

ORDINANCE NO. 4312

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, CHAPTER'S:
10, 20, 40, 50, 60, and 90;
TA 2004-0007 (2004 Spring Omnibus).

WHEREAS, the purpose of the 2004 Spring Omnibus Development Code Text Amendment is to amend selected sections of the Beaverton Development Code currently effective through Ordinance 4295 (April 2004) to clarify approval criteria, specify the applicability of certain regulations, renumber and reorder certain regulations, relocate certain sections, and remove certain sections. Affected chapters of the Development Code include, Chapter 10 (General Provisions), Chapter 20 (Land Uses), Chapter 40 (Applications), Chapter 50 (Procedures), Chapter 60 (Special Regulations), and Chapter 90 (Definitions),

WHEREAS, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on May 19, 2004 published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on May 26, 2004; and,

WHEREAS, the Planning Commission held a public hearing on May 26, 2004 and approved the proposed 2004 Spring Omnibus Development Code Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated May 19, 2003, and staff memorandum dated May 26, 2004, as amended at the hearing; and

WHEREAS, on May 26, 2004, the Planning Commission conducted a public hearing for TA 2004-0007 (2004 Spring Omnibus) at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1705; and,

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2004-0007 (Spring 2004 Omnibus) following the issuance of the Planning Commission Land Use Order No. 1705; and,

WHEREAS, the Council find that a proposed definition of "Tract" contained with Section 18 of the recommended text amendment was erroneously included in the recommendation and is removed by the Council as reflected in Exhibit A of this Ordinance; and,

WHEREAS, the City Council adopts as to criteria, facts, and findings, described in Land Use Order No. 1705 dated June 2, 2004 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4295, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. 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 ~~14th~~ day of June, 2004.

Passed by the Council this 21st day of June, 2004.

Approved by the Mayor this 22nd day of JUNE, 2004.

ATTEST:



SUE NELSON, City Recorder

APPROVED:



ROB DRAKE, Mayor

1 **Section 1: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20 – Land Uses, Sections 20.20.20.2.B.12., will be**
3 **amended to read as follows:**

4
5 *****

6 20.20.20.2.B.

- 7
8 12. Storage yard for fully operable vehicles for sale, lease, or
9 rent within one-quarter mile of the north side of the
10 Tualatin Valley Highway Corridor land use designation
11 between SW Murray Boulevard and SW Lloyd Avenue
12 (subject to use restrictions g, i, j, k) [ORD 4246; March
13 2003]

14
15 *****

1 **Section 2: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20 – Land Uses, Sections 20.20.20.2.B.23., will be**
3 **amended to read as follows:**

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5 *****

6
7 23. Storage yards, except as allowed under Section
8 20.20.20.2.B.12. [ORD 4246; March 2003]

9 *****
10

1 **Section 3: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20 – Land Uses, Sections 20.20.50.3, will be amended to**
3 **read as follows:**

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6
7 20.20.20.2.D.2.

8
9 g. Except as otherwise provided in this paragraph, this
10 activity shall be conducted wholly within an
11 enclosed structure. No accessory open air sales,
12 display, or storage are allowed with this use., except
13 that the prohibition against storage shall not apply
14 to storage yards for fully operable vehicles for sale,
15 lease, or rent within one-quarter mile of the north
16 side of the Tualatin Valley Highway Corridor land
17 use designation between SW Murray Boulevard and
18 SW Lloyd Avenue. [ORD 4246; March 2003]

19
20 *****

21 i. Storage yards for fully operable vehicles for sale,
22 lease, or rent within one-quarter mile of the north
23 side of the Tualatin Valley Highway Corridor land
24 use designation between SW Murray Boulevard and
25 SW Lloyd Avenue may be authorized for a period
26 of time up to and including five (5) years. Upon
27 expiration of an approved time period Storage yard
28 use shall cease until a new authorization through a
29 separate conditional use permit is approved. [ORD
30 4246; March 2003]

31
32 j. Within approved storage yards located within one-
33 quarter mile of the Tualatin Valley Highway
34 Corridor land use designation between SW Murray
35 Boulevard and SW Lloyd Avenue open air sales or
36 display of fully operable vehicles for sale, lease, or
37 rent is prohibited. . [ORD 4246; March 2003]

38
39 k. The following existing site conditions must be
40 present as of January 1, 2003 in the South Textronix
41 Station Community Plan Area, and more
42 specifically located on the north side of the Tualatin
43 Valley Highway Corridor land use designation
44 between SW Murray Boulevard and SW Lloyd
45 Avenue, in order for lots in this area to be
46 authorized for the development of storage yards for

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fully operable vehicles for sale, lease, or rent. Other site improvements, in addition to the following existing site conditions, may be required by the decision-making authority as conditions of approval for a development application:

- i. Are currently being used for the storage of fully operable vehicles for sales, lease, or rent.
- ii. Are currently shielded from public view with a sight-obscuring chain link fence.
- iii. Currently have established landscaping outside the fence along public right-of-way.
- iv. Are currently lighted to prevent vandalism.
- v. Are currently surfaced with compacted gravel or paving. [ORD 4246; March 2003]

1 **Section 4: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20 – Land Uses, Sections 20.20.50.E.3, will be amended**
3 **to read as follows:**

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5 *****

6
7 20.20.50.E.3

8
9 **E.. Maximum setbacks do not apply along streets that form a**
10 **boundary of the Regional Center Districts, unless**
11 **specifically required and identified in Section 20.20.60.**

12
13 **FE. Yards abutting single-family residential zones, when not**
14 **separated by a public street, shall have a minimum**
15 **setback of twenty (20) feet.**

16
17 **GF. No side or rear yard setbacks are required where side or**
18 **rear property lines abut a railroad right-of-way or spur**
19 **track.**

20
21 **HG. Alternative Maximum Setback – Large Retail Use.**

22 *****
23

1 **Section 5: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20 – Land Uses, Sections 20.20.50.E.5.B., will be**
3 **amended to read as follows:**

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5 *****
6 20.20.50.E.5.B.
7

	MINIMUM SITE DEPTH			
MINIMUM SITE WIDTH	0-120'	121'-139'	140'-175'	176'+
0-100'	0.1	0.2	0.25	0.25
101'-200'	0.1	0.3	0.45	0.45
201'+	0.1	0.45	0.45	0.45 0.60

8
9 *****

1 **Section 6: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20, Land Uses, Section 20.20.50.E.5.L. shall be deleted**
3 **as follows:**

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5 *****

6
7 20.20.50.E.5.

8
9
10 ~~L. — Maximum setbacks do not apply along streets that form a~~
11 ~~boundary of the Regional Center Districts, unless~~
12 ~~specifically required and identified in Section 20.20.60.~~

13
14 M L. Separation of buildings is subject to the State Building
15 Code and the Uniform Fire Code.

16 *****

1 **Section 7: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 20, Land Uses, Section 20.20.60.D.2. A. 3 shall be**
3 **amended to read as follows:**

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6
7 20.20.60.D.2.A.

- 8
9
10 3. Major Pedestrian Routes within the Murray Scholls
11 Town Center are shown on Map 20.20.60-12
12 ~~Within the Murray Scholls Town Center, Major~~
13 ~~Pedestrian Routes are divided into two types:~~
14 ~~Pedestrian Streets and Transit Streets. These two~~
15 ~~types of Major Pedestrian Routes, while subject to~~
16 ~~the requirements for Major Pedestrian Routes,~~
17 ~~serve different purposes. The Transit Street is~~
18 ~~distinguished by an emphasis on transit facilities~~
19 ~~and services.~~

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21 *****

1 **Section 8: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 40, Applications, Section 40.20.15.2.A will be amended**
3 **to read as follows:**

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5 *****

6 40.20.15.2.A.

- 7
8 14. Increase of landscaping area of more than ten
9 percent and up to and including fifty percent (10% -
10 50%) of the previously approved landscape area.
11
12 15. Modification to a previously approved landscaping
13 plan to alter the location of more than 25 percent of
14 the landscaping area, ~~change the~~ plant materials,
15 or both.
16
17 16. Excluding landscape maintenance, any change to
18 existing or approved grade that will result in the
19 excavation, fill, grading, or other form of earth
20 moving in excess of fifty (50) cubic yards of earth,
21 the disturbance of more than 500 square feet of
22 surface area, or both.

23
24 *****
25

1 **Section 10: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 50, Procedures, Section 50.30.C., will be amended to**
3 **read as follows:**

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5 *****
6 50.30.

7
8 C. Not less than 20 calendar days prior to the Neighborhood
9 Review Meeting, the applicant shall post a notice on the
10 property which is subject of the proposed application. The
11 notice shall be posted within 50 feet of an adjoining public
12 right-of-way in a manner that can be read from the right-
13 of-way. The notice shall state that the site may be subject
14 to a proposed development and shall set forth the name of
15 the applicant and a telephone number where the
16 applicant can be reached for additional information. The
17 site shall remain posted until the conclusion of the
18 Neighborhood Review Meeting. The applicant may
19 purchase a second sign from the City or create a sign to
20 post at the Neighborhood Review Meeting location.

21
22 Standard signs are available from the City upon payment
23 of a fee. The City will not be responsible for posting of any
24 signs.

25
26 *****
27

1 Section 11: The Development Code, Ordinance No. 2050, Ordinance
2 4248, Chapter 50, Procedures, Section 50.35.2., will be amended to
3 read as follows:

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5 *****

6 50.35. Type 1

- 7
8 2. Except for Non-Discretionary Annexation Related Zoning Map
9 Amendment applications, the decision making authority shall
10 approve, approve with conditions, or deny an application subject
11 to a Type 1 procedure within approximately twenty eight (28)
12 calendar days after the date the application was deemed or
13 determined to be complete. In the case of a Type 1 application
14 for a site that is identified on the Local Wetland Inventory
15 (LWI), the decision shall be made within forty (40) calendar
16 days. In either case, an applicant may request in writing a
17 continuance of the time for decision by the Director, not to
18 exceed a total of 180 calendar days from the date the application
19 was deemed or determined to be complete. The decision making
20 authority shall issue a decision prior to the conclusion of the
21 continuance of time. The decision making authority may
22 consider new evidence the applicant introduces with or after
23 such request for continuance.

24
25 *****

1 **Section 12: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 50, Procedures, Section 50.40.3.B., shall be deleted as**
3 **follows:**

4
5 *****

6 3. The written notice of the pending application shall include the following
7 information:

8
9 A. The case file number for the application.

10
11 ~~B. The name and address of the applicant.~~

12
13 C. A description of the site reasonably sufficient to inform the reader
14 of its location including map and tax lot number, and if available,
15 site address, site zoning, and name of the NAC in which the
16 proposal is located.

17 *****

1 **Section 13: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 50, Procedures, Section 50.50.2., will be amended to**
3 **read as follows:**

4
5 *****
6 50.50

7
8 2. Not more than forty (40) nor less than twenty (20) calendar days
9 before the date of the initial hearing of the decision making
10 authority on an ordinance that proposes to legislatively change
11 the zoning map or to amend the text of the Development Code,
12 the Director shall mail notice of the hearing to:

- 13
14 A. The applicant if other than the City.
15
16 B. All NAC in whose area there is property that in the
17 Director's opinion could be affected by the proposed
18 ordinance, if adopted.
19
20 C. Owners of property within the City for which the
21 proposed ordinance, if adopted, may in the Director's
22 opinion affect the permissible uses of land.
23
24 1. The most recent property tax assessment roll of the
25 Washington County Department of Assessment
26 and Taxation shall be used for determining the
27 property owner of record. The failure of a property
28 owner to receive notice does not invalidate the
29 decision.
30
31 2. If a person owns more than one property that could
32 be affected by the proposed ordinance if adopted,
33 the Director may mail that person only one notice
34 of the hearing.
35
36 3. The notice of the initial hearing in a Type 4
37 procedure shall include at least the following
38 information:
39
40 AD. If required by ORS 227.186, a statement in bold type
41 across the top of the first page of the notice that reads as
42 follows: "This is to notify you that the City shall consider
43 a proposed land use regulation that ~~will~~ **may** affect the
44 permissible uses of your land."

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~~BE.~~ The date, time, and location of the hearing.

~~CF.~~ The nature and purpose of the hearing.

~~DG.~~ The case file number, title, or both of the proposed ordinance to be considered at the hearing.

~~EH.~~ A listing of the applicable approval criteria by Development Code and Comprehensive Plan section numbers.

~~FI.~~ 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.

~~GJ.~~ 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.

~~HK.~~ Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

~~IL.~~ If applicable, a statement that the ordinance is a result of an order of the Land Conservation and Development Commission or Metro.

1 **Section 14: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 50, Applications, Sections 50.60.1., 50.65.1., 50.70.1., will**
3 **be amended to read as follows:**

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5 *****

6
7 **50.60. Appeal of a Type 1 Decision**

- 8
9 1. The decision making authority's decision on a Type 1 application
10 may be appealed only by the applicant. The appeal must be on
11 an Appeal Form provided by the Director and must be received
12 by the Community Development Department within twelve (12)
13 calendar days after signed written notice of the decision was
14 dated and mailed.

15
16 **50.65. Appeal of a Type 2 Decision**

- 17
18 1. The decision making authority's decision on a Type 2 application
19 may be appealed only by the applicant or by any other person
20 who submitted written evidence prior to the decision of the
21 Director. The appeal must be on an Appeal Form provided by
22 the Director and must be received within twelve (12) calendar
23 days after written notice of the decision was dated and mailed.

24
25 **50.70. Appeal of a Type 3 Decision**

- 26
27 1. The decision making authority's decision on a Type 3 application
28 may be appealed only by the applicant or any other person who
29 participated by providing either oral or written evidence on the
30 record leading to the decision by the decision making authority.
31 The appeal must be on an Appeal Form provided by the Director
32 and must be received within ten (10) calendar days after the
33 signed written land use order of the decision making authority
34 was dated and mailed.

35 *****

1 **Section 15: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 50, Procedures, Section 50.70.11., shall be amended to**
3 **read as follows:**

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5 *****
6 50.70.

7
8 11. Within approximately **ten (10)** ~~seven (7)~~ calendar days from the
9 date that the appellate decision making authority votes on the
10 motion regarding the appeal, the Director shall cause a land use
11 order to be signed, dated, and mailed to the appellant and other
12 persons who appeared orally or in writing before the Planning
13 Commission, Board of Design Review, City Council, or all while
14 the public record on the appeal was open.

15 *****

1 **Section 16: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 60, Special Regulations, Section 60.30.7., shall be**
3 **amended to read as follows:**

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5 *****

6
7 60.30.

- 8
9 7. Residential Parking Dimensions. For all residential uses, any
10 required parking space shall not be less than 8 1/2 feet wide and
11 18 1/2 feet long. (See also Section 60.30.15., Off-Street Parking
12 Lot Design for other standards.)

13
14 *****

15

1 **Section 17: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 60 Special Requirements, Section 60.50.25. (Drive In**
3 **Theatres), shall be deleted:**

4
5
6 **60.50.25. Uses Requiring Special Regulation.** In addition to other
7 standards and requirements by this ordinance, all uses included
8 in this section shall comply with the provisions stated herein.
9 Should a conflict arise between the requirements of this section
10 and other requirements of this ordinance, the more restrictive
11 provision shall control.

12
13 *****

14
15 ~~Drive In Theatres. Drive in theatres shall be located on a street~~
16 ~~of a "D" standard or greater as established by the~~
17 ~~Comprehensive Plan. Approval of a project by the reviewing~~
18 ~~body shall not be granted unless the body has made findings of~~
19 ~~fact adequate to support the conclusion that the project has been~~
20 ~~designed in a manner that will minimize the negative impacts~~
21 ~~on surrounding property and uses as a result of the traffic,~~
22 ~~noise, light, and glare created by the use.~~

1 **Section 18: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 90 Definitions, shall be amended to read as follows:**

3
4 **Tract:** A unit of land created through a land division. A tract shall be
5 unbuildable unless otherwise authorized by the governing body.

6
7
8 **Utility.** For purposes of this code, a utility includes but is not limited to a
9 local exchange carrier or an electric, gas, water, or other public utility, and
10 who owns or controls poles, ducts, conduits, or rights of way used, in whole or
11 in part, for any wire or cable communication.

12
13 ~~**Utility.** [ORD 4118; August 2000] Infrastructure that is primarily~~
14 ~~underground. For purposes of this code, utilities include but are not limited~~
15 ~~to water lines, sanitary sewer lines, storm sewer lines, culverts, natural gas~~
16 ~~lines, power lines and communications lines, and their appurtenances above~~
17 ~~and below ground, and/or any component part(s) thereof.~~

18
19 **Utility, Public.** [ORD 4118; August 2000] Utilities that are subject to City
20 acceptance for operation and maintenance. ~~For purposes of this code, public~~
21 ~~utilities include water lines, sanitary sewer lines, storm sewer lines, and~~
22 ~~their appurtenances and any component part(s) thereof.~~

23
24 **Utility, Private.** [ORD 4118; August 2000] Utilities that are not subject to
25 City acceptance for operation or maintenance. ~~For purposes of this code,~~
26 ~~private utilities include natural gas lines, power lines, telephone lines, cable~~
27 ~~television lines and other communication lines, their appurtenances and any~~
28 ~~component part(s) thereof, and the utility companies' operation, maintenance,~~
29 ~~repair and replacement of same.~~

1 **Section 19: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 10, General Provisions, Section 10.40.2. shall be deleted**
3 **to read as follows:**

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5
6 2. The City may consider the zoning for any area proposed for annexation at the
7 same time as it considers annexation of the area or at a later time. ~~The notice and hearing~~
8 ~~procedures shall be as set forth in Section 50.45 (Type 3) of this Code.~~ The zoning
9 decision shall not be a final decision for the purposes of judicial review until the date that
10 the question of annexation has received all approvals required by City and State law and
11 has become effective. [ORD 4135; November 2000] [ORD 4224; August 2002]

1 **Section 20: The Development Code, Ordinance No. 2050, Ordinance**
2 **4248, Chapter 10, General Provisions, Section 10.40.2.3.B shall be**
3 **amended to read as follows:**
4

5
6 B. For parcels where the UPAA does not identify a specific City
7 zoning designation and discretion is required, a public hearing
8 shall be held pursuant to Section 40.97.15.4 (Discretionary
9 Annexation Related Zone Change) of this Code. The Planning
10 Commission will conduct the public hearing on the zoning change
11 unless State law requires the City Council to hold a public hearing
12 on the related annexation in which case the zoning map
13 amendment hearing will be conducted concurrently by the City
14 Council and the Planning Commission hearing will ~~will~~ may not be
15 required. The most similar City zoning designation will be applied
16 as required by the UPAA. [ORD 4224; August 2002]
17
18
19