trees and lighting, if not otherwise provided in the parking lot design.
- L. Accessways shall be lighted either by street lights on adjacent streets or pedestrian scale lighting to a minimum level of 0.5 foot-candle along the connection. Lighting shall have cut-off fixtures so that no glare is emitted beyond the pedestrian connection and onto adjacent properties.

- M. Accessways shall be provided consistent with the requirements of Section 60.55.30 (Street Design Standards) and the Engineering Design Manual and Standard Drawings, unless infeasible for any of the following reasons:
1. Physical or topographic conditions make an accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water where a connection could not reasonably be provided;
 2. Existing buildings or other development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
 3. Where accessways would violate provisions of leases, easements, covenants, or restrictions written and recorded as of May 1, 1995.
 4. An accessway will be not be required where the impacts from development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway.

2. Internal circulation systems

- A. All development in commercial and multiple use zoning districts and other development for which a conditional use approval is required, shall provide a system of pedestrian facilities that encourage safe and convenient pedestrian movement within the site. Pedestrian facilities shall also link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site which are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses. Walkways are required as part of office/warehouse and retail/warehouse combinations.
- B. Location: A walkway into the site shall be provided for every 300 feet of street frontage or for every eight aisles of vehicle parking if parking is located between the building and the street. A walkway shall also be provided to any accessway abutting the site.

Section 23: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.60. is hereby added to read as follows:

60.60. TREES AND VEGETATION.

60.60.05. Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. In conjunction with processes set forth in Section 40.90 of this Code, this section is intended to help regulate changes regarding the City's urban forest by establishing regulations and standards for the protection, pruning, removal, replacement, and mitigation for removal of significant tree and grove, historic tree, tree within a Significant Natural Resource Area (SNRA), landscape tree, street tree, and community tree.

60.60.10. Types of Trees and Vegetation Regulated

Actions regarding trees and vegetation addressed by this section shall be performed in accordance with the regulations established herein and in Section 40.75 of this Code. The City finds that the following types of trees and vegetation are worthy of special regulation:

1. **Significant Tree and Groves.**
2. **Historic Tree**
3. **Tree within a Significant Natural Resource Area**
4. **Landscape Tree.**
5. **Street Tree.**
6. **Community Tree.**

60.60.15 Pruning, Removal, and Preservation Standards

1. **Pruning Standards**
 - A. It shall be unlawful for any person within any one-year period to remove or prune to remove a tree's canopy or disturb the root zone of any significant tree and grove, historic tree, tree within a SNRA, landscape tree, and street tree, except in accordance with the provisions of this Code.

- B. All pruning of a significant tree and grove, historic tree, tree within a SNRA, landscape tree, and street tree shall be done in accordance with the standards set forth in this section and the City's adopted Tree Planting and Maintenance Policy, also known as Resolution 3391.

2. Removal and Preservation Standards

- A. All removal and planting, including replacement or mitigation planting, of protected trees shall be done in accordance with the standards set forth in this section and the City's adopted Tree Planting and Maintenance Policy.
- B. Removal of a significant tree and grove, landscape tree, and street tree shall require mitigation, which may include tree replacement or other mitigation measures, as set forth in this section.
- C. For Significant Natural Resource Areas (SNRA) and significant groves, the following additional standards shall apply:
 - 1. A minimum of 5% of the trees within a SNRA or grove area shall be preserved. Grove size shall be measured by the area of the tree canopy at maturity. SNRA and grove preservation shall include preservation of understory vegetation, as well as trees.
 - 2. Significant groves shall be preserved in rounded clusters rather than in linear strips.
 - 3. Significant groves shall provide connectivity with adjoining forested areas.
 - 4. Native species shall be retained to the extent possible. Native species include, but are not limited to: Grand Fir, Douglas-fir, Western Hemlock, Pacific Yew, Western Red Cedar, Bigleaf Maple, Oregon White Oak, Oregon Ash, Red Alder, Western Flowering Dogwood, Ponderosa Pine, and Black Cottonwood.

Non-native tree species may also be retained for aesthetic, unique condition, size, and wildlife habitat purposes.

- D. To assist in the preservation of a tree or grove, the following shall not occur within the protected root zone of each tree at any time without prior approval from the City:
1. Construction or placement of new buildings.
 2. Grade change or cut and fill.
 3. Construction or placement of new impervious surfaces.
 4. Trenching for utilities, irrigation, or drainage.
 5. Staging or storage of any kind.

60.60.20. Tree Protection Standards During Development

1. Trees classified as Significant Tree and Grove and Landscape Tree under this Code shall be protected during development in compliance with the following:
 - A. A construction fence must be placed around a tree or grove at least at the edge of the root zone. The fence shall be placed before construction starts and remain in place until construction is complete. The fence shall meet the following:
 1. The fence shall be a four foot (4') tall orange plastic or snow fence, secured to six foot (6') tall metal posts, driven two feet (2') into the ground. Heavy gauge 12 wire shall be attached to the top and midpoint of each post.
 2. Other City approved protection devices that provide equal or greater protection may be permitted.
 - B. Within the protected root zone of each tree, the following development shall not be permitted:
 1. New buildings.
 2. Grade change or cut and fill during or after construction.
 3. New impervious surfaces.
 4. Trenching for utilities, irrigation, or drainage.

5. Staging or storage of materials and equipment during construction.
6. Vehicle maneuvering during construction.

60.60.25. Mitigation Standards

1. The following standards shall apply to mitigation for the removal of a significant tree or grove.
 - A. Mitigation for the removal of a significant tree or grove shall be the required replacement of each tree on a one-to-one basis according to total linear DBH measurement. Replacement of trees shall be as follows:
 1. Calculate the sum of the cumulative DBH measurement of the tree to be removed.
 2. The total linear DBH measurement of the tree to be removed shall be replaced with a tree that is at least two caliper inches (2") in diameter unless otherwise approved by the City. The total caliper inches of the replacement tree shall be at least equal to the sum total of the linear DBH measurement of the removed tree.
 3. If the total caliper inch replacement does not equal the DBH inch removal, the remaining caliper inch replacement will be provided in-lieu. The in-lieu fee shall be specified in the Community Development Department fee schedule and be deposited in the City's Tree Mitigation Fund.
 - B. Mitigation may be satisfied by one, or a combination of more than one, of the following options:
 1. Planting of trees on the site where tree or grove removal is proposed;
 2. Planting of trees off the site at a location or locations to be determined by the City; or

3. A fee paid in lieu of tree planting and deposited in the City's Tree Mitigation Fund for future natural resource mitigation efforts. The assessment of tree mitigation shall be determined by the caliper size of the tree removed.
 - C. Any tree required for mitigation shall be a similar species or a tree approved by the City considering site characteristics with a preference given to native species, as listed in Section 60.60.15 of this Code.
 - D. If a mitigation tree of the species of the tree removed or damaged is not reasonably available, the City may allow replacement with a different species with equivalent natural resource value.
 - E. All mitigation tree planting shall take place in conformance with accepted arboricultural practices and the City's Tree Planting and Maintenance Policy.
 - F. All trees planted for mitigation must have a minimum caliper of two inches (2") except where other standards are required through development review.
 - G. All trees planted for tree removal mitigation shall be maintained in accordance with the approved mitigation plan. Monitoring of mitigation planting shall be the ongoing responsibility of the property owner. Trees that die shall be replaced.
2. The following standards apply to the replacement of a lost or damaged landscape tree or street tree:
 - A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
 - B. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the City may allow replacement with a different species with equivalent natural resource value.
 - C. Replacement of a landscape tree or street tree shall be based on total linear DBH calculations at a one-to-one ratio depending upon the capacity of the site to accommodate replacement tree or unless otherwise specified through development review. Replacement of tree on a one-to-one basis shall be as follows:

1. Calculate the sum of the total linear DBH measurement of the tree to be removed.
2. The total linear DBH measurement of the tree to be removed shall be replaced with tree at least 1.5 caliper inches in diameter. The total caliper inches of the replacement tree shall be at least equal to the sum total of the linear DBH measurement of the removed tree.

Section 24: The Development Code, Ordinance No. 2050, Chapter 60 - Special Regulations, Section 60.65, is hereby amended to read as follows:

60.65. UTILITY UNDERGROUNDING [ORD 4118; August 2000]

60.65.25. Optional Fee In Lieu of the Undergrounding Requirement. If any of the following criteria are met as determined by the City, after receiving a recommendation from the Facilities Review Committee, at the applicant's option, applicant shall either immediately place the private utilities underground or pay a fee to the City toward future undergrounding in lieu of immediately placing private utilities underground.

Criteria. An applicant may request an optional fee in-lieu of the undergrounding requirement by submitting a written request to the Director that addresses how one or more of the following criteria are met. The written request shall include the information required in Sections 60.65.20.2. and 3., shall identify the segment of the required utility undergrounding that meet the criteria below, and shall explain in narrative and graphic form how one or more of the criteria are met.

APPENDIX "F"

Section 1: The Development Code, Ordinance No. 2050, Chapter 90 - Definitions, is amended to read as follows:

The following words and phrases shall be construed to have the specific meaning assigned to them by definition.

Words used in present tense include the future tense, and the singular includes the plural, unless the context clearly indicates the contrary.

The term "shall" is always mandatory and the word "may" is permissive.

The masculine gender includes the feminine and neuter.

Bicycle Connection. A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for bicycle use. Bicycle connections include but are not limited to accessways, bike paths, multi-use paths and pedestrian bridges.

Board of Design Review. The Board of Design Review of the City of Beaverton or any subcommittee thereof.

Caliper Measurement. The thickness of trees measured in inches. A caliper measurement for trees shall be measured 12 inches above the soil line, or across the stump if the tree has been severed at less than 12 inches above the soil line.

Code, This. The short title of the City of Beaverton Development Code which shall be deemed to include the text of this Code, the accompanying zoning map, and all amendments made hereafter to either.

Community Tree. A healthy tree of at least ten inches (10") DBH located on developed, partially developed, or undeveloped land. Community trees are not those trees identified as significant, historic, street, or conditioned trees or trees within a Significant Natural Resource Area.

Compatibility, Flexible and Zero Yard Setbacks. For the purposes of how the phrase “compatible with the surrounding area” is used in the Flexible and Zero Yard Setbacks, the phrase is defined as abutting properties and properties directly across the street from the proposed development. Properties directly across the street from the development shall be those properties perpendicular from the property line of the proposed development.

Days. Calendar days, unless specifically stated as working days.

Day, Working. Days that the City of Beaverton Community Development Department is open for business.

Dead Tree. A tree that is lifeless. Evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.

Decision, Effective Date Of. Unless otherwise provided, the date of the final written land use order.

Decision Making Authority. Either the Director, the Planning Commission, the Board of Design Review, or the City Council, depending on the context in which the term is used.

Denial, Final. The decision to deny a proposal by the appellate decision making authority.

De Novo. Considering the matter anew, the same as if it had not been heard before and as if no decision previously had been rendered.

Diameter at Breast Height (DBH). The diameter of the trunk of a tree measured at 54 inches above natural grade.

Director. The Director of Community Development for the City of Beaverton, Oregon, or designee.

Drip Line: A line on the ground below the edge of the maximum overhead canopy of a tree.

Drop-Off Station. A mobile structure which is used to receive materials such as clothing and other household or office goods donated by the public.

~~**Dwelling, Single Family.** [ORD 4058, August 1999] A detached dwelling used by not more than one family; having complete living facilities and constituting one dwelling unit.~~

~~**Dwelling, Two family.** A detached dwelling used by not more than two families and constituting two dwelling units.~~

~~**Dwelling, Multiple family.** A dwelling used by three (3) or more families and containing three (3) or more dwelling units.~~

Dwelling, Attached. A dwelling that is attached to another dwelling, excluding accessory dwellings.

Dwelling, Detached. A dwelling that is not attached to any other dwelling, excluding accessory dwellings.

Facilities, Critical. Critical facilities and services shall include public water, public sanitary sewer, storm water drainage and retention, transportation, and fire protection.

Facilities, Essential. Essential facilities and services shall include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way.

Fee Ownership. As the term relates to land divisions, a Fee Ownership Partition or Fee Ownership Subdivision is a land division application which proposes to reduce the site development requirements for lot area, lot dimension, building setbacks, building coverage, landscaping, parking and street frontage for the lot to allow fee ownership of the land on which the building rests in the commercial, industrial, and multiple use zoning districts.

Grove. A stand of three or more trees of the same or mixed species.

Historic Tree or Historic Grove. Tree(s) designated by the City to be of historic significance based on their association with historic figures, properties, or the general growth and development of the City.

Hotel. A building, or portion thereof, of more than five (5) rooms designed or intended to be used, let or hired out for the purpose of offering to the general public lodging on a day-to-day basis, where the primary entrance is through a lobby or foyer with internal circulation to the rooms; also, that in which there are no provisions for cooking in any individual room or suite.

Landscaping. The combination of natural elements such as trees, shrubs, ground covers, vines, and other living organic and inorganic material which are installed for purposes such as creating an attractive and pleasing environment and screening unsightly views. Other improvements that promote an attractive and pleasing environment that may be included as landscaping includes features such as fountains, patios, decks, fences, street furniture and ornamental concrete or stonework areas.

Landscaping Area(s). An open area unoccupied except for landscaping. Pathways sufficient to provide access to buildings and utility equipment are permitted within a landscape area.

Landscape Tree. A tree, other than a Significant Tree, Historic Tree, or Tree within a Significant Natural Resource Area, that has been preserved or planted as a component of an approved landscaping plan.

Legislative. A land use decision that applies to an entire zoning district or a large number of individuals or properties or that establishes or modifies policy or procedure.

Local Wetland Inventory. An inventory of the City's wetland resources adopted pursuant to Statewide Planning Goal 5.

Motel. A transient occupancy use with external pedestrian access to rental rooms and with vehicular access to rooms.

Neighborhood Association Committee (NAC). A group of people who are residents, property owners, business owners, or representatives of a non-profit entity, such as a church, that are organized within the recognized boundary of a City of Beaverton established neighborhood area for the purpose of discussing a broad range of issues affecting the neighborhood and the community.

Non-Exempt Tree or Vegetation. Vegetation that is not exempt. Refer to definition of "Exempt Tree or Vegetation".

Non-Profit Organization. An organization which is a non-profit organization registered with the State of Oregon pursuant to Chapter 65 of the Oregon Revised Statutes.

Noxious Vegetation. As applied to Significant Natural Resource Areas (SNRA), lands designated as significant on the Local Wetland Inventory, and Clean Water Services designated sensitive areas, the following plants, bushes, and trees are deemed to be noxious vegetation: Scot's Broom, French Broom, Kudzu, English Ivy, Purple Loosestrife, Reed Canary Grass, Himalayan Blackberry, Evergreen Blackberry, Norway Maple, Tree-of-Heaven, Garlic Mustard, Lesser Celandine, Canada Thistle, Common Thistle, Western Clematis, Traveler's Joy, Field Morning-Glory, Lady's-Nightcap, Pampas Grass, Hawthorne (except native species), Queen Anne's Lace, South American Waterweed, Common Horsetail, Giant Horsetail, Crane's Bill, Robert Geranium, Common Bladderwort, St. John's Wort, English Holly, Yellow Flag, Duckweed, Water Lentil, Eurasiana Watermilfoil, Annual Bluegrass, Water Smartweed, Giant Knotweed, English Laurel, Portugese Laurel, Tansy Ragwort, Blue Bindweed, Climbing Bindweed, Hairy Nightshade, Bamboo, Periwinkle (large and small leaf), and Spiny Cockleb.

Oversized Lot. A lot which is greater than twice the required minimum lot size allowed by the subject zoning district.

Parent Parcel. The parcel of land that is proposed to be the subject of a development proposal.

Park and Ride. A parking facility near a transit station or stop for the purpose of parking motor vehicles by transit riders.

Parking, Excess. Required off street parking which has been demonstrated as being unused by an existing land use.

Parking Structure. A covered structure or portion of a covered structure that provides two or more levels of parking for motor vehicles.

Person of Record. A person who makes an appearance before the decision making authority in a proceeding through the submission of either written or verbal testimony.

~~**Planning Director.** The director of the City's Planning Department or the Director's designate.~~

Planned Unit Development. A development on land under unified control according to a single development plan for uses and structures related to the character of the zoning district with a program for operation and maintenance of common areas.

Pruning, Minor. Removal of between 5% and up to and including 20% of the tree's canopy or disturbance of 10% or less of the root system.

Pruning, Major. Removal of greater than 20% of the tree's canopy or disturbance of over 10% of the root system.

Qualified Professional. As the term applies to trees, a professional with academic and field experience that demonstrates expertise in urban forestry. This may include arborists certified by the International Society of Arboriculture, foresters certified by the Society of American Foresters, a registered landscape architect, or silvaculturalist. A qualified professional must possess the ability to evaluate the health and hazard potential of existing trees, and the ability to prescribe appropriate measures for preservation of trees during land development.

Quasi-Judicial. An action which involves the application of adopted policy to a specific development application, or a land use decision that applies to a small number of individuals or properties.

Reserve Strip. A strip of land located between a subdivision and other property and not dedicated to public use, but conveyed to the City for the purpose of giving the City control over development of adjacent property.

Service Provider. A local, regional, state, or federal agency, or a public or private utility company that provides a service to development within the community.

Significant Natural Resource Area (SNRA). Resources identified in Volume III of the Comprehensive Plan as “significant” pursuant to Statewide Planning Goal 5.

Significant Tree and Grove Inventory Analysis. The inventory of significant trees and groves conducted under the direction of the Beaverton Board of Design Review in 1991. The criteria on which listed trees and groves were determined to be significant are as follows:

1. An individual tree shall be considered significant if the Board finds:
 - (a) The tree has a distinctive size, shape, or location which warrants a significant status; or
 - (b) The tree possesses exceptional beauty which warrants a significant status; or
 - (c) The tree is significant due to a functional or aesthetic relationship to a natural resource.

2. A grove as defined in Section 90 shall be considered significant if the Board finds that:
 - (a) The grove is relatively mature and evenly aged; and
 - (b) The grove has a purity of species composition or is of a rare or unusual nature; and
 - (c) The grove is in a healthy growing condition; or
 - (d) The grove has a crucial functional and/or aesthetic relationship to a natural resource.

Special Event. An activity sponsored by a non-profit organization or public agency lasting 14 consecutive calendar days or less and includes but is not limited to such activities as school carnivals, spaghetti dinners, concerts, bazaars, and neighborhood fairs.

Special Event Sign. A sign advertising or pertaining to any special event as defined by this Code taking place within the City.

Street Plug. See "Reserve Strip".

Temporary Real Estate Office. A permanent structure that is used as an office for the purpose of selling real estate on a temporary basis. This definition does not include model homes, unless a sales office is located within the model home.

Temporary Structure. A structure such as a trailer or steel container storage unit without any foundation or footings which is attached to the ground or other structure in a non-permanent fashion. Temporary structures shall be removed from the site when the designated time period, activity, or use for which the temporary structure was established has ceased. For the purposes of this Code, temporary structures shall not be classified by definition as accessory structures.

Temporary Use. A short-term, seasonal, or intermittent use.

Tract. A non-buildable unit of land created by a partition, subdivision, deed, or other instrument recorded with the appropriate county recorder. This includes a lot, a lot of record, or a piece of land created through other methods.

Transportation Facility. Any physical facility that moves or assists in the movement of people or goods which may include accessways, bicycle facilities, multi-use paths, pedestrian connections, or streets. This term does not include electricity, sewage, or water delivery systems.

~~**Tree.** Any woody, perennial plant, deciduous, evergreen or coniferous, characterized by having a main stem or trunk of ten (10) inches or more in diameter 54 inches above natural grade. In cases of multi-stemmed or trunked trees, the diameter shall be the sum of diameters of all individual stems or trunks. Trees of less than 10 inches may be considered under this ordinance section if they are designated as historic or significant trees.~~

Windthrow. A tree or trees uprooted or felled by the wind.

APPENDIX "G"

Section 1: The Municipal Code, Chapter 2 - Government and Administration, Section 2.03.090 through 2.03.140, is hereby amended to read as follows:

PLANNING COMMISSION

2.03.090 Continued. The Planning Commission (hereafter commission) established by Ordinance No. 1810 is hereby continued.

~~2.03.092 — Membership. The commission shall consist of seven members who are residents of the City and are not Council members, officers or City employees. The members shall be appointed by the mayor and confirmed by the Council. The mayor, the city attorney, and such other City personnel as the Council may from time to time designate, shall be entitled to sit with the commission and take part in its discussions, but they shall not have the right to vote.~~

~~2.03.093 — Alternate Members. The Mayor, with approval of the Council, shall appoint one or more alternate members of the Commission. The alternate member having seniority as an alternate shall assume the position of a regular member immediately upon a vacancy in that position and for the remainder of the term of that position. Alternate members shall attend all meetings of the Commission, shall be entitled to all information regularly provided to members of the Commission and shall be subject to removal on the same terms and in the same manner as a regular Commission member. [BC 2.03.093, added by Ordinance No. 3985, 6/24/97]~~

~~2.03.094 — Term of Office. Appointments shall be for a term of three years or until successors are appointed. Terms of office shall begin on the first day of the calendar year.~~

~~— The mayor, with Council confirmation, shall fill vacancies by appointment for unexpired terms that may occur from death, resignations, Council removal or other causes. Planning commission members shall serve at the pleasure of the mayor, however, removals must be confirmed by the Council as provided in the Charter.~~

~~2.03.096 — Presiding Members. The commission shall elect a chairperson and vice chairperson to serve one year terms. Election of officers shall be held in December of each year beginning in 1983.~~

~~— The planning director shall serve as secretary to the commission and shall keep an accurate record of all commission proceedings.~~

~~2.03.098 — Powers and Duties.~~

~~_____ B. _____ The commission may divide its membership into committees or subcommittees that are authorized to act in behalf of the commission on all matters within the commission's jurisdiction. The composition, powers and procedures of the committees or subcommittees shall be as prescribed by the commission.~~

FACILITIES REVIEW COMMITTEE

2.03.110 Continued. The Facilities Review Committee (hereafter committee) established by Ordinance No. 2058 is hereby continued.

~~2.03.112 Membership. The committee shall consist of the planning director, the city engineer, the operations director, the police chief and the fire chief, or their designees. The committee has the power to carry out the duties set forth in this Code and the Development Code. In addition to the committee members, a representative from any affected unit of local government or public agency shall be entitled to participate as an ex officio member of the committee in committee meetings, make recommendations on any proposal or make written comments relevant to a particular plan's review.~~

~~_____ 2.03.114 Powers and Duties. The committee reviews development proposals subject to the City's site and design review process and makes the necessary decisions and recommendations concerning technical aspects of the development. The Committee has the authority to approve, conditionally approve, make recommendations upon, or reject plans for proposed development. In its review of plans, the committee shall be governed by the stated purposes and standards set forth in the Development Code. [BC 2.03.114, amended by Ordinance No. 3625, 7-25-88]~~

BOARD OF DESIGN REVIEW

2.03.130 Continued. The Board of Design Review (hereafter board) established by the Development Code is hereby continued. [BC 2.03.130, amended by Ordinance No. 3626, 7-25-88]

~~2.03.132 Membership.~~

~~A. _____ The board shall consist of seven members as follows:~~

- ~~1. _____ One individual who is a registered architect;~~
- ~~2. _____ One individual who is a registered landscape architect;~~
- ~~3. _____ Two individuals who are actively engaged in architecture, landscape architecture, design, engineering or in a construction related industry, or the graphic arts; and~~
- ~~4. _____ Three individuals who are qualified by education, training, interest, or experience to serve on the Board.~~

~~B.—The members of the Board shall be appointed by the mayor and confirmed by the Council. When possible, the mayor shall appoint individuals who are either property owners, residents, or actively engaged in business or employment in the City. [BC 2.03.132, amended by Ordinance No. 3626, 7/25/88]~~

~~2.03.134 — Term of Office. Appointments shall be for a term of three years or until successors are appointed. Members serving appointed terms at the time of this amendment takes effect shall serve their appointed terms; new members taking office after the effective date of this ordinance shall serve three year terms. terms of office shall begin on the first day of the calendar year. [Members of the board established and operating under the] Development Code at the time of enactment of this Code chapter shall hold office on the board for the terms for which they were originally appointed or until their successors are appointed.~~

~~—Any vacancy shall be filled for the remainder of the unexpired term in the same manner provided for in BC 2.03.132. Board members serve at the pleasure of the mayor and removal shall be confirmed by the Council. [BC 2.03.134, amended by Ordinance No. 3727, 6/11/90]~~

~~2.03.136 — Presiding Members. The Board shall elect a chairperson and vice chairperson to serve one year terms. Election of officers shall be held in January of each year beginning in 1988. In the absence of the chairperson and vice chairperson, the remaining members shall select an acting chairperson. The planning director, or the planning director's designee, shall serve as secretary to the Board. [BC 2.03.136, amended by Ordinance No. 3626, 7/25/88]~~

~~2.03.138 — Voting, Meetings.~~

~~A.—The concurrence of a majority of the members of the board present and voting is necessary to determine any question before the board.~~

~~B.—The board shall hold two regular meetings each month. However, a meeting need not be held if there are no drawings or plans submitted for review by the board or if the designated meeting date falls on a holiday.~~

~~2.03.140 — Powers and Duties. The board's duties include reviewing development proposals subject to the site and design review process and making necessary decisions concerning design and aesthetic aspects of proposed developments in accordance with the provisions of the Development Code and any other duties or responsibilities assigned to it by the Council.~~

Section 2: The Municipal Code, Chapter 5 - Nuisances Affecting Public Safety, Section 5.05.090, is hereby amended to read as follows:

5.05.090 Noxious Vegetation.

- A. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of subsection B.
- B. The term "noxious vegetation" includes:
 - 1. weeds more than 12 inches high and/or that are going to seed;
 - 2. grass more than 12 inches high and not within the exception stated in subsection A of this section;
 - 3. poison oak;
 - 4. poison ivy;
 - 5. blackberry bushes that extend into a public thorough-fare or across a property line;
 - 6. vegetation that is:
 - a. a health hazard;
 - b. a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous. [BC 5.05.090A amended by Ordinance No. 3872, 11/1/93.]
 - 7. the types of vegetation as defined in Chapter 90 of the Development Code as noxious as applicable to Significant Natural Resource Areas.
- C. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right of way of a public thoroughfare abutting on the property. [BC 5.05.090C amended by Ordinance No. 3872, 11/1/93; BC 5.05.090D repealed by Ordinance No. 3872, 11/1/93]

Section 3: The Municipal Code, Chapter 9 - Community Development, Section 9.03.010 through 9.03.060, is hereby deleted as follows:

STREET VACATIONS

~~9.03.010 Vacation of Public Streets, Places, and Plats. Except as otherwise specifically provided for in BC 9.03.010-.060, provisions applicable to vacation set forth in ORS 271.080-.230 shall apply to any vacation by~~

~~the City. Any alternative procedures allowed by State law may be followed.~~

~~9.03.020 — Vacation Petition Fee.~~

~~A. — A vacation petition fee must be paid as provided for in ORS 271.110(3). The amount of the vacation petition fee shall be set by Council resolution.~~

~~B. — If the actual cost of advertising and other expenses incident to the vacation exceed the amount of the vacation petition fee, the petitioner shall pay the additional costs in addition to the vacation petition fee before the vacation is completed.~~

~~9.03.030 — Preliminary Consideration of Petition.~~

~~A. — When the city recorder has checked the petition for sufficiency as provided by ORS 271.090 the city recorder shall refer the petition to the planning commission, the city engineer or the police chief for reports and recommendations on the proposed vacation.~~

~~B. — On receiving the reports and recommendations, the city recorder shall file the petition for vacation and forward the petition, reports and recommendation to the Council for preliminary consideration as provided by ORS 271.100.~~

~~9.03.040 — Bond or Cash Deposit.~~

~~A. — When the Council is petitioned to vacate a street, public place or plat in which water mains, fire hydrants, police or fire alarm system, gas mains, steam heating mains, conduits, sewer mains or laterals, manhole structures, poles, cables, wires or other utility or public service facilities are located, and the proposed vacation will require the removal of the utility or public service facilities or a portion of them, or if curbs or sidewalks are required to be extended or relocated, or if grading or additional paving is required, the ordinance vacating the street or part of it may provide that the vacation shall not be effective unless the petitioner files with the city recorder the petitioner's acceptance of the terms and provisions of the ordinance together with a surety bond or cash deposit. The amount of the surety bond or cash deposit shall be fixed by the Council.~~

~~B. The surety bond or cash deposit shall provide that if the vacation is granted, petitioner will, within ninety days or such other time fixed by the Council, remove or have removed by the owner, all or any part of the utility or public service facilities as required by the vacation ordinance and reconstruct and relay the facilities or have them reconstructed and relaid by the owner in the places required by the city engineer, and obtain other work as required by the ordinance in the manner directed by the city engineer at the expense of the petitioner.~~

~~9.03.050 Filing of Records. No vacation shall become effective until a certified copy of the vacation ordinance and any map, plat or other record relating to the vacation that may be required or provided for by law have been filed with the county department of records and elections. The cost of preparing, filing and recording the ordinance and map shall be paid by the person petitioning for the vacation.~~

~~9.03.060 Consent to Vacation for City as Owner. When City owned property abuts the area of a street or plat sought to be vacated by petition, or is located within "affected area", the mayor may sign consent to the vacation as an owner for the purpose of Council jurisdiction and consideration.~~