



## **TUALATIN CITY COUNCIL**

**Monday, NOVEMBER 26, 2018**

**JUANITA POHL CENTER**

**8513 SW Tualatin Road**

**Tualatin, OR 97062**

**WORK SESSION** begins at 5:30 p.m.  
**BUSINESS MEETING** begins at 7:00 p.m.

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**Mayor Lou Ogden**

**Council President Joelle Davis**

**Councilor Robert Kellogg**  
**Councilor Paul Morrison**

**Councilor Frank Bubenik**  
**Councilor Nancy Grimes**

**Position 3- Vacant**

**Welcome!** By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified a time for your comments on its agenda, following Announcements, at which time citizens may address the Council concerning any item not on the agenda or to request to have an item removed from the consent agenda. If you wish to speak on a item already on the agenda, comment will be taken during that item. Please fill out a Speaker Request Form and submit it to the Recording Secretary. You will be called forward during the appropriate time; each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are available for review on the City website at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings) and on file in the Office of the City Manager for public inspection. Any person with a question concerning any agenda item may call Administration at 503.691.3011 to make an inquiry concerning the nature of the item described on the agenda.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact Administration at 503.691.3011. Notification thirty-six (36) hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Council meetings are televised *live* the day of the meeting through Washington County Cable Access Channel 28. The replay schedule for Council meetings can be found at [www.tvctv.org](http://www.tvctv.org). Council meetings can also be viewed by live *streaming video* on the day of the meeting at [www.tualatinoregon.gov/meetings](http://www.tualatinoregon.gov/meetings).

Your City government welcomes your interest and hopes you will attend the City of Tualatin Council meetings often.

## PROCESS FOR LEGISLATIVE PUBLIC HEARINGS

A **legislative** public hearing is typically held on matters which affect the general welfare of the entire City rather than a specific piece of property.

1. Mayor opens the public hearing and identifies the subject.
2. A staff member presents the staff report.
3. Public testimony is taken.
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When the Council has finished questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *deny*, or *continue* the public hearing.

## PROCESS FOR QUASI-JUDICIAL PUBLIC HEARINGS

A **quasi-judicial** public hearing is typically held for annexations, planning district changes, conditional use permits, comprehensive plan changes, and appeals from subdivisions, partitions and architectural review.

1. Mayor opens the public hearing and identifies the case to be considered.
2. A staff member presents the staff report.
3. Public testimony is taken:
  - a) In support of the application
  - b) In opposition or neutral
4. Council then asks questions of staff, the applicant, or any member of the public who testified.
5. When Council has finished its questions, the Mayor closes the public hearing.
6. When the public hearing is closed, Council will then deliberate to a decision and a motion will be made to either *approve*, *approve with conditions*, or *deny the application*, or *continue* the public hearing.

## TIME LIMITS FOR PUBLIC HEARINGS

The purpose of time limits on public hearing testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony. All persons providing testimony **shall be limited to 3 minutes**, subject to the right of the Mayor to amend or waive the time limits.

## EXECUTIVE SESSION INFORMATION

An Executive Session is a meeting of the City Council that is closed to the public to allow the City Council to discuss certain confidential matters. An Executive Session may be conducted as a separate meeting or as a portion of the regular Council meeting. No final decisions or actions may be made in Executive Session. In many, but not all, circumstances, members of the news media may attend an Executive Session.

The City Council may go into Executive Session for certain reasons specified by Oregon law. These reasons include, but are not limited to: ORS 192.660(2)(a) employment of personnel; ORS 192.660(2)(b) dismissal or discipline of personnel; ORS 192.660(2)(d) labor relations; ORS 192.660(2)(e) real property transactions; ORS 192.660(2)(f) information or records exempt by law from public inspection; ORS 192.660(2)(h) current litigation or litigation likely to be filed; and ORS 192.660(2)(i) employee performance of chief executive officer.



## OFFICIAL AGENDA OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 26, 2018

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### A. CALL TO ORDER

Pledge of Allegiance

### B. ANNOUNCEMENTS

### C. CITIZEN COMMENTS

*This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

### D. CONSENT AGENDA

*The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

1. Consideration of Approval of the Minutes for the Work Session and Regular Meeting of November 13, 2018
2. Consideration of Approval of a New Liquor License for 7-Eleven #23726C
3. Consideration of **Resolution No. 5409-18** Awarding the Contract for Design of Garden Corner Curves to Wallis Engineering and Authorizing the City Manager to Execute a Contract
4. Consideration of **Resolution No. 5410-18** Authorizing the City Manager to Accept a Donation of Real Property from Hillsboro Mall, LLC
5. Consideration of **Resolution No. 5411-18** Appointing a Pro Tem Judge of the Municipal Court

### E. SPECIAL REPORTS

1. Tualatin Valley Fire and Rescue- State of the District 2018

### F. PUBLIC HEARINGS – Legislative or Other

1. Consideration of Plan Text Amendment (PTA-18-0003) with Proposed Draft Ordinance Language; an Update to the Tualatin Development Code

**G. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

**H. COMMUNICATIONS FROM COUNCILORS**

**I. ADJOURNMENT**



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Nicole Morris, Deputy City Recorder

**DATE:** 11/26/2018

**SUBJECT:** Consideration of Approval of the Minutes for the Work Session and Regular Meeting of November 13, 2018

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### **ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve the minutes for the Work Session and Regular Meeting of November 13, 2018.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council adopt the attached minutes.

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**Attachments:** [City Council Work Session Minutes of November 13, 2018](#)  
[City Council Regular Meeting Minutes of November 13, 2018](#)



Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis; Councilor Nancy Grimes; Councilor Paul Morrison

Absent: Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Finance Director Don Hudson; Assistant to the City Manager Tanya Williams; Parks and Recreation Manager Rich Mueller; City Engineer Jeff Fuchs; IS Director Bates Russell; Management Analyst II Nic Westendorf; Parks and Recreation Director Ross Hoover

## CALL TO ORDER

Mayor Ogden called the meeting to order at 5:03 p.m.

### 1. *Tualatin Tomorrow Update.*

Assistant to the City Manager Tanya Williams and Tualatin Tomorrow Advisory Committee (TTAC) Chair John Bartholomew presented an update on the vision action plan as well as the next phase of Tualatin Tomorrow. Manager Williams discussed the community engagement process that resulted in a vision action plan with 100 actions. She stated to date, nearly 96% of the 100 action items are complete, underway, or are on-going. The TTAC has been reviewing the work and accomplishments of their partners over the last several years to implement the vision. Manager Williams stated the committee has been considering two options for moving forward: an update of the vision and action plan or to carry forward the existing vision with a different model. She stated the different model would still uphold the vision statement but steer away from having a dedicated advisory committee and move the oversight of the vision to the City Manager's office.

Manager Williams discussed carrying the vision forward in the City Manager's Office and integrating the vision statement into the Council visioning process, reaching out to advisory committees and the Citizen Involvement Organization, and reviewing the vision statement with new employees during the orientation process. She commented on community engagement moving forward and incorporating the vision statement into the development code update. She stated community partners play a vital role and the City is committed to maintaining those relationships with quarterly reviews and updates. She commented on the timeline moving forward noting there will be a final TTAC meeting and a final report to Council in January 2019 to celebrate and recognize the successes of the Tualatin Tomorrow program.

Councilor Bubenik asked TTAC Chair Bartholomew if the committee agrees with the staff recommendation. TTAC Chair Bartholomew said the committee is moving toward completion of this multi-year phase and 96% of the work has been completed or is ongoing. He stated some TTAC members were in favor of entering another

multi-year phase but noted the City has matured over the past years with master plans and improved communications. After discussion with staff the majority of the members agreed to sunset the TTAC.

Councilor Bubenik noted that 44% of the Vision action plan tasks are still underway and asked Manager Williams if staff will continue to track the progress and report to Council. Manager Williams stated staff has a matrix they will track progress and provide updates as directed by Council. Councilor Bubenik suggested semi-annual reporting to Council.

Council President Davis stated visions evolve and it would be beneficial to continue to keep the community involved.

Councilor Grimes agreed about the importance of community involvement and thanked the TTAC.

Mayor Ogden agreed and added the function of TTAC was to create a community vision and it is still valid and appropriate. He thanked Chair Bartholomew and the TTAC for their involvement and efforts.

## **2. *Small Cellular Wireless Fees.***

Public Works Director Jeff Fuchs and Management Analyst Nic Westendorf provided a presentated proposed fees for small cell wireless attachments located in City right-of-way (ROW). Analyst Westendorf referred to the timeline and said over the last 9 months the City has worked to develop standards pertaining to small cells. He stated on September 24, the FCC order for small cell parameters was approved and in October, City staff worked with providers to collect feedback and work toward acceptable standards and fees for the process. On December 10 staff will return with proposed fees for consideration.

Analyst Westendorf commented on the FCC order on fees noting the fee must be a reasonable approximation of the local government's cost and fees can be no higher than fees charged to similarly situated competitors in similar situations. He stated fees can be based on the following costs: staff review of application, provider's use of the ROW, maintaining ROW, and maintaining structures in the ROW. He noted Tualatin currently has a \$5,000 per attachment fee per year and the ROW license fee is \$250 per utility provider for a 5 year license and after the 5 years the renewal fee is \$150 every 5 years. He stated staff is proposing a one-time application fee per attachment based on the cost of processing the application and an annual attachment fee based on the cost of managing the ROW.

Council President Davis asked if the provider wants to update the existing attachment do they have to reapply. Analyst Westendorf stated staff has not considered the possibility and will return with additional information.

Analyst Westendorf stated the estimated staff time to process a small cell application is \$660 per application based on 8 hours of staff time, the attachment fee is \$625 per application based on 7.5 hours of staff time, and there will still be a ROW licensing fee of \$250 per utility operator.

Council President Davis asked if the license requires the utility to provide their own

traffic control. Director Fuchs stated the application fee assumes the utility will provide their own traffic control and follow the City code.

Mayor Ogden referred to the time restrictions in the FCC ruling of 60 days and asked if staff had considered work load and suggested imposing a third fee to cover the additional costs of meeting the deadline. He also asked if there is a mechanism in place for providers that request an expedited process.

Mayor Ogden asked when the approved fees would go into effect. Director Fuchs stated this will be presented to Council as a resolution and if approved fees would be imposed immediately.

Councilor Bubenik asked if the FCC order is being challenged in the court system. City Attorney Sean Brady stated if the FCC order is changed in the courts, the City can revisit the issue. Councilor Bubenik said he is concerned the attachment fee is low compared to other jurisdictions in the region.

### **3. *Parks System Development Charge Update - Rates.***

Parks and Recreation Director Ross Hoover and Consultant Michaela Jellicoe provided an update on the Parks System Development Charge (SDC) methodology and rates for Tualatin. Consultant Jellicoe stated SDCs are one time fees paid only by new development and used for the cost of new facilities. She stated communities assess SDCs to generate revenue to fund public parks and recreation facilities as a matter of policy to ensure growth pays a portion of the cost to enhance the quality of life in the community. She stated SDCs are only used for capital development projects for capacity increasing facilities and cannot be used for maintenance, operations, repairs, or replacement of existing systems.

Director Hoover discussed potential funding sources for parks and recreation and stated SDCs are one of the opportunities for funding. He stated since 1991 the City has collected \$9 million in SDCs, \$3.8 million in a bond measure, \$4.8 million in grants, \$1.8 million from Metro, and the rest from donations. He noted SDCs are the number one source of park funding. He referred to the residential maximum allowable rates per the methodology, and stated single-family rates are \$15,409 per dwelling unit and multi-family rates are \$11,486 per dwelling unit. He discussed the nonresidential maximum allowable rates per the methodology and stated industrial/manufacturing is \$3.88 per square foot, warehousing is \$0.98 per square foot, retail/restaurant/hospitality is \$3.79 per square foot, and office is \$3.13 per square foot. He commented on the definition of residential and nonresidential and stated the definition of residential is to be determined and the definition of nonresidential is based on the Standard Industrial Classification (SIC) identifiers. Director Hoover shared regional comparisons of residential single-family and multi-family rates. He also provided examples for nonresidential including industrial, warehouse, retail, and office space rates.

Director Hoover stated next steps include adoption of the SDC methodology and a decision on rates. The methodology is currently out for a 60-day review period and potential adoption is scheduled for December 10.

Councilor Bubenik clarified Council is currently considering SDC methodology. Director Hoover stated on December 10 the Council will consider adopting the



methodology, which is not a rate setting action. He stated a rate setting action could be considered on December 10 at Council direction.

Councilor Bubenik referred to the definitions of residential and nonresidential and asked staff when those definitions will be provided. Director Hoover stated those clarifications will be included in the proposed methodology on December 10.

Councilor Grimes asked if the Council adopts the methodology on December 10 are they accepting the maximum rate the methodology would support. Director Hoover stated the methodology is the calculation that arrives at the maximum number and the calculations are the basis of the fee. He stated the methodology must be adopted before SDC rates can be set. Councilor Grimes stated the Council needs to be cognizant of the sensitivity of the business community and not send the wrong message.

Mayor Ogden stated it is difficult to separate methodology from the rate. The issue of the methodology is policy that is based on assumptions that drive the numerator. He stated when the 60-day review process is complete and the issue comes before Council he intends to have a discussion about the assumptions. Mayor Ogden asked how the multi-family category versus single-family was derived. Director Hoover stated the residential definitions are from the development code based on persons per dwelling unit.

Mayor Ogden commented on the maximum rate proposal and argued the rates need to drive the methodology and the methodology needs to embrace the priorities as they will drive the number. He referred to the nonresidential rate being 30% of residential based on utilization and he questions the accuracy and urged the Council to address the numerator by cutting it in half. He stated the fundamental issue needs to be that business pay its fair share and fair needs to be utilization. Mayor Ogden stated another tenant needs to be that Tualatin is competitive with the entire region.

Director Hoover asked the Council if they want more data and offered to make the comparison list completely regional. Mayor Ogden said he would support more comparisons.

City Manager Lombos stated the Council has a meeting on November 26 and asked the Council if they would like further discussion on the methodology. Councilor Bubenik stated the Council needs to see the feedback from the business community after the 60-day review period has closed. Mayor Ogden asked how the information is being collected from the review. Director Hoover stated the information is on the website and the community can email staff directly. The City has received two comments and staff will provide Council with those comments on December 10.

Councilor Morrison stated the City currently has set SDC rates and asked if the Council needs to adopt a new methodology. Director Hoover said no. Councilor Morrison stated his preference is if the City establishes a new methodology that the rate be in the realm of half of the maximum rate. He asked for more information regarding who is charging nonresidential rates in the region and more regional comparisons.

Mayor Ogden asked if all cities in the Metro area charge nonresidential SDCs. Director Hoover said no. Mayor Ogden asked about multi-family SDCs. Director

Hoover stated all cities in the Metro area charge multi-family but not all have two different rates.

Mayor Ogden asked if the Council will have an opportunity to make amendments on December 10. Director Hoover stated if the Council proposes a change in the methodology it will trigger the restart of the 60-day review period. In addition, if there is an adjustment to the methodology staff will have the consultant make revisions consistent with the data included in the methodology.

Mayor Ogden asked if the Council does a 50% allocation if that would be a simple calculation across the board. Consultant Jellicoe recommended having solid backing with data in the report that 50% is the historic utilization of SDCs for capital facilities. Mayor Ogden asked why it would have to be historic. Consultant Jellicoe stated it would help demonstrate the 50%. She added if it is a policy decision she would recommend adding the language to the ordinance.

Council consensus was reached to move forward with the proposed methodology.

**4. Council Meeting Agenda Review, Communications & Roundtable.**

Council President Davis stated there has been a request to remove item 4 from the consent agenda. She suggested moving from the consent agenda for further discussion. Council agreed.

**ADJOURNMENT**

The work session adjourned at 6:47 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



## OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR NOVEMBER 13, 2013

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Present: Mayor Lou Ogden; Councilor Frank Bubenik; Council President Joelle Davis;  
Councilor Nancy Grimes; Councilor Paul Morrison

Absent: Councilor Jeff DeHaan; Councilor Robert Kellogg

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Teen Program Specialist Julie Ludemann; Assistant to the City Manager Tanya Williams; Parks and Recreation Manager Rich Mueller; City Engineer Jeff Fuchs; IS Director Bates Russell; Management Analyst II Nic Westendorf; Parks and Recreation Director Ross Hoover

### A. CALL TO ORDER

Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:00 p.m.

### B. ANNOUNCEMENTS

#### 1. Tualatin Youth Advisory Council Update

Members of the Youth Advisory Committee (YAC) presented a PowerPoint on their latest activities and upcoming events. YAC held their annual Haunted House, October 24-27, over 250 people attended. They also participated in events at the Pumpkin Regatta. Members will be participating in Starry Nights and Holiday Lights in December.

### C. CITIZEN COMMENTS

*This section of the agenda allows anyone to address the Council regarding any issue not on the agenda, or to request to have an item removed from the consent agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

Tualatin Chamber of Commerce Director Linda Moholt congratulated all the newly elected officials. She addressed the parks SDCs noting the Chamber has reached out to the business community and the issue will be reviewed at an upcoming board meeting. She said it is important to have feedback from all different types and sizes of businesses.

## D. CONSENT AGENDA

*The Consent Agenda will be enacted with one vote. The Mayor will ask Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. If you wish to request an item to be removed from the consent agenda you should do so during the Citizen Comment section of the agenda. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.*

MOTION by Councilor Nancy Grimes, SECONDED by Council President Joelle Davis to adopt the consent agenda.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Paul Morrison

Other: Councilor Robert Kellogg (Absent)

MOTION CARRIED

1. Consideration of Approval of the Minutes for the Work Session of October 8, 2018, and Work Session and Regular Meeting of October 22, 2018
2. Consideration of Approval of a New Liquor License Application for Lachini Vineyards LLC
3. Consideration of Approval of a New Liquor License for Non La Vietnamese Cuisine
4. Consideration of **Resolution No. 5406-18** Accepting Public Improvements for Construction of the Tualatin River Greenway Trail Project at River Ridge Apartments
5. Consideration of **Resolution No. 5408-18** Authorizing the Purchase of Public Utility Easements for the Construction of Myslony Bridge

## E. GENERAL BUSINESS

*If you wish to speak on a general business item please fill out a Speaker Request Form and you will be called forward during the appropriate item. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.*

1. Consideration of **Resolution No. 5407-18** Accepting the Tualatin Parks and Recreation Master Plan

Parks and Recreation Director Ross Hoover, Parks and Recreation Manager Rich Mueller, and Consultant Cindy Mendoza presented the Parks and Recreation Master Plan update. Director Hoover stated this is the first update to the Master Plan since 1983. He stated it provides guidance for parks, recreation facilities, programs, greenways and natural areas. The process began in July 2017 and involved public outreach, a system inventory and analysis, a needs assessment, an ADA assessment, goals and recommendations, and a funding and action plan.

Manager Mueller discussed the planning process, which included stakeholder interviews, online surveys, focus groups, Hispanic meetings, pop-up activities, and

park walks. Approximately 2,900 members of the public were involved in the initial community outreach. The outreach resulted in seven community outreach themes. Director Hoover stated the themes formed the key values and mission. The mission has seven goals including: expand accessible and inclusive parks and facilities, create a walkable, bikeable, and interconnected City, conserve and restore natural areas, activate parks and facilities, support the arts through programs, parks and public spaces, promote Tualatin's unique identity, economic vitality, and tourism, and manage, administer, and maintain quality parks, facilities, and programs.

Director Hoover discussed the project recommendations and stated Tualatin has 37 existing parks projects and 16 proposed additions or new acquisitions resulting in 53 total projects. He explained the prioritization criteria that will be used to evaluate the project phasing, development of work, funding strategy, and CIP.

Manager Mueller spoke to public engagement which included three open houses, presentations and meetings with stakeholders, online review and comments, and comment sheets. The Project Advisory Committee held eight meetings and worked at public engagement events. He stated the Tualatin Parks Advisory, Library Advisory, and Tualatin Arts Advisory Committees were involved in the process. All four committees have recommended Council adopt the Parks and Recreation Master Plan.

Mayor Ogden asked about a Veterans Park and how that idea could be advanced. Director Hoover stated staff heard the interest in recognizing veterans and included that in Goal 1, which involves facilitating community conversation and discussion regarding recognition and/or parks and facilities.

Mayor Ogden asked if the proposed plan addresses inter-agency partnerships. Director Hoover stated the plan includes a section on partnership in Goal 6 and recognizes the need for nonprofit, for profit, and public partnerships.

MOTION by Council President Joelle Davis, SECONDED by Councilor Paul Morrison to adopt Resolution No. 5407-18 accepting the Tualatin Parks and Recreation Master Plan.

Aye: Mayor Lou Ogden, Councilor Frank Bubenik, Council President Joelle Davis, Councilor Nancy Grimes, Councilor Paul Morrison

Other: Councilor Robert Kellogg (Absent)

MOTION CARRIED

## **F. ITEMS REMOVED FROM CONSENT AGENDA**

*Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.*

1. Consideration of **Resolution No. 5401-18** Updating the Public Works Construction Code to Include Section 331- Pole Attachments, Small Cell, and Distributed Antenna Systems (DAS), and Other Items

Public Works Director Jeff Fuchs and Management Analyst Nic Westendorf presented updates to the Public Works Construction Code. Director Fuchs stated in 2017 Council adopted a Right-of-Way (ROW) ordinance transitioning from a franchise program to a licensed ROW program. The City reached out to businesses in the small cell industry regarding construction standards. On September 24, the FCC release a ruling on small cell standards. Director Fuchs stated Verizon and AT&T submitted comments to the City. Most of the comments referred to the FCC ruling and asked the City to adopt the FCC standards. Director Fuchs explained the FCC ruling had dimensional standards under the definition for what small cell wireless is and staff chose not to include those. He stated staff defined what small cell wireless is in a separate section of the code and have the actual dimensional standards listed. The proposed language includes a baseline set of criteria founded on industry standards and allows the ability to change as different applications are received. Director Fuchs stated staff included proposed language regarding distance from signalized intersections standard that was not addressed in the FCC ruling

#### PUBLIC COMMENT

Steve Coon and Alan Bar with Verizon spoke in opposition of the proposed language. Mr. Coon stated they met with Analyst Westendorf and determined the need to further discuss possible changes to the proposed language. Mr. Bar stated there are a number of criteria set forth in the proposed code that do not make 4G/5G viable. He referred to concerns regarding coverage gaps.

Mayor Ogden asked what Verizon is requesting and why it is being addressed now. Mr. Bar stated they originally thought their presentation represented many small cell installations with a variety of configurations and showed the spectrum. He noted they failed to follow up with staff as the language was drafted. Mayor Ogden asked Director Fuchs if they have a clear understanding of Verizon's concerns. Director Fuchs stated staff received written comments regarding the proposed code language today. The comments noted what Verizon does not want, but did not inform staff of what they do want. Analyst Westendorf stated staff needs concrete numbers from Verizon. Director Fuchs asked for a commitment from Verizon and AT&T to provide meaningful information.

City Manager Lombos stated she appreciates the approach staff has taken to reach out to the industry. Mayor Ogden asked if it is possible to have an agreement and a revised resolution before the next meeting. Staff stated they could.

Karen Manske came forward on behalf of AT&T stating her coworker provided a letter to the Council today addressing their significant concerns on the proposed language. She commented on concerns regarding the specific antenna type, size, limitation and numbers noting this may not meet other carrier's standards. She added the proposed language limits the flexibility of all the carriers and is discriminatory. She stated AT&T prefers the FCC standards because the FCC took into account more than just one carrier's needs for their equipment. She asked for the opportunity to suggest changes that are competitively neutral, flexible for all carriers, and more reasonable to meet all the carrier's needs.

Mayor Ogden asked when staff began working on this issue. Director Fuchs

stated staff has worked on this over the last six months. Mayor Ogden asked if staff contacted AT&T. Director Fuchs stated staff contacted AT&T and received comments in October, and modifications were incorporated to add clarity.

Mayor Ogden asked when staff contacted Verizon. Analyst Westendorf stated Verizon submitted an application in April, which prompted the City to work with them to develop standards. Mayor Ogden asked if staff reached out to other carriers at the time. Analyst Westendorf stated not prior to September 24. AT&T submitted comments on the original draft standards in opposition and stated more detail would be provided in a follow up. Staff received comments on October 26 from AT&T in support of the FCC language. Mayor Ogden asked if staff responded to AT&T's concerns. Analyst Westendorf stated staff has reached out twice and revised the proposed code language in accordance with their comments. Mayor Ogden referred to Ms. Manske's comments that the proposed code language is specific to Verizon's needs. Analyst Westendorf noted that statement came after changes were made in response to their letter. Mayor Ogden asked staff if they can include AT&T in the conversation over the next two weeks while the proposed language is revised. Director Fuchs stated staff needs dimensional standards from AT&T to write the code.

Alan Galloway approached the Council on behalf of T-Mobile and apologized for not being involved in this process sooner. He offered to assist staff in developing standards that are flexible and fair with objective criteria. He stated the code needs to be in line with the FCC Order, which was designed to clear the barriers for this technology. He noted as T-Mobile enters into the process they will provide dimensions of T-Mobile equipment and contact staff to draft code that is compliant with the FCC Order and flexible, objective and fair.

Mayor Ogden suggested staff reach out to any other carriers that may be interested in this issue before the next Council meeting.

## **G. COMMUNICATIONS FROM COUNCILORS**

Councilor Bubenik thanked all those involved with the Veterans Breakfast last week. He noted it was well attended.

## **H. ADJOURNMENT**

Mayor Ogden adjourned the meeting at 8:36 p.m.

Sherilyn Lombos, City Manager

\_\_\_\_\_ / Nicole Morris, Recording Secretary

\_\_\_\_\_ / Lou Ogden, Mayor



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Nicole Morris, Deputy City Recorder

**DATE:** 11/26/2018

**SUBJECT:** Consideration of Approval of a New Liquor License for 7-Eleven #23726C

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### **ISSUE BEFORE THE COUNCIL:**

The issue before the Council is to approve a new liquor license application for 7-Eleven #23726C.

### **RECOMMENDATION:**

Staff respectfully recommends that the Council approve endorsement of the liquor license application for 7-Eleven #23726C.

### **EXECUTIVE SUMMARY:**

7-Eleven #23726C has submitted a new liquor license application under the category of off-premises sales. Under the category of off-premise sales, they may sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises. In addition this category allows for providing sample tastings of malt beverages, wine, and cider for consumption on the premises. The business is located at 6630 SW Nyberg Street. The application is in accordance with provisions of Ordinance No.680-85 which establishes procedures for liquor license applicants. Applicants are required to fill out a City application form, from which a review by the Police Department is conducted, according to standards and criteria established in Section 6 of the ordinance. The Police Department has reviewed the new liquor license application and recommended approval. According to the provisions of Section 5 of Ordinance No. 680-85 a member of the Council or the public may request a public hearing on any of the liquor license requests. If such a public hearing request is made, a hearing will be scheduled and held on the license. It is important that any request for such a hearing include reasons for said hearing.

### **FINANCIAL IMPLICATIONS:**

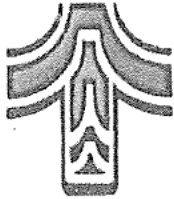
A fee has been paid by the applicant.

---

**Attachments:** [Attachment A- Application](#)  
[Attachment B - Vicinity Map](#)



Attachment C- License Types



# CITY OF TUALATIN

## LIQUOR LICENSE APPLICATION

Return Completed form to:  
City of Tualatin  
Attn: Deputy City Recorder  
18880 SW Martinazzi Ave  
Tualatin, OR 97062

Date \_\_\_\_\_

**IMPORTANT:** *This is a three-page form. You are required to complete all sections of the form.*  
If a question does not apply, please indicate N/A. Please include full names (last, first middle) and full dates of birth (month/day/year). Incomplete forms shall receive an unfavorable recommendation.  
**Thank you for your assistance and cooperation.**

### SECTION 1: TYPE OF APPLICATION

- Original (New) Application - \$100.00 Application Fee.
- Change in Previous Application - \$75.00 Application Fee.
- Renewal of Previous License - \$35.00 Application Fee. Applicant must possess current business license. License # \_\_\_\_\_
- Temporary License - \$35.00 Application Fee.

### SECTION 2: DESCRIPTION OF BUSINESS

Name of business (dba): 7-Eleven #23726C

Business address 6630 SW Nyberg Street City Tualatin State OR Zip Code 97062

Mailing address Attn Licensing, PO Box 219088 City Dallas State TX Zip Code 75221

Telephone # (503) 892-0822 Fax # \_\_\_\_\_

Email rehan2492@yahoo.com; penny.lee-lombardo@7-11.com

Name(s) of business manager(s) First Rehan Middle \_\_\_\_\_ Last Ashraf

Date of birth \_\_\_\_\_

Home address \_\_\_\_\_  
(attach additional pages if necessary)

Type of business retail convenience store

Type of food served to-go food, hot dogs, pizza, sandwiches, nachos, packaged food, etc.

Type of entertainment (dancing, live music, exotic dancers, etc.) N/A

Days and hours of operation 24/7

Food service hours: Breakfast \_\_\_\_\_ Lunch \_\_\_\_\_ Dinner \_\_\_\_\_

Restaurant seating capacity 0 Outside or patio seating capacity 0

How late will you have outside seating? N/A How late will you sell alcohol? 2:30 AM

How many full-time employees do you have? 4 Part-time employees? 5

**SECTION 3: DESCRIPTION OF LIQUOR LICENSE**

Name of Individual, Partnership, Corporation, LLC, or Other applicants Rabia Enterprises, Inc.

Type of liquor license (refer to OLCC form) beer/wine off premises

Form of entity holding license (check one and answer all related applicable questions):

**INDIVIDUAL:** If this box is checked, provide full name, date of birth, and residence address.  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_

**PARTNERSHIP:** If this box is checked, provide full name, date of birth and residence address for each partner. If more than two partners exist, use additional pages. If partners are not individuals, also provide for each partner a description of the partner's legal form and the information required by the section corresponding to the partner's form.  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_  
Full name \_\_\_\_\_ Date of birth \_\_\_\_\_  
Residence address \_\_\_\_\_

**CORPORATION:** If this box is checked, complete (a) through (c).  
(a) Name and business address of registered agent.  
Full name Rehan Ashraf  
Business address [REDACTED]

(b) Does any shareholder own more than 50% of the outstanding shares of the corporation? If yes, provide the shareholder's full name, date of birth, and residence address.  
Full name Rehan Ashraf Date of birth [REDACTED]  
Residence address [REDACTED]

(c) Are there more than 35 shareholders of this corporation? Yes x No. If 35 or fewer shareholders, identify the corporation's president, treasurer, and secretary by full name, date of birth, and residence address.  
Full name of president: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_  
Full name of treasurer: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_  
Full name of secretary: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_

**LIMITED LIABILITY COMPANY:** If this box is checked, provide full name, date of birth, and residence address of each member. If there are more than two members, use additional pages to complete this question. If members are not individuals, also provide for each member a description of the member's legal form and the information required by the section corresponding to the member's form.  
Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_  
Residence address: \_\_\_\_\_

Full name: \_\_\_\_\_ Date of birth: \_\_\_\_\_

Residence address: \_\_\_\_\_

**OTHER:** If this box is checked, use a separate page to describe the entity, and identify with reasonable particularity every entity with an interest in the liquor license.

**SECTION 4: APPLICANT SIGNATURE**

A false answer or omission of any requested information on any page of this form shall result in an unfavorable recommendation.

\_\_\_\_\_  
Sig \_\_\_\_\_ Date 10-27-18

*For City Use Only*

Sources Checked:

- DMV by \_\_\_\_\_
- LEADS by \_\_\_\_\_
- TuPD Records by \_\_\_\_\_
- Public Records by \_\_\_\_\_

Number of alcohol-related incidents during past year for location.

Number of Tualatin arrest/suspect contacts for Ashraf, Behan

**It is recommended that this application be:**

Granted

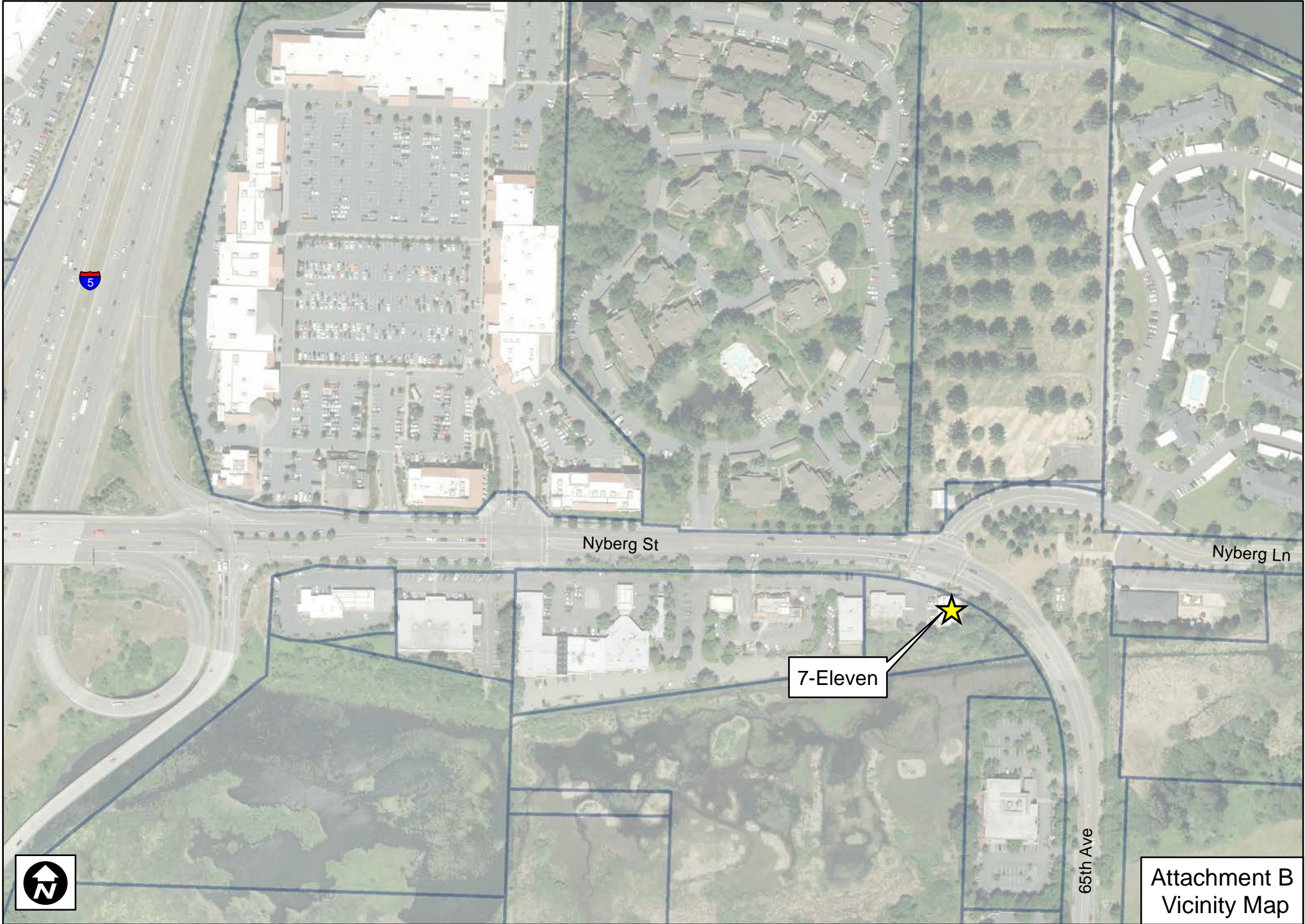
Denied

Cause of unfavorable recommendation: \_\_\_\_\_

Bill Steele  
Signature

11-5-18  
Date

Bill Steele  
Chief of Police  
Tualatin Police Department



## OREGON LIQUOR CONTROL COMMISSION LICENSE TYPES

### FULL ON-PREMISES SALES

- **Commercial Establishment**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location (*this is the license that most “full-service” restaurants obtain*). Sell malt beverages for off-site consumption in securely covered containers provided by the customer. Food service required. Must purchase distilled liquor **only** from an Oregon liquor store, or from another Full On- Premises Sales licensee who has purchased the distilled liquor from an Oregon liquor store.
- **Caterer**  
Allows the sale of distilled spirits, malt beverages, wine, and cider by the drink to individuals at off-site catered events. Food service required.
- **Passenger Carrier**  
An airline, railroad, or tour boat may sell and serve distilled spirits, malt beverages, wine, and cider for consumption on the licensed premises. Food service required.
- **Other Public Location**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, where the predominant activity is not eating or drinking (for example an auditorium; music, dance, or performing arts facility; banquet or special event facility; lodging fairground; sports stadium; art gallery; or a convention, exhibition, or community center). Food service required.
- **Private Club**  
Sell and serve distilled spirits, malt beverages, wine, and cider for consumption at that location, but only for members and guests. Food service required.

### LIMITED ON-PREMISES SALES

Sell and serve malt beverages, wine, and cider for onsite consumption. Allows the sale of malt beverages in containers (kegs) for off-site consumption. Sell malt beverages for off-site consumption in securely covered containers provided by the customer.

### OFF-PREMISES SALES

Sell factory-sealed containers of malt beverages, wine, and cider at retail to individuals in Oregon for consumption off the licensed premises. Eligible to provide sample tastings of malt beverages, wine, and cider for consumption on the premises. Eligible to ship manufacturer-sealed containers of malt beverages, wine, or cider directly to an Oregon resident.

### BREWERY PUBLIC HOUSE

Make and sell malt beverages. Import malt beverages into and export from Oregon. Distribute malt beverages directly to retail and wholesale licensees in Oregon. Sell malt beverages made at the business to individuals for consumption on or off-site.

### WINERY

Must principally produce wine or cider in Oregon. Manufacture, store, and export wine and cider. Import wine or cider *If bottled, the brand of wine or cider must be owned by the licensee*. Sell wine and cider to wholesale and retail licensees in Oregon. Sell malt beverages, wine, and cider to individuals in Oregon for consumption on or off-site.



# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Kelsey Lewis, Management Analyst II  
Jeff Fuchs, Public Works Director

**DATE:** 11/26/2018

**SUBJECT:** Consideration of **Resolution No. 5409-18** Awarding the Contract for Design of Garden Corner Curves to Wallis Engineering and Authorizing the City Manager to Execute a Contract

---

### **ISSUE BEFORE THE COUNCIL:**

Award the engineering design contract for the Garden Corner Curves Project, which will include construction plans and specifications, environmental permitting, public outreach, and right of way services.

### **RECOMMENDATION:**

Staff recommends that Council approve the resolution to allow the City Manager to execute a contract with Wallis Engineering to design the Garden Corner Curves Project in the amount of \$611,051.06.

### **EXECUTIVE SUMMARY:**

This contract will provide design, engineering, permitting, public outreach, right of way services, and project management to improve the pedestrian and bicycle facilities in the Garden Corner Curves corridor to connect the Ibach and Midwest neighborhoods and greatly improve safety.

Garden Corner Curves, which includes SW 105th Avenue, SW Blake Street, and SW 108th Avenue, is a narrow constrained roadway with sight distance issues and limited pedestrian and bicycle facilities.

In 2016/17, the City completed a significant public involvement effort in conjunction with a concept study of the Garden Corner Curves corridor. The concept study identified specific community concerns and based on those concerns, developed conceptual solutions that balanced cost, safety for all users, stakeholder desires, environmental impacts, and right-of-way needs. Through the public involvement effort, a preferred alternative was identified for implementation.

The concept design identified Alternative A plus as the preferred alternative (attached).

Alternative A plus is Alternative A from the concept study with additional elements that were identified by the community during the evaluation process. The preferred alternative included the following elements:

- A 12-foot wide shared-use path on the east side of the roadway to provide pedestrians and bicyclists a continuous separated route on one side of the corridor
- Two 10-foot wide vehicle lanes to reduce speeds for safety
- Cobbled corner treatment on the shared use path to slow cyclist before the downhill
- Pedestrian activated flashing beacon at SW Moratoc Drive
- Pedestrian activated flashing beacon at SW 108th Avenue and SW Paulina Drive
- A raised crosswalk at Paulina Drive

The following design elements were added in response to community feedback received during the open house and through the online survey:

- Speed feedback signs to raise awareness about speed
- Revised centerline striping to slow down traffic
- A raised crossing at SW 108th Avenue and SW Blake Street

In May 2018, Tualatin voters passed a bond that will fund congestion relief, neighborhood safety and safe access to school projects. Implementation of the preferred alternative identified in the Garden Corner Curves Concept Study was identified as a project to be funded with the proceeds of this bond. This project was also included in the 2014 Transportation System Plan.

The City advertised this project for proposals on August 27, 2018 in the *Daily Journal of Commerce* and on the City website. We received one responsive bid. City staff negotiated the scope and fee for this project with Wallis Engineering.

#### **OUTCOMES OF DECISION:**

Approving this engineering contract will allow the project team to move forward preparing plans and specifications for construction, with the goal of beginning construction in late 2019. This is the sixth Tualatin Moving Forward project to begin design or construction.

#### **FINANCIAL IMPLICATIONS:**

Funds for this project in the amount of \$611,051.06 are available in the Transportation Project Fund (Tualatin Moving Forward Bond).

---

**Attachments:**    [Resolution 5409-18](#)  
                          [Alternative A Plus Concept Plan](#)



RESOLUTION NO. 5409-18

A RESOLUTION AWARDING THE CONTRACT FOR THE GARDEN CORNER CURVES DESIGN TO WALLIS ENGINEERING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT

WHEREAS, the project was advertised in the *Daily Journal of Commerce* on August 27, 2018; and

WHEREAS, one proposal was received prior to the close of the bid period on September 24, 2018; and

WHEREAS, Wallis Engineering negotiated the scope and fee for the project in the amount of \$611,051.06; and

WHEREAS, there are funds available for this project in the Transportation Project Fund.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The contract is awarded to Wallis Engineering.

**Section 2.** The City Manager is authorized to execute a contract with Wallis Engineering in the amount of \$611,051.06.

**Section 3.** The City Manager, or the City Manager’s designee, is authorized to execute Change Orders totaling up to 10% of the original contract amount.

**Section 4.** This resolution is effective upon adoption.

Adopted by the City Council this 26<sup>th</sup> day of November, 2018.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

# ALTERNATIVE A PLUS



## Alternative A

- 12' shared use path on east side
- 10' vehicle lanes
- Cobbled corner treatment
- RRFB at Moratoc
- RRFB at 108<sup>th</sup> and Blake
- Raised crossing at Paulina

## Plus

- Speed feedback sign(s)
- Revised centerline striping
- Raised crossing at SW 108th and SW Blake

# GARDEN CORNER CURVES





# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Kelsey Lewis, Management Analyst II  
Jeff Fuchs, Public Works Director

**DATE:** 11/26/2018

**SUBJECT:** Consideration of **Resolution No. 5410-18** Authorizing the City Manager to Accept a Donation of Real Property from Hillsboro Mall, LLC

---

### **ISSUE BEFORE THE COUNCIL:**

Council will consider authorizing the City Manager to execute a land donation to the City.

### **RECOMMENDATION:**

Staff recommends that Council approve this resolution.

### **EXECUTIVE SUMMARY:**

A Tualatin property owner, Hillsboro Mall, LLC, has offered to donate a parcel land to the City. The property is located near the corner of SW Martinazzi Avenue and SW Warm Springs Drive along Nyberg Creek (see attached Location Map). Staff has reviewed the offer and found this land to be beneficial for City use, with possible uses including a stormwater quality facility. The property also includes an existing 25-foot wide public greenway buffer easement. This resolution will authorize the City Manager to complete the land donation process.

---

**Attachments:** [Reso 5410-18 - Accepting Donation of Real Property](#)  
[Donation Agreement](#)  
[Location Map](#)

RESOLUTION NO. 5410-18

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION OF REAL PROPERTY FROM HILLSBORO MALL, LLC

WHEREAS, Hillsboro Mall, LLC owns certain real property more particularly described as: "Parcel 3, Partition Plat No. 1999-068, in the City of Tualatin, Oregon, County of Washington, State of Oregon." (the "Property");

WHEREAS, Hillsboro Mall, LLC has offered donate the Property to the City; and

WHEREAS, the City wishes to accept the donation and finds the donation will provide a substantial public benefit;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The City Manager is authorized to execute the Donation Agreement with Hillsboro Mall, LLC and any and all documents necessary to acquire the Property.

**Section 2.** This resolution is effective upon date of adoption.

ADOPTED this 26<sup>th</sup> day of November, 2018.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

## CITY OF TUALATIN, OREGON

### DONATION OF REAL PROPERTY AGREEMENT

This Donation of Real Property Agreement is made by and between the City of Tualatin, Oregon, a municipal corporation (the "City"), and Hillsboro Mall, LLC (the "Donor"), which are collectively referred to herein as the "Parties".

#### RECITALS

Whereas, Donor owns certain real property more particularly described as: "Parcel 3, Partition Plat No. 1999-068, in the City of Tualatin, Oregon, County of Washington, State of Oregon" (the "Property");

Whereas, Donor has offered Donate the Property to City out of Donor's generosity;

Whereas, the parties find this Donation will provide a substantial public benefit; and

Whereas, the purpose of this Donation Agreement is to set forth the terms under which the Donor will donate and City will accept the Donation.

#### AGREEMENT

**Section 1. Donation.** Donor will donate the Property to City on or before December 31, 2018, by execution of a Statutory Warranty Deed.

**Section 2. City Acceptance.** City will accept the Donation. City agrees it will not pay any monetary value for the Property and has not offered and will not provide any goods or services in return for the donation of the Property. Contemporaneous with receipt by City of the Donation, City agrees to provide Donor with a charitable contribution acknowledgment letter in the form attached as Exhibit "A".

**Section 3. Charitable Contribution.** City will cooperate in the execution of any documentation as reasonably necessary to allow Donor to deduct the donation as a charitable contribution for income tax purposes.

**Section 4. Governing Law.** This Donation of Real Property Agreement is governed and will be interpreted according to the laws of the State of Oregon, without regard to conflict of laws principles.

**Section 5. Complete Agreement.** This Donation of Real Property Agreement embodies the full and complete understanding of the parties respecting the subject matter hereof. It supersedes all prior agreements, negotiations, and representations between the parties, whether written or oral.

**Section 6. Execution of Agreement; Electronic Signature.** This Donation of Real Property Agreement may be executed in one or more counterparts, all of which when taken together constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Donation of Real Property Agreement so executed constitutes an original. A signature of a party provided by email, "pdf," or other electronic data file constitutes an original signature of that party.

**IN WITNESS WHEREOF** the Parties have caused this Donation of Real Property Agreement to be signed in their respective names by their duly authorized representatives as of the dates set forth below:

**DONOR**

**CITY OF TUALATIN**

By \_\_\_\_\_  
ERIC W. LINDGREN    Date  
MEMBER  
HILLSBORO MALL, LLC

By \_\_\_\_\_  
SHERILYN LOMBOS    Date  
CITY MANAGER

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**[Letterhead of City of Tualatin]**

November \_\_, 2018

Eric Lindgren, Member  
Hillsboro Mall, LLC  
7822 Goodman Drive NW  
Gig Harbor, Washington 98332

**Re: Charitable Contribution of Real Property**

Dear Mr. Lindgren

This letter will acknowledge the receipt, on November \_\_, 2018, by the City of Tualatin, of the donation made to the City by Hillsboro Mall, LLC (an Oregon limited liability company) as a charitable contribution, of the following described real estate: Parcel 3, Partition Plat No. 1999-068, in the City of Tualatin, Oregon, County of Washington, State of Oregon" (the "Property").



Thank you for this contribution to the City. No goods or services were provided by the City in return for the contribution of the Property.

Very truly yours,

City of Tualatin

By: \_\_\_\_\_  
Sherilyn Lombos  
City Manager

# Land Donation Location Map

-  Land Donation (Parcel 3)
-  Parcels



*Air Photo: Summer 2018*



0 45 90 180 Feet  


This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is". -TualGIS  
Printed: 11/19/2018





# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Don Hudson, Finance Director  
Cortney Kammerer, Court Administrator

**DATE:** 11/26/2018

**SUBJECT:** Consideration of **Resolution No. 5411-18** Appointing a Pro Tem Judge of the Municipal Court

---

### **ISSUE BEFORE THE COUNCIL:**

Should the City Council approve the appointment of Richard Balsley as Municipal Judge Pro Tem?

### **RECOMMENDATION:**

Staff recommends the City Council approve Richard Balsley as a Municipal Judge Pro Tem

### **EXECUTIVE SUMMARY:**

The Tualatin Municipal Court schedule sets weekly arraignment and trial proceedings for traffic violations. Occasions arise when the Municipal Court Judge is unable to preside over these proceedings. When this occurs, it is essential to have a qualified list of judges pro tem available to cover a court session, if needed. Section 10 of the City's Charter addresses the appointment of additional officers of the City by the Council. This includes appointment of a municipal judge (includes pro tem). Staff seeks to add Richard Balsley to the qualified list of judges pro tem. Mr. Balsley is licensed to practice law in the State of Oregon and is a member in good standing with Oregon State Bar.

---

**Attachments:** [Reso 5411-18-Appoint Pro Tem Judge](#)  
[Resume - Richard Balsley](#)

RESOLUTION NO. 5411-18

A RESOLUTION APPOINTING A PRO TEM JUDGE OF THE MUNICIPAL COURT

WHEREAS, the Municipal Court is an important service provided by the City of Tualatin;

WHEREAS, there are occasions when Municipal Court Judge is unavailable to serve as Municipal Court Judge;

WHEREAS, Tualatin Charter Sections 10 and 21 authorizes the appointment of pro tem judges of the Municipal Court; and

WHEREAS, the Court Administrator and Judge have found a well-qualified individual to serve as a pro tem judge of the Municipal Court;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The Mayor appoints, with the Council's consent, Richard Balsley as a Pro Tem Judge of the Municipal Court.

**Section 2.** This resolution is effective upon adoption.

ADOPTED this 26<sup>th</sup> day of November, 2018.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

913 22<sup>ND</sup> ST.  
HOOD RIVER, OR 97031  
PHONE (267) 258-4386 • E-MAIL RICHARDHBALSLEY@GMAIL.COM

# RICHARD BALSLEY

## EMPLOYMENT

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- 2015 - Present      **Morris, Starns & Sullivan**      The Dalles, OR  
*Managing Attorney, The Dalles Office*
- Represented clients in a variety of family law and criminal matters including Measure 11 offenses.
  - Worked with the Circuit Court and DHS to insure that the rights of parents and children were protected in dependency cases.
  - Managed the day to day operation of the The Dalles branch office; supervised 4 lawyers and 5 staff.
- 2006 - 2015      **Defender Association of Philadelphia**      Philadelphia, PA  
*Assistant Defender – Major Trials Unit*
- Trained and supervised new attorneys as they transitioned from misdemeanor to felony practice.
  - Tried over 100 cases to verdict from simple misdemeanors to complex felony jury trials.
  - Worked on a daily basis with police and prosecutors in Diversion and Drug Treatment Courts.
- 2000 - 2003      **Town of Ikawa - Board of Education**      Akita, Japan  
*Language Instructor & Interpreter - Japan Exchange and Teaching Program*
- Worked with the Mayor and City Government to design a new English curriculum for the town.

## EDUCATION

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- Temple University - Beasley School of Law**      Philadelphia, PA  
*J.D. Class of 2006*
- Managing & Business Editor - Temple Journal of Science, Technology & Environmental Law
  - Top 25%, Dean's List
- University of Oregon**      Eugene, OR  
*Bachelor of Arts –Asian Studies & Japanese Language*

## VOLUNTEER EXPERIENCE

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- 2001 - 2003      **Habitat for Humanity**      Japan and Fiji  
*Fund Raiser – Labor Volunteer*
- 2001      **World Games Organizing Committee**      Akita, Japan  
*Announcer/Interpreter – Waterskiing and Sky Diving Events*

## PUBLICATIONS

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- Balsley, Richard H.** Tagging: A Proposed Framework for Constitutional Regulation of Sexually Explicit Material Available Via the World Wide Web, *Temple Journal of Science, Technology and Environmental Law*, Spring 2005.

**City Council Meeting**

**Meeting Date:** 11/26/2018

**SPECIAL REPORTS:** TVFR- State of the District

**Submitted For:** Sherilyn Lombos, City Manager

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**SPECIAL REPORTS**

Tualatin Valley Fire and Rescue- State of the District 2018

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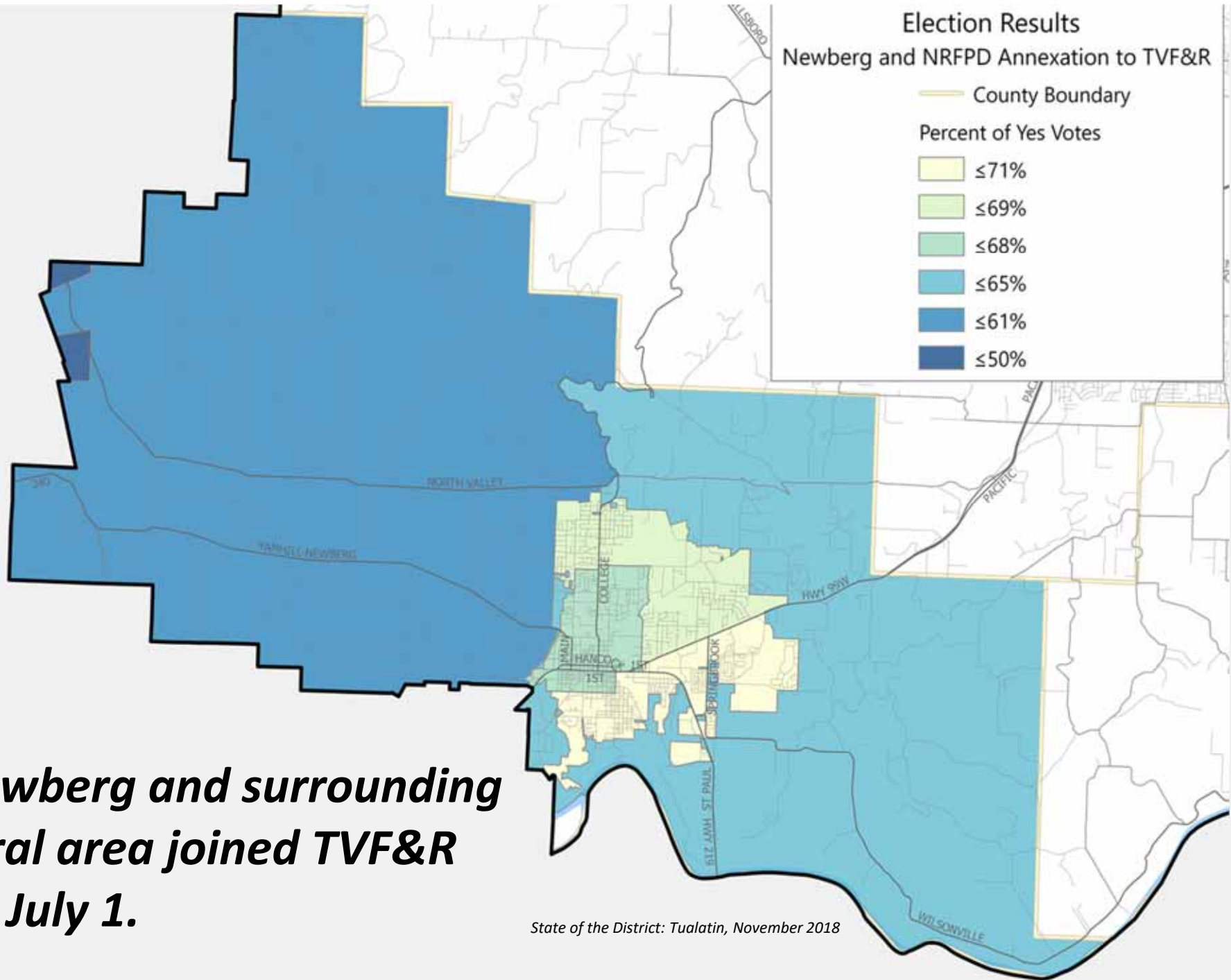
PowerPoint

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STATE OF THE DISTRICT  
2018

















Chief Kenny Frentress

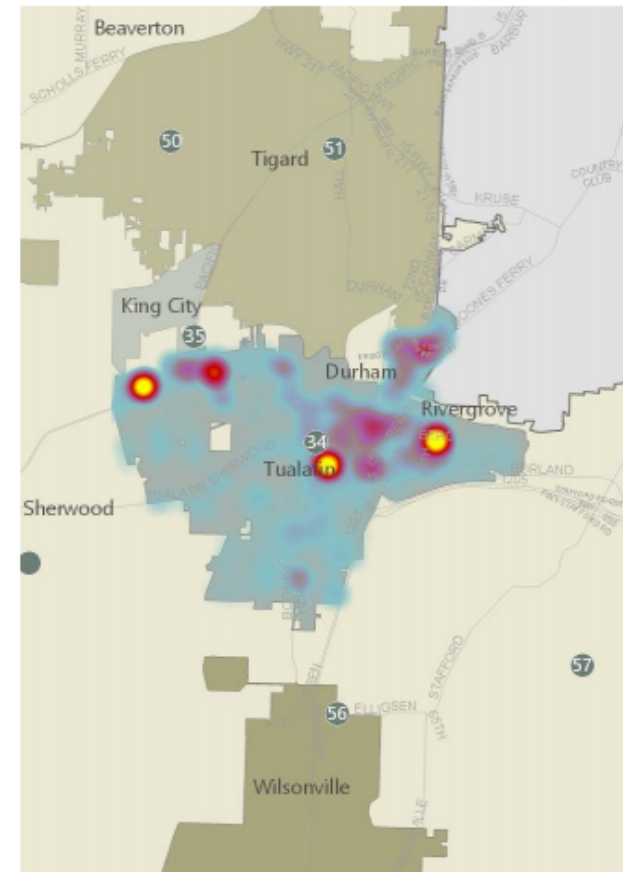


***Newberg and surrounding rural area joined TVF&R on July 1.***

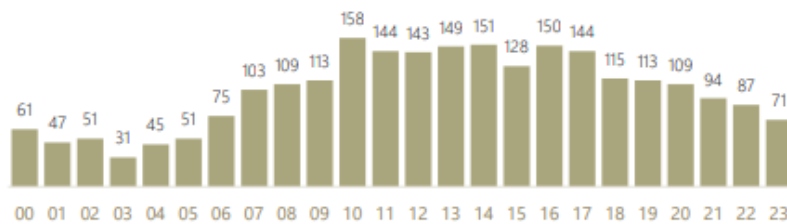
State of the District: Tualatin, November 2018

Total Incidents **2,442**

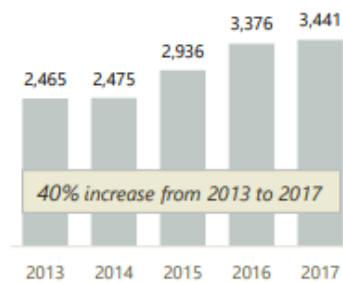
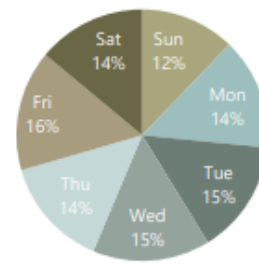
EMS	FIRE	HAZARD	SERVICE	GOOD INTENT	FALSE ALARM	NATURAL CONDITION	OTHER
							
Dispatched As							
<b>1,985</b> 81.3%	<b>307</b> 12.6%	<b>13</b> 0.5%	<b>137</b> 5.6%	<b>0</b> 0.0%	<b>0</b> 0.0%	<b>0</b> 0.0%	<b>0</b> 0.0%
Situation Found							
<b>1,735</b> 71.0%	<b>72</b> 2.9%	<b>50</b> 2.0%	<b>90</b> 3.7%	<b>313</b> 12.8%	<b>180</b> 7.4%	<b>0</b> 0.0%	<b>2</b> 0.0%
Incident Sub-Categories							
							
<b>Structure Fires</b>	<b>Cooking Fires</b>	<b>Vehicle Fires</b>	<b>Vegetation Fires</b>	<b>Other Fires</b>	<b>Critical Patients*</b>	<b>MVC with Injury</b>	<b>MVC Unknown Injury</b>
<b>14</b>	<b>3</b>	<b>6</b>	<b>36</b>	<b>13</b>	<b>454</b>	<b>113</b>	<b>67</b>
Structure Fire Types				*Critical Patients: cardiac arrest, chest pain, stroke, seizure, breathing problem, drowning, respiratory distress, respiratory arrest, or trauma system entry. *MVC*=motor vehicle crash.			
Residential	Commercial						
9	5						



Hour of Day



Day of Week



**Top Station Responses**

Station 34	64%
Station 35	20%
Station 56	7%
Station 51	3%

*Depending on incident severity, units from multiple stations may respond to a single incident.*

Data Filters: no test, information, interfacility transports, or mobile health care incidents.

Incident data gathered geospatially based on city boundary.

Icons made by Freepik from www.flatiron.com

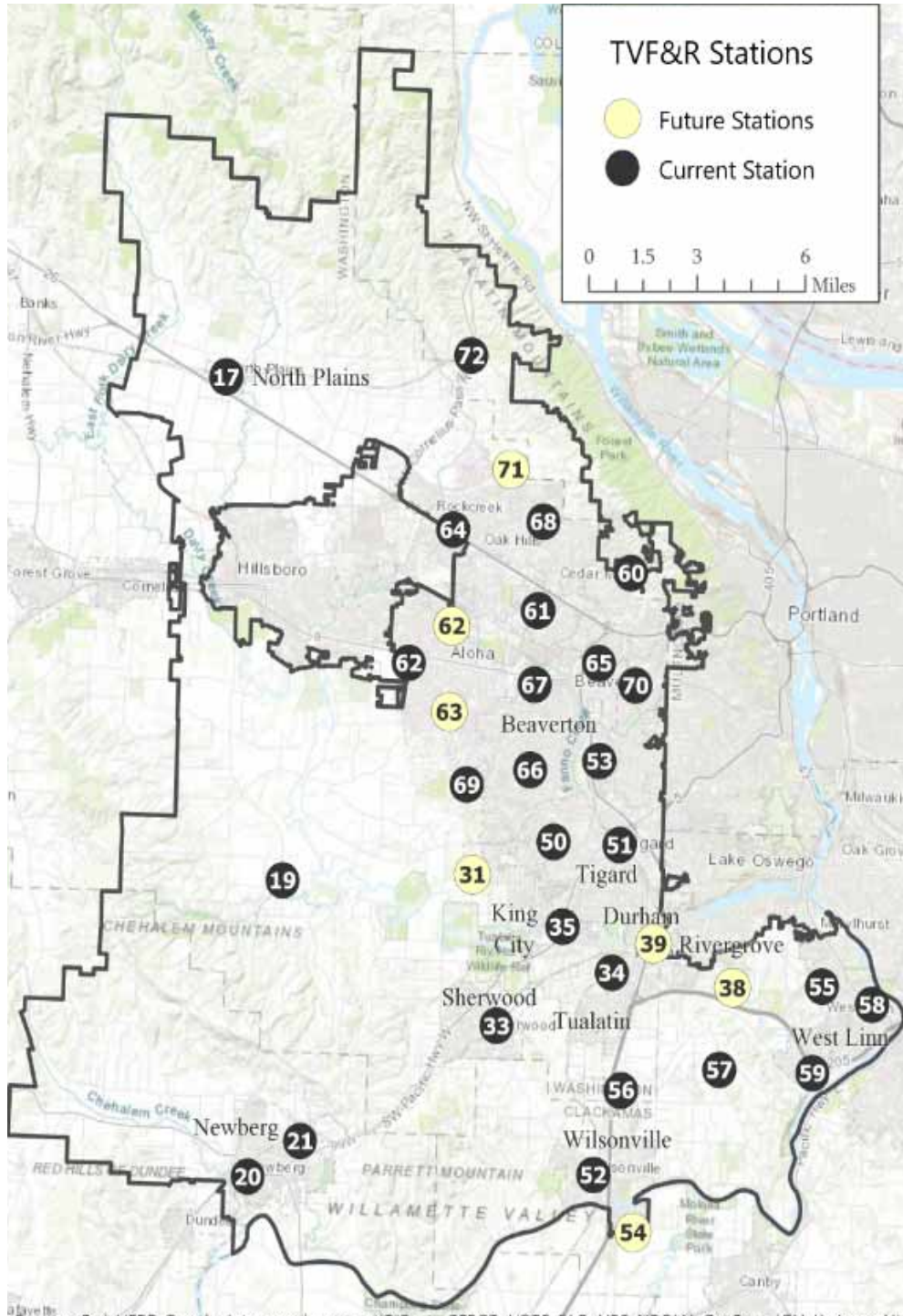


# Rosemont Station 55 Complete!

New stations strengthen entire system.

*State of the District: Tualatin, November 2018*





# Data! Data! Data!

What do we consider when we're siting fire stations?



population density



incident types



traffic & transportation system



topography

*State of the District: Tualatin, November 2018*



# McEwan Road Station 39

7080 SW McEwan Road

Current Status: Under permit review, construction begins this fall.

Duration: Approximately 13 months.

Station features include:

- community room
- two drive-through apparatus bays
- three bunk rooms for sleeping quarters
- separate women's and men's locker rooms

*State of the District: Tualatin, November 2018*



*State of the District: Tualatin, November 2018*



*State of the District: Tualatin, November 2018*



*State of the District: Tualatin, November 2018*



# ISO Rerate May Save \$ on Insurance Premiums for some District Residents

*Top 3% of all US fire departments!*

On a 10-point scale with Class 1 being the best, TVF&R is now considered a Class 2 in all areas within five miles of a fire station.

This could mean savings for people near Tualatin, Sherwood, Wilsonville, and rural areas of the District. *(Properties within Tualatin city limits were already a Class 2.)*

ISO considered TVF&R's staffing, equipment, training, fire station distribution, incident reporting, data collection and community-risk-reduction efforts.



**levy  
renewal  
ahead**



For updates & notifications  
[www.tvfr.com](http://www.tvfr.com)







# STAFF REPORT

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Karen Perl Fox, Senior Planner  
Steve Koper, Planning Manager

**DATE:** 11/26/2018

**SUBJECT:** Consideration of Plan Text Amendment (PTA-18-0003) with Proposed Draft Ordinance Language; an Update to the Tualatin Development Code

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### **ISSUE BEFORE THE COUNCIL:**

Consideration of Plan Text Amendment PTA-18-0003 (TDCIP Phase 1) with proposed draft language for an Ordinance RELATING TO LAND USE, CREATING NEW PROVISIONS; AMENDING AND ADDING NEW PROVISIONS TO TUALATIN DEVELOPMENT CODE CHAPTERS 1, 2, 31, 32, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 62, 63, 64, 68, 74, 75, AND 80; CREATING NEW TUALATIN DEVELOPMENT CODE CHAPTERS 39, 73A, 73B, 73C, 73D, 73E, 73F, AND 73G; AND REPEALING TUALATIN DEVELOPMENT CODE CHAPTER 37 and 73.

### **RECOMMENDATION:**

At their meeting on November 15, 2018, the Planning Commission reviewed the proposed Plan Text Amendment and recommended its approval to the City Council.

Staff respectfully requests that the City Council consider the Planning Commission's recommendation and make a motion to approve PTA-18-0003 and direct staff to prepare an ordinance consistent with the proposed draft language for adoption on December 10, 2018.

### **EXECUTIVE SUMMARY:**

The Tualatin Development Code Improvement Project (TDCIP) is a three phase project that was authorized by City Council in 2017 to make updates to the Tualatin Development Code (TDC). Phase 1 (modernization) would be accomplished by adoption of the proposed amendments under consideration by the City Council. Phase 2 (policy development) would follow in early 2019 and Phase 3 (work program) would follow Phase 2.

**Tonight**, the project consultant and staff will provide a presentation (Attachment A) of the Phase 1 Code Clean-up and explain how PTA-18-0003 accomplishes the project goals set out for TDCIP Phase 1. Findings for PTA-18-0003 (Attachment B) and the proposed draft ordinance language (Attachment C) are included in the project packet for this meeting.

The following is a summary and procedural background of TDCIP Phase 1:

**Phase 1 Code Clean-Up:** A technical code clean-up of the TDC with the goal to improve the overall efficiency, internal consistency and readability of the code. The approach for this phase was intended as “policy neutral,” meaning that the amended code would result in the same built outcomes as the existing code.

Review of draft amendments to the TDC was sought from frequent users of this code. In addition, agency coordination was conducted and feedback was solicited from agencies on the proposed draft amendments. An open comment period was held online from September 7-21, 2018 utilizing Survey Monkey.

Public engagement included a Planning Commission Workshop on September 6, 2018 which included a presentation followed by live interactive polling, a question and answer period, and opportunity to fill out a public comment cards; A second open comment period was held online from October 10-24, 2018 utilizing Survey Monkey.

A Measure 56 Notice was mailed out to all property owners within the City of Tualatin Plan Boundaries on October 26, 2018 regarding TDCIP Phase 1 to ensure compliance with Oregon Revised Statue (ORS) 227.186. Notice was posted to the Department of Land Conservation and Development (DLCD) online notification system as required by that agency not later than 35 days prior to the first City Council Hearing (November 26, 2018).

A more detailed description of Meetings, Notices and Outreach conducted can be found in the Findings for PTA-18-0003 (Attachment B).

#### **OUTCOMES OF DECISION:**

A decision to approve PTA-18-0003 (TDCIP Phase 1), as proposed, would result in a subsequent hearing to consider adoption of an ordinance consistent with PTA-18-0003 at the December 10, 2018 City Council meeting. If adopted as proposed, an ordinance consistent with PTA-18-0003 would result in the following changes related to land use:

- Creates new provisions; Amends and adds new provisions to Tualatin Development Code Chapters 1, 2, 31, 32, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 62, 63, 64, 68, 74, 75, AND 80; Creates new Tualatin Development Code Chapters 39, 73A, 73B, 73C, 73D, 73E, 73F, AND 73G; and Repeals Tualatin Development Code Chapters 37 and 73.

A decision to approve PTA-18-0003, with Council Amendments, would result in a subsequent hearing to consider adoption of an ordinance consistent with PTA-18-0003, incorporating said amendments, at the December 10, 2018 City Council meeting

A decision to deny PTA-18-0003 would result in no changes being made to the TDC.

#### **ALTERNATIVES TO RECOMMENDATION:**

The City Council may vote to approve PTA-18-0003 with Council Amendments and direct staff to prepare an ordinance incorporating said amendments, for adoption on December 10, 2018. The City Council may vote to deny PTA-18-0003.

**FINANCIAL IMPLICATIONS:**

Not applicable.

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- Attachments:**    Attachment A - TDCIP Phase 1 - Presentation to City Council  
                          Attachment B - Findings for PTA-18-0003  
                          Attachment C - Proposed Draft Ordinance  
                          Attachment D - Public Comment  
                          Attachment E- Public Comment 2  
                          Attachment F- Summary of Proposed Revisions to Draft Ordinance

# Tualatin Development Code Improvement Project

TDCIP Phase 1

CITY COUNCIL HEARING

NOVEMBER 26, 2018



# Agenda

- Presentation from City staff and consultant
  - Project background and goals
  - Examples
  - Phase 1 Accomplishments
  - Public Engagement
- Recommendation
- Next Steps
- Q & A

# TDCIP Project

- Phase 1: Code Clean-Up
  - Goal: Improve the overall efficiency, internal consistency and readability of the code
- Phase 2: Outreach and Policy Review
  - Goal: Listen and identify concerns from the community regarding land use policies and regulations
- Phase 3: Work Program
  - Goal: Prioritize and organize Phase 2 suggestions into a multi-year path forward

# Phase 1: Code Clean-Up

## THIS...

- Clean-up and clarify
- Narrowly defined
- Formatting/legibility
- Primary focus on the Development Code Chapters 31-80
- Goal = “policy neutral”

## NOT THIS...

- Significant policy changes
- Extensive public outreach needed (advisory committees, etc.)
- Additional technical research required

# Phase 1 - Organize and Streamline Code

## TDC Chapters 1, 2 + 31-80

- **Improved Overall Organization**
  - Chapters and sections in a consistent structure and logical sequence
- **Streamlined Planning District Chapters with Tables**
  - Clearer structure and improved user friendliness for customers
- **Improved Language and Readability**
  - Clarified language, improved grammar and flow, resolved language conflicts
  - Updated to meet new legal requirements



# New Chapters and New Look

- **New Chapters: Procedures, Applications**
  - Simplified, clarified and consolidated information which was spread across multiple chapters
  - Improved the ability to efficiently administer the code
- **Standardized Use Categories**
  - New chapter organized uses into clear categories and explains and defines use characteristics in standardized manner
- **Fresh New Look**
  - Improved the visual and organizational appearance of the code

# BEFORE

## Chapter 61: Development Standards

### Section 61.050 Lot Size.

Except for lots for public utility facilities, natural gas pumping stations and wireless communication facility which shall be established through the Subdivision, Partition or Lot Line

Adjustment process, the following requirements shall apply:

- (1) The minimum lot area shall be 20,000 square feet.
- (2) The minimum lot width shall be 100 feet.
- (3) The minimum average lot width at the building line shall be 100 feet.
- (4) The minimum lot width at the street shall be 100 feet.
- (5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in [TDC 73.400\(8\) to \(12\)](#).
- (6) The minimum lot width at the street shall be 50 feet on a cul-de-sac street. [Ord. 866-92, 4/27/92; Ord. 965-96, 12/9/96]

### Section 61.060 Setback Requirements.

- (1) Front yard. The minimum setback is 30 feet. When the front yard is across the street from a residential or Manufacturing Park (MP) district, a front yard setback of 50 feet is required. When a fish and wildlife habitat area is placed in a Tract and dedicated to the City at the City's option, dedicated in a manner approved by the City to a non-profit conservation organization or is retained in private ownership by the developer, the minimum setback is 10 – 30 feet, as determined in the Architectural Review process, with the exception of front yards across the street from a residential or MP District, provided the buildings are located farther away from fish and wildlife habitat areas.
- (2) Side yard. The minimum setback is 0 to 50 feet, as determined through the Architectural Review process. When the side yard is adjacent to a property line or across the street from a residential or Manufacturing Park (MP) District, a side yard setback of 50 feet is required.
- (3) Rear yard. The minimum setback is 0 to 50 feet, as determined through the Architectural Review process. When the rear yard is adjacent to a property line or across the street from a residential or Manufacturing Park (MP) District, a rear yard setback of 50 feet is required.
- (4) Corner lot yards. The minimum set-back is the maximum setback prescribed for each yard for a sufficient distance from the street intersections and driveways to provide adequate sight distance for vehicular and pedestrian traffic at intersections and driveways, as determined through the Architectural Review process.
- (5) The minimum parking and circulation area setback is 5 feet, except when a yard is adjacent to public streets or Residential or Manufacturing Park District, the minimum setback is 10 feet. No setback is required from lot lines within ingress and egress areas shared by abutting properties in accordance with [TDC 73.400\(2\)](#).
- (6) No spur rail trackage shall be permitted within 200 feet of an adjacent residential district.
- (7) No setbacks are required at points where side or rear property lines abut a rail-road right-of-way or spur track.
- (8) No fence shall be constructed within 10 feet of a public right-of-way.
- (9) Setbacks for a wireless communication facility shall be established through the Architectural Review process, shall consider [TDC 73.510](#), shall be a minimum of 5 feet, and shall be set back from an RL District, or an RML District with an approved small lot subdivision, no less than 175 feet for a monopole that is no more than 35 feet in height and the setback shall increase five feet for each one foot increase in height up to 80 feet in height, and the setback shall increase 10 feet for each one foot increase in height above 80 feet. [Ord. 592-83 §99, 6/13/83; Ord. 621-84 §13, 2/13/84; Ord. 862-92 §42, 3/23/92; Ord. 904-93 §42, 9/13/93; Ord. 965-96 §75, 12/9/96; Ord. 1026-99 §85, 8/9/99; Ord. 1050-00 §9, 3/13/00; Ord. 1098-02, 2/11/02; Ord. 1224-06 §19, 11/13/06]

### Section 61.080 Structure Height.

- (1) Except as provided in TDC 61.080(2) - (4), no structure shall exceed a height of 60 feet and flagpoles which display the flag of the United States of America either alone or with the State of Oregon flag shall not exceed 100 feet above grade provided that the setbacks are not less than a distance equal to the flagpole height.
- (2) The maximum permitted structure height in TDC 61.080(1) may be increased to no more than 100 feet, provided that all yards adjacent to the structure are not less than a distance equal to the height of the structure.
- (3) Height Adjacent to a Residential District. Where a property line, street or alley separates MG land from land in a residential district, a building, flagpole or wireless communication support structure shall not be greater than 28 feet in height at the required 50 foot setback line. No building or structure, including flagpoles, shall extend above a plane beginning at 28 feet in height at the required 50 foot setback line and extending away from and above the setback line at a slope of 45 degrees, subject always to the maximum height limitation in TDC 61.080(1) and (2).
- (4) Wireless Communication Support Structure. The maximum structure height for a wireless communication support structure and antennas is 100 feet unless the wireless communication support structure and antennas are located within 300 feet of the centerline of I-5, in which case the maximum structure height is 120 feet. [Ord. 792-90 §6, 1/8/90; Ord. 965-96 §76, 12/9/96; Ord. 1026-99 §87, 8/9/99; Ord. 1046-00 §20, 2/14/00; Ord. 1116-02, 8/26/02]

# AFTER

## Chapter 61: Standards Table 61-2 (excerpt)

- Consolidates Development Standards
- Organizes for clarity and ease of understanding

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>LOT SIZE</b>		
Minimum Lot Size	20,000 sq. ft.	
<b>LOT DIMENSIONS</b>		
Minimum Lot Width	100 feet	When lot has frontage on public street, minimum lot width at the street is 100 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	....	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
Flag Lots	....	Must be sufficient to comply with minimum access requirements of TDC 73.410(7) - (12).
<b>MINIMUM SETBACKS</b>		
Front	30 feet	
Front Setback Adjacent to Residential or Manufacturing Park Zone	50 feet	
Side	0-50 feet	Determined through Architectural Review process. No minimum setback if adjacent to railroad right-of-way or spur track.
Side Setback Adjacent to Residential or Manufacturing Park Zone	50 feet	
Rear	0-50 feet	Determined through Architectural Review process. No minimum setback if adjacent to railroad right-of-way or spur track.

# New Chapter 32: Procedures (Table 32-1 excerpt)

- Consolidates Procedures-  
All in One Place
- New Table Format
- Procedure Types Added
- Review Process Depicted

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
Annexations						
• Quasi-judicial	TDC 32.260	CC	LUBA	Yes	Yes	TDC 33.010
• Legislative		CC	LUBA	No	No	TDC 33.010
Architectural Review						
• Architectural Review (except as specified below) (limited land use)	II	CM	ARB / CC	Yes	Yes	TDC 33.020
• Single Family Dwelling following Clear and Objective Standards • Minor AR including façade and landscape modifications	I	CM	Circuit Court	No	No	TDC 33.020
• Commercial Buildings 50,000 square feet and larger • Industrial Buildings 150,000 square feet and larger • Multifamily Housing Projects 100 units and above (or any number of units abutting a single family district) • as requested by the CM	III	ARB	CC	Yes	Yes	TDC 33.020
• Public Facilities Decision in conjunction with Architectural Review (limited land use)	II	CM	CC	Yes	Yes	TDC 33.020

# Phase 1: Accomplishments to Date

## ■ Initial Process – 2017

- Audit of TDC – completed March 2017
- Sample Chapter (Gen. Manufacturing) – completed April 2017
- City Council Work Session presentation – June 2017
- Planning Commission presentation – June 2017

## ■ TDC Code Clean-up Timeline - 2018

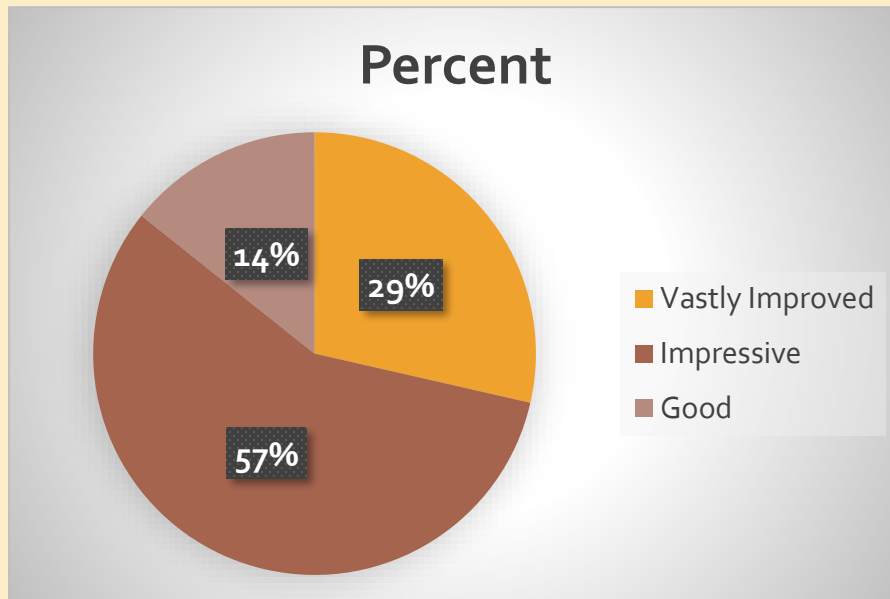
- Completed production on Public Draft Amendments - April 2018
- Provided City Council and TPC Project Updates – May 2018
- Coordinated with other Agencies – August 2018
- Completed four Draft Amendment iterations on TDC Chapters by October 2018
- Reviewed by frequent user group – August 2018
- TPC Workshop with multiple forms of public engagement – September 6, 2018
- City Council Work Session – October 8, 2018
- Recommendation on PTA-18-0003 from Planning Commission – November 15, 2018

# Public Engagement

- **Frequent Users Reviews** (online utilizing Survey Monkey) indicated positive support
- **Dept. of Land Use and Development (DLCD)** indicated strong support
- **Planning Commission Workshop, Sept. 6, 2018**
  - Live Interactive Polling (received positive feedback)
  - Question and Answer Session
  - Written and verbal public comment opportunity (received positive feedback)
- **Comment Periods** (online utilizing Survey Monkey)
  - First Comment Period held Sept. 7-21, 2018
  - Second Comment Period from Oct. 10-24, 2018

# Interactive Polling

- 5. To what degree **OVERALL** do you think the **Phase 1 Code Clean-Up** improves the overall efficiency, consistency and readability of the code?



# Notice on PTA# 18-0003, Draft Findings and Draft language

## October 2018

- **Notice to DLCD** was provided October 17 (more than 35 days before the first City Council Hearing)
- **Measure 56 Notice** was mailed out to property owners within the City's Planning Area Boundary in October (consistent with state-mandated legal requirements)



# Planning Commission Recommendation

The Tualatin Planning Commission has recommended that the City Council approve PTA-18-0003 consistent with the proposed draft ordinance language.

# Summary of Revisions in Response to Public Comment 2 (Attachment E)

- **Dangerous Substances:** Revises “Exceptions” under Sections 39.400(3), 39.410(3), 39.440(3), and 39.450(3); and “Dangerous Substances” under Section 63.058, to use existing “Prohibited Uses” language from Section 64.040(6).
- **Access:** No change proposed. The proposed language presently exists in Section 73.400(4) and has been moved to Chapter 75.
- **Accessory Use:** Revises to add phrase “in all zones.”
- **“Public Workshop and Storage Yard”:** Adds specific use as “Permitted” in Tables 60-1, 61-1, and 64-1.
- **“Machine shop”:** Revises and expands to include “automotive and truck” machine shop of 7,500 square feet or larger.
- **Scrivener's errors:** Minor edits to Sections 75.050(1), 75.110, and 75.120(3).

# Next Steps

- The City Council may accept the Planning Commission's recommendation and move to adopt PTA-18-0003, subject to the proposed revisions presented this evening, and direct staff to bring back an ordinance consistent with the proposed draft language, as amended, for adoption on December 10, 2018.
- Alternatively, the City Council may move to adopt PTA-18-0003 and direct staff to bring back an ordinance with additional/revised Council Amendments for adoption on December 10, 2018.
- The City Council may also move to deny PTA-18-0003.

# Thank you!

## Questions and Answers

**For more information:**

<https://www.tualatinoregon.gov/planning/tualatin-development-code-improvement-project-tdcip>

## **Tualatin Development Code Improvement Project (TDCIP) Phase 1 Code Update**

### **FINDINGS – PTA-18-0003**

#### **OVERVIEW**

Plan Text Amendment 18-0003 (PTA-18-0003) implements the recommendations of Phase 1 of the Tualatin Development Code Improvement Project (TDCIP), and is focused on identifying and proposing “policy neutral” amendments to the Tualatin Development Code (TDC). This includes proposed revisions to the City of Tualatin’s development regulations, Chapters 31-80 of the Tualatin Development Code (TDC), and minor changes to Chapters 1 and 2 of the Community Plan. The focus of the proposed amendments is improved readability, organization, and user friendliness of the TDC, and to improve the City’s ability to efficiently administer the code. The overriding objective of the Phase 1 amendments is to make improvements while preserving the general substance and policies of the current regulations in order to maintain development outcomes.

The proposed amendments:

- Reorganize chapters and sections into consistent structure and logical sequence;
- Streamline Planning District chapters through the use of tables and standardized Use Categories;
- Clarify language, improve grammar, resolve language conflicts, correct known errors and meet current legal requirements;
- Provide new chapters to simplify, clarify and consolidate information that is currently spread across multiple chapters; and
- Improve the visual and organizational appearance of the TDC.

#### **MEETINGS, NOTICE, OUTREACH & PUBLIC ENGAGEMENT**

##### **Tualatin City Council and Planning Commission Meetings, Work Sessions and Workshop with Staff and/or Consultant Presentations**

- 11/14/16 City Council Work Session - Tualatin Development Code Update - Project Framing
- 1/19/17 Planning Commission Meeting- Tualatin Development Code Update – Project Framing
- 6/12/17 City Council Work Session - Tualatin Development Code Improvement Project: Update Phase 1
- 6/15/17 Planning Commission Meeting - Tualatin Development Code Improvement Project: Update
- 5/17/18 Planning Commission Meeting - Tualatin Development Code Improvement Project: Phase 1 Update
- 5/29/18 City Council Work Session- Tualatin Development Code Improvement Project:

Update Phase 1

- 9/6/18 Planning Commission Workshop - Tualatin Development Code Improvement Project (TDCIP) Phase 1
- 10/8/18 City Council Work Session – Tualatin Development Code Improvement Project (TDCIP) Phase 1

### **TDCIP Phase 1 Notices to Interested Parties List**

**Notice #1:** Announcing Tualatin Planning Commission Workshop on September 6, 2018 emailed 08/16/18.

**Notice #2:** Reminder Notice Announcing Tualatin Planning Commission Workshop on September 6, 2018 and Comment Period for Sept 7-21, 2018 emailed 09/04/18.

**Notice #3:** Announcing City Council Work Session on October 8, 2018 and Comment Period for TDCIP Phase 1 October 10-24, 2018 emailed 10/02/18.

### **TDCIP Phase 1 Outreach and Public Engagement**

#### **Frequent Customers Tested Phase 1 Draft Amendment #3**

Phase 1 Draft Amendment #3 Tested by Frequent Users: Six frequent professional development code customers were invited to participate in a series of questions via Survey Monkey. Three of those customers participated in the survey and survey results were presented at the Tualatin Planning Commission Meeting on September, 6, 2018 and at the City Council Work Session on October 8, 2018. Results indicated support for the Draft Amendment #3 work.

#### **Tualatin Planning Commission Workshop September 6, 2018**

1. Large yellow public comment cards were placed at each participant's seat at the start of the Workshop.
2. Two bound sets (hard copies) of the draft development code and the existing code were available at the Workshop at the front door sign-in table.
3. A lively presentation was given about the work to date and results thus far of the Phase 1 Clean-up, showing before and after slides of key changes to the Development Code. The presentation included the results of the frequent customers survey mentioned above.
4. Live Interactive Polling was conducted following the presentation involving citizen participation using "clickers" to respond to five key questions about whether the Draft Amendment #3 work achieved the goals and objectives set out for TDCIP Phase 1 Code Clean-Up . The response choices were: 1. Vastly Improved 2. Impressive 3. Good 4. Fair 5. Low or 6. Don't Know. In the last summary style question, "To what degree do you think the Phase 1 Code Clean-Up improves the overall efficiency, consistency and readability of the code?" 57% of the participants chose the response

“Impressive, 29% chose the response “Vastly Improved” and 14% chose the response “Good.”

5. An interactive question and answer opportunity was held following the polling. Citizens were engaged and asked many questions and responses were provided by project consultant, Angelo Planning Group and were also written on large poster paper City staff to document the process.

### **Comment Periods for TDCIP Phase 1:**

1. A comment period was held via Survey Monkey from September 7-21, 2018. Notice was provided to the List of Interested Parties and on the project webpage on the City’s website for his comment periods.
2. A second comment period was held via Survey Monkey from October 10-24, 2018. Notice was provided to the List of Interested Parties and on the project webpage on the City’s website for this comment period.

### **Agency Coordination**

City staff reached out to six agencies (Department of Land Conservation and Development (DLCD), Washington County, Metro, TriMet, Oregon Department of Transportation (ODOT) and Clackamas County) and invited them to review the TDCIP Phase 1 Draft Amendment #3. Three of those agencies accepted (DLCD, Washington County and Metro) and one, DLCD, provided written comment at this stage that was included in the Planning Commission Workshop presentation on September 6, 2018. Results indicated strong support for the Draft Amendment #3 work from DLCD.

### **SUMMARY OF PROPOSAL**

Key changes proposed as part of Plan Text Amendment 18-0003 are summarized by Chapter below:

#### TDC Chapter 01: Administration Provisions

Sections 1.030 (Initiation of Amendments), 1.031 (Notice Requirements), and 1.032 (Burden of Proof) are proposed to be deleted to avoid creating conflicts with the new chapters. These requirements are now addressed in the new Procedures (Chapter 32) and Applications (Chapters 33). Some definitions were deleted to reduce conflicts and redundancy with definitions contained in Chapter 31 (Definitions).

#### TDC Chapter 02: Introduction

Minor grammatical changes and updated references are proposed. Section 2.050 was amended to delete a reference to the Urban Renewal Advisory Committee (URAC). Reference to the URAC in the City’s Comprehensive Plan is unnecessary as the URAC advises a separate government entity, the Urban Renewal Agency of the City of Tualatin, and is inactive.

#### TDC Chapters 03 – 30

No amendments are proposed for these Chapters.

#### TDC Chapter 31: General Provisions

The following modifications were made to this Chapter:

- Sections 31.020 – 31.050 amended to include a reference to the term “Zone” as equivalent to the City’s current term “Planning District.” Use of the term “Zone” is the more common usage. The table in TDC 31.020 was updated to include all zones within the City. The current table was missing some existing zones.
- Section 31.060 (Definitions) is reorganized and updated:
  - A number of closely related definitions were clustered into “Types” such as “Lighting Types”, “Lot Lines”, “Lot Types”, “Residential Structure Types”, “Setback/Yard Setback” and “Vehicle Types”.
  - All definitions for signs were moved to Chapter 38 (Sign Regulations).
  - All definitions for Landmarks were moved to Chapter 68 (Landmarks).
  - The definitions for types of Uses were moved to New Chapter 39: Use Categories.
  - Antiquated definitions or those not utilized in the TDC were deleted.
  - Some definitions were revised or added for clarification. For example: A definition of “zone” was added to 31.060 and the definition of “planning district” was amended to clarify that these two terms are used interchangeably. A definition of “pharmacy” was added for consistency with the new Use Categories Chapter (Chapter 39).
- Sections 31.063, 31.064, 31.067, and 31.071-31.078 are deleted. These requirements are now addressed in the new Procedures (Chapter 32) and Applications (Chapters 33).
- Section 31.065 contains a “Procedure for Council Recognition of a Neighborhood Association.” This section is deleted because Tualatin Municipal Code Chapter 11-9 addresses these organizations under Citizen Involvement Organizations (CIOs).
- Section 31.070 will remain in Chapter 31 but was updated to require notice to the City Council of “Interpretation of Code Provisions”.
- AMENDMENTS: Sections 31.080 – 31.092 (Amendments) are proposed to be deleted. These requirements are now addressed in the new Procedures (Chapter 32) and Applications (Chapters 33).
- FEES: Section 31.100 was updated to clarify that fees are determined by City Council resolution. Sections 31.101 (Commencement of Action by City) was deleted as the language was included in 31.100
- COMPLIANCE AND ENFORCEMENT: Section 31.105 was moved from Section 36.050 in order to apply it to the TDC generally rather than just the Subdivision Chapter. The current sections of Chapter 31 related to compliance and enforcement (including 31.030, 31.079, 31.110, 31.114,) were consolidated into Section 31.110 and updated to remove redundancy.
- Sections 31.111 was updated to reference the civil violation section in TMC 7-01 and increased the fine amount from \$500 to \$1,000 to reflect the current minimum fines, consistent with other chapters of the TMC.
- Section 3112 was updated to delete a reference to State District Courts as these no longer exist in state law.
- Section 31.113 was amended to use common terms.
- Section 31.120 Violations was deleted as redundant with TDC 31.111.

### TDC Chapter 32 – Development Review Procedures

This chapter is entirely new and creates a single chapter that contains all City procedures. This chapter incorporates procedures from current chapters, including Chapter 01 (Administrative



Provisions) and Chapter 31 (General Provisions). While the organization of the chapter is new, the substance of the requirements is consistent with current code requirements and practices. Changes were made to comply with State law. For example, ORS 227.180 requires the City to take final action on certain affordable housing projects within 100 days after the application is deemed complete. This requirement was included in the new procedures. The existing TDC Chapter 32 (Conditional Uses) is no longer contained in this Chapter and moved to Chapter 33 (Applications). Accessory Dwelling Units was added into Procedures Table 32-1 following adoption of Ordinance 1411-18 on July 23, 2018.

#### TDC Chapter 33 – Applications and Approval Criteria

This chapter is entirely new. It creates one chapter for all applications and the approval criteria within each application. It provides a uniform set of information for each of application type, including: (1) Purpose, (2) Applicability, (3) Procedure Type, (4) Specific Submittal Requirements, and (5) Approval Criteria. This chapter also codifies aspects of current practice, such as the Minor Architectural Review process. This chapter simplifies and clarifies existing application submittal requirements, such as Tree Removal Permit / Review. The provisions in existing TDC Chapter 33 (Variances) and TDC Chapter 32 (Conditional Use Permits) are contained in this chapter. This chapter is intended to work in conjunction with Chapter 32 (Procedures).

#### TDC Chapter 34: Special Use Regulations

This chapter includes use-specific regulations that are particular to certain types of uses, such as Home Occupations and Accessory Dwelling Units. While some of these uses are currently only allowed in one zone, others are allowed in many. The following modifications were made to this Chapter:

- Temporary uses and tree permit requirements were deleted and are now addressed in TDC Chapter 33 (Applications).
- Masonry “fence” (which is the term used for masonry wall) were deleted and moved to TDC Chapter 73G (Masonry Wall Standards).
- Transitional Uses was deleted.
- A new section on Religious Uses was added in compliance with State law.

#### TDC Chapter 35: Nonconforming Uses, Development, and Signs

This chapter was updated and replaces the existing TDC Chapter 35 (Nonconforming Uses, Structures and Signs) in its entirety. The current code mixes nonconforming uses, nonconforming development, and nonconforming lot issues into one. The new chapter separates each nonconforming “type” into its own section and evaluation criteria. This Chapter also updates the nonconforming wireless communication facility requirements to be consistent with federal law.

#### TDC Chapter 36: Subdivisions, Partitions, and Property Line Adjustments

This chapter was rewritten and reorganized and replaces the existing TDC Chapter 36 (Subdividing, Partitioning, and Property Line Adjustments) in its entirety. The updated chapter consolidates the many code sections into one section and process for each land division type. New sections were added, such as Replat and Manufactured Dwelling Park Subdivision Plans, to comply with state law. In addition, the following modifications were made to this Chapter:

- Section 36.050 (Interpretation, Conflict and Rules of Construction) is proposed to be moved to Ch. 31 so that it will apply to the TDC generally, not just land divisions.
- Section 36.410 (Small Lot Subdivisions in the RL and RML Zones) and Section 36.420 (Greenway and Natural Area Dedications in the RL Zone) were moved from the residential zone chapters to this chapter.
- All references to “City Engineer” were updated to “City Manager”.

#### TDC Chapter 37: Industrial Master Plan

This chapter was deleted in its entirety. The application requirements for an industrial master plan were moved to TDC Chapter 33 – Applications and Approval Criteria.

#### TDC 38: Sign Regulations

Cross-references were updated to the new Procedures (Chapter 32) and Applications (Chapter 33). References to the “Planning Director” and “Community Services Director” were updated to “City Manager”; and, a reference to the “Central Urban Renewal Areas Central Design District” was updated to the renamed “Central Tualatin Overlay District.” Sign-specific definitions were moved into this Chapter from Chapter 31 (General Provisions).

#### TDC Chapter 39: Use Categories

This is a new chapter and includes all new language. Each type of “general use” is given organized into a “use category” and then within each category are more particular use descriptors. For example, “Residential Uses” is its own category and within Residential Uses are “Household Living,” “Residential Accessory Uses,” and “Group Living.” The use categories and particular uses provide more detailed description what may be allowed within zoning districts. The use categories in this chapter are used in conjunction with the use table in each zoning district. Definitions for uses were moved to this Chapter from Chapter 31 (General Provisions), and:

- Antiquated use definitions or those not used in the TDC have been deleted.
- Some use definitions deleted because of conflicts with constitutional law.
- Some definitions have been revised or added to the TDC for clarification.

#### TDC Chapter 40: Low Density Residential (RL) Zone

This chapter replaces existing TDC Chapter 41 (Low Density Residential (RL) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

For example, regulations pertaining to Small Lot Subdivisions and Greenway and Natural Area Dedications were moved to TDC Chapter 36 (Subdivisions, Partitions, and Property Line Adjustments).

#### TDC Chapter 41: Medium Low Density Residential (RML) Zone

This chapter replaces existing TDC Chapter 41 (Medium Low Density Residential (RML) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each

use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 42: Medium High Density Residential (RMH) Zone

This chapter replaces existing TDC Chapter 42 (Medium High Density Residential (RMH) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 43: High Density Residential (RH) Zone

This chapter replaces existing TDC Chapter 43 (High Density Residential (RH) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 44: High Density High Rise Residential (RH-HR) Zone

This chapter replaces existing TDC Chapter 44 (High Density High Rise Residential (RH-HR) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 49: Institutional (IN) Zone

This chapter replaces existing TDC Chapter 49 (Institutional (IN) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 50: Office Commercial (CO) Zone

This chapter replaces existing TDC Chapter 50 (Office Commercial (CO) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 51: Neighborhood Commercial (CN) Zone

This chapter replaces existing TDC Chapter 51 (Neighborhood Commercial (CN) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 52: Recreational Commercial (CR) Zone

This chapter replaces existing TDC Chapter 52 (Recreational Commercial (CR) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 53: Central Commercial (CC) Zone

This chapter replaces existing TDC Chapter 53 (Central Commercial (CC) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 54: General Commercial (CG) Zone

This chapter replaces existing TDC Chapter 54 (General Commercial (CG) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 55: Mid-Rise Office Commercial (CO/MR) Zone

This chapter replaces existing TDC Chapter 55 (Mid-Rise Office Commercial (CO/MR) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 56: Medical Center (MC) Zone

This replaces existing TDC Chapter 56 (Medical Center (MC) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 57: Mixed Use Commercial Overlay District

No amendments are proposed.

TDC Chapter 58: Central Tualatin Overlay Zone

This chapter is new. Currently, the regulations that implement the Central Urban Renewal Area Plan are distributed throughout multiple zones including the Central Commercial (CC), General Commercial (CG), Office Commercial (CO), Light Manufacturing (ML), High Density Residential (RH), and High Density High Rise Residential (RH-HR). This complicates the base zone chapters and makes it difficult for users to understand. This new chapter integrates the entire regulations specific to the Central Tualatin Urban Renewal Area in one place to create an overlay zone chapter. To enhance usability, notes are provided in the base zone chapters to direct users to this chapter if their site is located in the Central Tualatin Overlay Zone. Consistent with the current TDC, if a use regulation or development standard is not modified in

the Central Tualatin Overlay, then the base zone regulation applies. The title of the chapter (“Central Tualatin Overlay Zone”) does not include “urban renewal area” because the urban renewal district is no longer active to eliminate possible confusion with Urban Renewal, which has separate legal requirements and provisions.

TDC Chapter 59 – Does not exist.

TDC Chapter 60: Light Manufacturing (ML) Zone

This chapter replaces existing TDC Chapter 60 (Light Manufacturing (ML) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 61: General Manufacturing (MG) Zone

This chapter replaces existing TDC Chapter 61 (General Manufacturing (MG) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC Chapter 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 62: Manufacturing Park (MP) Zone

This chapter replaces existing TDC Chapter 62 (Manufacturing Park (MP) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC Chapter 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapter 63: Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations

This chapter was updated to clarify its applicability and method of measurement, as well as what stored materials and waste materials are allowed. Section 63.058 (Dangerous Substances) was added to clarify the existing TDC prohibited uses in the Manufacturing Planning Districts.

TDC Chapter 64: Manufacturing Business Park (MBP) Zone

This chapter replaces existing TDC Chapter 64 (Manufacturing Business Park (MBP) Planning District) in its entirety. The chapter organizes the current code into a user-friendly table that lists permitted and conditional uses, as well as the development standards for each use. The descriptions of uses are contained in TDC 39 (Use Categories). Some regulations were moved to other chapters.

TDC Chapters 65; 66; and 67 do not currently exist.

TDC Chapter 68: Historic Preservation

This chapter was amended for consistency with the new Chapter 32 (Procedures 32) and Chapter 33 (Applications). The chapter was also amended to update and clarify language consistent with state law. Some of the key revisions are:

- Provisions required by state law regarding owner consent, 120-day Delay for Demolition or Modification Permit, and National Register Resource protection were added.
- The definitions pertaining to landmarks and historic preservation were moved to this Chapter from Chapter 31 (General Provisions)
  - Some definitions were updated/revised and some definitions were added for clarity or consistency with state law.
  - The definition for “Landmark” was clarified to be consistent with state definition for “locally significant historic resources”.
  - The definition for “Significant Historic Resource” was added and includes Landmark and National Register Resource to be consistent with state law.
- The Landmark List (previously titled Landmark Inventory which listed 26 landmarks) was updated to remove the 4 landmarks that were demolished in recent years including the Barngrover Barn built 1899, Nyberg House built 1905, Minnie Skog House built 1916 and Log Cabin on Childs Rd built 1930.
- A correction to an obvious error to the minimum requirement for age of a historic resource was made, changing it from less than 50 years to more than 50 years.

TDC Chapter 69: Industrial Business Park Overlay Planning District

No amendments are proposed to this chapter.

TDC Chapter 70: Flood Plain District (FP)

No changes are proposed to Chapter 70 at this time. Chapter 70 was recently updated by Ordinance No. 1413-18.

TDC Chapters 71 through 72 – No amendments are proposed.

TDC Chapter 73: Community Design Standards

Chapter 73 was modified to make it easier to read and breaks out each design requirement by its particular form. Former chapter 73 is reorganized into the following chapters:

- Chapter 73A – Site Design
- Chapter 73B – Landscaping Standards
- Chapter 73C – Parking Standards
- Chapter 73D – Waste Management and Recycling Standards
- Chapter 73E – Central Design District Standards
- Chapter 73F – Wireless Facilities Standards
- Chapter 73G – Masonry Wall Standards.

In addition, the following modifications were made to this Chapter:

- Sections 73.030 through 73.038 regarding the creation, qualifications, and work of the Architectural Review Board was deleted to eliminate inconsistencies as these provisions already exist in TMC 11-08 (Architectural Review Board).
- Sections 73.010, 73.020 and 73.040 through 73.095 related to the Architectural Review

Process were deleted. This information is now addressed in Chapter 32 (Procedures) and Chapter 33 (Applications).

- Wireless facilities standards which were previously repeated in all the zones were moved to Chapter 73F (Wireless Facilities Standards).
- Standards related to masonry walls were moved from Chapter 34 (Special Uses) to 73G (Masonry Wall Standards).
- Updating section names to avoid duplicate section names and changing “planning district” to “zone” and “Community Development Director” to “City Manager.”
- Some of landscape standards were moved to tables.

#### TDC Chapter 74: Public Improvement Requirements

This chapter is unchanged from the current version except for updates to change references from City Engineer to City Manager and minor grammatical changes.

#### TDC Chapter 75: Access Management

New language was added to current code provisions to clarify the intent of the chapter and provide clear requirements for permits and requirements. Amendments were made to specify the access management permits are a Type II permit under the City’s new Chapters 32 (Procedures) and Chapter 33 (Applications) process. Modifications were made to clarify the application requirements for the permit process. Some items not address include:

- Problems with the current code referencing specific business names and tax lots, e.g., GI Joes. Business can come and go and tax lot numbers can change. These provisions were not addressed in this amendment, but should be modified with future amendments.
- Some of the provisions in this chapter should be deleted and moved to the City’s Transportation Master Plan when future master plan updates occur.

TDC Chapters 76; 77; 78; and 79 do not currently exist.

#### TDC Chapter 80: Marijuana Facilities

The definition of marijuana was updated to reference the family Cannabaceae.

### **APPROVAL CRITERIA SECTION 1.032**

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below.

#### **1. Granting the amendment is in the public interest.**

Staff identifies that it is in the public interest to:

- a) Improve the readability, organization and user friendliness of the TDC’s land use regulations; and
- b) Improve the City’s ability to efficiently administer the TDC.

Updating the TDC was a Council priority to improve the understanding and administration of the TDC. Currently some chapters of the TDC are out-of-date and others were amended in a

piecemeal fashion over the years, resulting in land use regulations that are confusing and difficult to administer. The proposed amendments:

- Reorganize the TDC chapters and sections into consistent structure and logical sequence;
- Streamline Planning District chapters through the use of tables and standardized Use Categories;
- Clarify language, improve grammar and flow, resolve language conflicts, correct known errors and meet current legal requirements ;
- New chapters for Procedures and Applications to simplify, clarify, and consolidate information that is currently spread across multiple chapters; and
- Improve the visual and organizational appearance of the code.

Considerable care was taken in crafting the amendments to ensure development approved under the proposed updated TDC would be consistent with development approved under the current TDC. The new use classification system proposed in TDC Chapter 39 (Use Categories) defines each use categories allowed in the zoning districts. The use categories were defined to be consistent with the current lists of uses to the extent feasible. However, some of these use categories are broader than the specific use lists in the current code. As a result, additional limitations were placed on use categories within the use tables of the zones to be consistent with the uses allowed in the current TDC. Existing development standards, such as lot size, density, maximum height and setbacks, were moved into tables, but the substance of the standards was retained. The procedures for processing land use applications were updated for ease of administration but notice requirements and other processes are consistent with the current TDC or implement changes necessitate by changes in State law.

Therefore, granting the amendment is in the public interest, and Criterion “1” is satisfied.

## **2. The public interest is best protected by granting the amendment at this time.**

As discussed for Criterion “1” above, the objective of the proposed amendment is to improve the readability, organization, and user friendliness of the TDC’s land use regulations; and to improve the City’s ability to efficiently administer these regulations. Updating the TDC was a Council priority to enhance efficient government service to the public. The updated TDC will assist planning staff to facilitate the development review process and make it easier for all users to access information related to land use and development in the City of Tualatin. In addition, the City will begin Phase 2 of the TDCIP, which will focus on public outreach and policy review. Completing Phase 1 of the TDCIP prior to the conclusion of Phase 2 will aid in clarifying the policy issues for Phase 2 consideration. These conditions make the amendment timely.

Therefore, granting the amendment at this time best protects the public interest, and Criterion “2” is satisfied.

## **3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.**



Chapters 1 and 2 of the Tualatin Community Plan are proposed to be amended in Phase 1 of the TDCIP:

- TDC Chapter 01 (Administration Provisions) was amended to remove redundant information about procedures and applications and to remove redundant definitions.
- TDC Chapter 02 (Introduction) was amended to correct minor grammatical changes and update references. Section 2.050 was amended to reflect the current status of the Urban Renewal Advisory Committee (URAC) as inactive.

As discussed for Criterion “1” above, considerable care was taken to ensure development approved under the proposed updated TDC would be consistent with development approved under the current TDC. Existing development standards, such as lot size, density, maximum height and setbacks, were moved into tables, but the substance of the standards was retained. Because the proposed amendments to TDC Chapters 31 – 80 were written to be “policy neutral”, the updated chapters remain consistent with the policies related to planning districts and development in the Tualatin Community Plan (TDC Chapters 03 – 30).

Therefore, the proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan, and Criterion “3” is satisfied.

#### **4. The following factors were consciously considered:**

**The various characteristics of the areas in the City; the suitability of the areas for particular land uses and improvements in the areas;**

The updated TDC does not change the uses, densities, and/or intensities of development, or the applicable development and design standards of the current TDC. The updated TDC does not change development outcomes. Therefore, the suitability of areas for a particular land use or amendment to the Planning District Map is not proposed as a part of this amendment.

**Trends in land improvement and development; property values;**

This factor is not applicable as the proposed amendment would not result in legislative changes that would affect trends in land improvement and/or development.

**The needs of economic enterprises and the future development of the area;**

The proposed changes to the TDC will not affect the needs of economic enterprises and the future development of the area. However, the goals of the project to improve the readability, organization and user friendliness of the TDC’s land use regulations, and to improve the City’s ability to efficiently administer the TDC, will potentially benefit economic enterprises within the City of Tualatin by reducing transaction costs related to development.

**Needed right-of-way and access for and to particular sites in the area;**

The proposed amendment would not impact needed right-of-way and access for and to particular sites in the area. The amendment would not change the Transportation System Plan. Further, standards related to Public Improvement Requirements in TDC Chapter 74 and Access Management in TDC Chapter 75 will continue to apply.

**Natural resources of the City and the protection and conservation of said resources;**

The proposed amendment would not result in legislative changes to protection and conservation of natural resources in the City. The standards related to natural resources including Flood Plain District (TDC Chapter 70), Wetlands Protection District (TDC Chapter 71) and Natural Resource Protection Overlay District (TDC Chapter 72) will continue to apply.

**Prospective requirements for the development of natural resources in the City;**

The proposed amendment would not result in changes to prospective requirements for the development of natural resources in the City. The standards related to natural resources including Flood Plain District (TDC Chapter 70), Wetlands Protection District (TDC Chapter 71) and Natural Resource Protection Overlay District (TDC Chapter 72) will continue to apply.

**And the public need for healthful, safe, esthetic surroundings and conditions.**

The proposed amendment would not change current development requirements. However, the amendment would provide a benefit for healthful, safe, and esthetic surroundings and conditions as the amendment will make development requirements and standards clearer. This will provide a better understanding of development expectations and allow easier compliance with code requirements. The result will be enhanced healthful, safe, and esthetic surroundings and conditions.

**Proof of change in a neighborhood or area.**

The updated TDC does not change the uses, densities, and intensities of development, and does not change the applicable development and design standards of the current TDC. The updated TDC does not change development outcomes and therefore, the amendment does not change a neighborhood or area.

**Mistake in the Plan Text or Plan Map.**

The proposed amendment does include the correction of errors in the plan text. For example, in TDC Chapter 68 (Historic Preservation), a correction was made to an obvious error to the minimum requirement for age of a historic resource, changing it from less than 50 years to more than 50 years. Also, the Landmark List (previously titled Landmark Inventory which listed 26 landmarks) was updated to remove the 4 landmarks that were demolished. New sections were added to Chapter 36 (Subdivisions) to include provisions regarding Replat and Manufactured Dwelling Park Subdivision Plans, to comply with state law. Updates were also made to Wireless Facilities to comply with federal law.

All of the above factors were consciously considered; therefore, Criterion “4” is satisfied.

**5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity were considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.**

The proposed amendment does not result in a change to the Plan Map. The proposed amendment does not modify current residential densities or housing types. As a result, the amendment does not impact school district capacity. Criterion “5” is not applicable.

**6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).**

The Department of Land Conservation and Development (DLCD) has acknowledged the City’s Comprehensive Plan as being consistent with the statewide planning goals. As discussed for Criterion “1” above, considerable care was taken to ensure that development approved under the proposed updated TDC would be consistent with development approved under the current TDC. Existing development standards, such as lot size, density, maximum height and setbacks, were moved into tables, but the substance of the standards was retained. Because the proposed amendments to TDC Chapters 31 – 80 were written to be “policy neutral”, the updated chapters remain consistent with the statewide planning goals.

No map amendments or amendments to residential densities or housing types or to intensities of permitted non-residential uses are proposed; therefore, the amendments will have no impact on transportation facilities.

The PTA is consistent with the State of Oregon Planning Goals and applicable Oregon Administrative Rules; therefore, Criterion “6” is satisfied.

**APPLICABLE STATEWIDE PLANNING GOALS**

**1. CITIZEN INVOLVEMENT Goal 1 requires each city and county to have a citizen involvement program. OAR 660-015-0000(1)**

Findings: The City, through the Tualatin Development Code has created proper procedures to ensure citizens the opportunity to have input in any proposed text amendment. Opportunities for public input will be available in the hearings process prior to action on this proposal. Notification of this proposal and hearing is detailed above.

The proposed PTA includes a new Procedures Chapter (TDC Chapter 32). This chapter retains the notification requirements established in the current Tualatin Development Code. These requirements meet or exceed the State requirements for notice of a land use decision or land use hearing.

The City has therefore met its obligation of providing for Citizen Involvement under Statewide Planning Goal 1, as defined through the City’s adopted procedures, and as those procedures are proposed to be amended.

This Goal and applicable OAR are satisfied.

**2. LAND USE PLANNING Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that**

**plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. OAR 660-015-0000(2)**

Findings: The proposed PTA includes a new Procedures chapter (TDC Chapter 32). This chapter more clearly outlines the processes applicable to land use decisions and the requirements for the notification of other affected jurisdictions and agencies. In addition, the Procedures chapter has been updated to reflect changes in state law related to the length of time a jurisdiction may take in reviewing certain affordable housing projects (100 days rather than 120 days).

By clarifying and updating these requirements, the Procedures chapter will help ensure compliance with Goal 2.

This Goal and applicable OAR are satisfied.

## **5. OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES**

**Goal 5 establishes a process for each resource to be inventoried and evaluated. OAR 660-015-0000(5) and OAR 660.023 (Procedures and Requirements for Complying with Goal 5)**

Findings: There are no text or map changes that modify the City's existing open space and natural resources requirements. The proposed PTA does not include any map changes or changes to the regulations for those Goal 5 resources regulated by TDC Chapter 71 (Wetlands Protection District) and TDC Chapter 72 (Natural Resource Protection Overlay District). The proposed amendment does modify the City's Historic Resources provisions, but does not modify the process for each resource to be inventoried and evaluated. The proposed amendments include changes to TDC Chapter 68 (Historic Preservation). This Chapter is proposed to be modified to update and clarify language consistent with state law. Some of the key revisions include:

- Provisions required by state law regarding owner consent, 120-day Delay for Demolition or Modification Permit, and National Register Resource protection were added.
- The definitions pertaining to landmarks and historic preservation were moved to this Chapter from Chapter 31 (General Provisions)
  - Some definitions were updated/revised and some definitions were added for clarity or consistency with state law.
  - The definition for "landmark" was clarified to be consistent with state definition for "locally significant historic resources".
  - The definition for significant historic resource was added and includes Landmark and National Register Resource to be consistent with state law.
- The Landmark List (previously titled Landmark Inventory which listed 26 landmarks) was updated to remove the 4 landmarks that were demolished in recent years including the Barngrover Barn built 1899, Nyberg House built 1905, Minnie Skog House built 1916 and Log Cabin on Childs Rd built 1930.

- A correction to an obvious error to the minimum requirement for age of a historic resource was made, changing it from less than 50 years to more than 50 years.

These proposed amendments to TDC Chapter 68: Historic Preservation will help ensure that Goal 5 Historic Resources are protected appropriately, and in a manner consistent with state law.

This Goal and applicable OARs are satisfied.

**6. AIR, WATER AND LAND RESOURCES QUALITY. This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution. OAR 660-015-0000(6)**

Findings: The City's existing standards related to water quality resources will continue to apply. The proposed PTA does not include any text or map changes or changes to the regulatory approach for water quality resources regulated by TDC Chapter 71 (Wetlands Protection District) and TDC Chapter 72 (Natural Resource Protection Overlay District). No changes are proposed to the public facility requirements in Chapter 74 related to water quality, storm water detention and erosion control.

The PTA does include proposed changes to TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations) to clarify current regulatory requirements. The proposed changes to TDC Chapter 63 (Manufacturing Environmental Regulations) clarify the applicability of current regulations involving air, noise, vibration, odors, and other environmental regulation. The proposed amendments also clarify the method of measurement to ensure better knowledge of compliance requirements. In addition, the proposed amendments clarify which stored materials and waste materials are allowed.

These changes will enhance the City's ability to protect air and water quality. The proposed amendments are consistent with Goal 6.

This Goal and applicable OAR are satisfied.

**7. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS Goal 7 deals with development in places subject to natural hazards such as floods or landslides. OAR 660-015-0000(7)**

Findings: The City's existing standards related to natural hazards will continue to apply. The proposed PTA does not include any map or text changes or changes to the regulatory approach for the Flood Plain District (TDC Chapter 70).

This Goal and applicable OAR are satisfied.

**8. RECREATION NEEDS. This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. OAR 660-015-0000(8) and OAR 660.034 (State and Local Park Planning)**

Findings: The proposed amendments do not impact the current policy goals and regulatory requirements relating to recreational facilities. The proposed requirements enhance and clarify the current requirements to make them easier to understand.

The PTA does not include any changes to TDC Chapter 15 (Parks and Recreation) or to the location or size of any existing or future parks and open space facilities. TDC Chapter 39 (Use Classifications) of the PTA includes two related institutional use categories:

*Section 39.600 – Greenways and Natural Areas.*

*Section 39.610 – Parks and Open Areas.*

Consistent with the existing TDC, the PTA identifies Greenways and Natural Areas as a permitted use in all zones except Medical Center Planning District (MC). Parks and Open Areas are not permitted in the industrial and manufacturing zones. Parks and Open Areas are generally permitted or permitted with limitations or conditional use approval in commercial and residential zones, although there are specific exceptions that may apply. For example, in the Low Density Residential (RL) Zone permitted uses are limited to public parks and playgrounds and conditional uses are limited to golf course or country clubs with a golf course. These limitations in the use tables are intended to maintain consistency with the existing TDC.

This Goal and applicable OARs are satisfied.

**9. ECONOMY OF THE STATE Goal 9 asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs. OAR 660-015-0000(9) and OAR 660-009 (Economic Development)**

Findings: The PTA does not include any changes to TDC Chapter 6 (Commercial Planning Districts) or TDC Chapter 7 (Manufacturing Planning Districts). The proposed amendments do not impact the inventory of commercial and industrial lands. The proposed amendments do not rezone any land uses and there are no changes proposed to the boundaries of lands zoned for commercial and industrial uses, as indicated on the City's adopted Planning District Map. The types of commercial and industrial uses and overall intensities of use in the current code will continue to be permitted under the proposed amendments. Therefore, the PTA will not impact the City's current or future need for commercial and industrial land.

This Goal and applicable OARs are satisfied.

**10. HOUSING This goal specifies that each city must plan for and accommodate housing types, such as multifamily and manufactured housing. It also prohibits local plans from discriminating against needed housing types. OAR 660-015-0000(10), OAR 660-007 (Metropolitan Housing) and OAR 660-008 (Interpretation of Goal 10 Housing)**

Findings: The proposed amendments do not impact the current policy goals and regulatory requirements relating to housing. The proposed amendments do not propose

changes to the Plan Map for residential lands. All residential uses currently in existence will continue to be allowed.

The PTA does not include any changes to TDC Chapter 5 (Residential Planning Districts). No changes are proposed to the boundaries of lands zoned for residential uses as indicated on the City's adopted Planning District Map. The types of residential uses, and the density and intensities of such development, permitted today by the current TDC within the various residential and mixed-use zoning districts will continue to be permitted by the updated TDC.

The proposed amendments include changes relating to Accessory Dwelling Units consistent with state law mandates (e.g., changes to ORS 227.180 that require the City to take final action on certain affordable housing projects within 100 days after the application is deemed complete). The proposed amendments also clarify the subdivision process, consistent with state law. The proposed code clarifications enhance the City's compliance to provide clear and objective standards for housing and thus comply with Goal 10 and the applicable OARs.

This Goal and applicable OARs are satisfied.

**11. PUBLIC FACILITIES AND SERVICES Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. OAR 660-015-0000(11) and OAR 660-011 (Public Facilities Planning)**

Findings: The PTA does not include any changes to TDC Chapter 8 (Public, Semi-Public and Misc. Land Uses), TDC Chapter 12 (Water Service), TDC Chapter 13 (Sewer Service) or TDC Chapter 14 (Drainage Plan and Surface Water Management). No changes are proposed to the public facility requirements in TDC Chapter 74 (Public Improvement Requirements). Public service uses, such as fire stations, are permitted in the proposed zoning chapters in a manner consistent with the current TDC. The PTA does not include any map amendments or amendments to residential densities or housing types or to the type or intensities of permitted non-residential uses; therefore, the PTA will have no impact on demand for public facilities and services.

This Goal and applicable OARs are satisfied.

**12. TRANSPORTATION The goal aims to provide "a safe, convenient and economic transportation system" and the Oregon Administrative Rules. OAR 660-015-0000(12) and OAR 660-012 (Transportation Planning Rule)**

Findings: The Transportation Planning Rule requires certain actions if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility. The PTA does not include any changes to TDC Chapter 11 (Transportation) or the transportation standards in TDC Chapter 74 (Public Improvement Requirements) or TDC Chapter 75 (Access Management). No changes are proposed to the boundaries of lands zoned for residential uses or non-residential uses as indicated on the City's adopted Planning District Map. The types of residential and non-residential uses, and the density

and intensities of such development permitted today by the current TDC within the various zoning districts, will continue to be permitted by the updated TDC. Therefore, the PTA will have no impact on the provision of, or demand for, transportation facilities.

This Goal and the applicable OAR are satisfied.

**13. ENERGY Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles." OAR 660-015-0000(13)**

Findings: The PTA does not include any changes to the boundaries of lands zoned for residential uses or non-residential uses as indicated on the City's adopted Planning District Map. The types of residential and non-residential uses, and the density and intensities of such development permitted today by the current TDC within the various zoning districts, will continue to be permitted by the updated TDC. Therefore, the PTA is not expected to impact the City's jobs/housing balance or other factors which affect energy consumption.

This Goal and applicable OAR are satisfied.

**14. URBANIZATION This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. OAR 660-015-0000(14) and OAR 660-024 (Urban Growth Boundaries)**

Findings: The PTA does not include any changes to TDC Chapter 4 (Community Growth). No changes are proposed to the boundaries of lands zoned for residential uses or non-residential uses as indicated on the City's adopted Planning District Map. The types of residential and non-residential uses, and the density and intensities of such development permitted today by the current TDC within the various zoning districts, will continue to be permitted by the updated TDC. Therefore, the PTA is not expected to impact the City's current or future need for land.

This Goal and applicable OARs are satisfied.

**7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.**

The City of Tualatin is currently in compliance with the applicable provisions of the Urban Growth Management Functional Plan. As discussed for Criterion "6" above, because the proposed amendments to TDC Chapters 31 – 80 were written with the intention of being "policy neutral", the updated chapters remain consistent with current policies and practices except as necessary to comply with updates to State law. No amendments are proposed which would take the City of Tualatin out of compliance with the Urban Growth Management Functional Plan.

The PTA is consistent with the Urban Growth Management Functional Plan; therefore, Criterion "7" is satisfied.



**8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.**

The proposed amendments do not change the Plan Map or development densities. The proposed amendments do not change housing types or the intensities of permitted non-residential uses. The proposed amendment does not modify street standards. As a result, As the PTA will have no impact on transportation facilities or vehicle trip generation. Criterion "8" is not applicable.

**9. Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.**

The proposed amendments do not change the Plan Map or development densities. The proposed amendments do not change housing types or to the intensities of permitted non-residential uses. The proposed amendment does not modify water, sewer, or stormwater standards. As a result, As the PTA will have no impact public facilities standards related to potable water, sanitary sewer, or surface water management. Criterion "9" is not applicable.

**10. The applicant has entered into a development agreement.**

The PTA is initiated by staff. Criterion "10" is not applicable.

ORDINANCE NO. XXXX-18

AN ORDINANCE RELATING TO LAND USE, CREATING NEW PROVISIONS; AMENDING AND ADDING NEW PROVISIONS TO TUALATIN DEVELOPMENT CODE CHAPTERS 1, 2, 31, 32, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 62, 63, 64, 68, 74, 75, AND 80; CREATING NEW TUALATIN DEVELOPMENT CODE CHAPTERS 39, 58, 73A, 73B, 73C, 73D, 73E, 73F, AND 73G; AND REPEALING TUALATIN DEVELOPMENT CODE CHAPTER 37 and 73.

WHEREAS, the Tualatin Development Code (TDC) provides the land uses and development requirements in the City;

WHEREAS, the City wishes to updated the TDC to improve the overall organization, efficiency, consistency, clarity and readability, and to make the code easier to use and understand; and

WHEREAS, the Council finds the changes provided by this Ordinance are necessary and in the public interest to streamline processes, clarify development standards, and make changes to comply with State law requirements.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

**SECTION 1. TDC Chapter 1 (Administrative Provisions).** TDC Sections 1.030, 1.031, and 1.032 are deleted in their entirety. TDC Section 1.010 and 1.020 are amended to read as follows:

**Section 1.010 – Interpretation.** Where differences of interpretation occur exist between the Plan Map and Plan Text, the Plan Map ~~shall be controls~~ the sole expression of Plan intent unless otherwise determined by the City Council.

**Section 1.020 – Definitions.**

*Acre.* A measure of land area containing 43,560 square feet. Gross Acreage is the land area within the lot lines of a unit of land. Net Acreage is the land area within the lot lines of a ~~tax lot~~ unit of land after removing land for rights-of-way and tracts.

~~*Aesthetics.* A branch of philosophy dealing with beauty and judgments concerning beauty.~~

*Annexation.* The formal act of adding land to the corporate limits of a City.

*Buildable Lands.* Land within an Urban Growth Boundary that is vacant, has access to public streets, water and sewer services, and is not subject to natural hazards such as flooding, landslides, etc.

*City.* The City of Tualatin, Oregon; a municipal corporation.

*Conditional Use.* A land use category in a Planning District for land uses that may have an adverse impact on other land uses within that district. These uses require special approval procedures and may have conditions attached to their approval so they can be made compatible with surrounding land uses.

*Dedication.* The act of permanently devoting a portion of private land to a public purpose ~~such as,~~ which includes but is not limited to, road right-of-way or a public park.

Density

- ~~Density, Residential, Gross.~~ Gross Residential Density. Gross Residential Density is the number of dwelling units per gross acre. See also Acre.
- *Housing Density.* The number of dwelling units per acre of land rounded to the nearest whole number.
- ~~Density, Maximum Net~~ Net Density. Maximum net density applies only to partition, subdivision, and architectural review applications reviewed through the Expedited Process set forth in House Bill 3065, Sections 6-11, 1995 Legislature, and is the land area within the lot lines of a unit of land after land has been removed for rights-of-way and tracts. House Bill 3065's reference to 80 percent of maximum net density in Section 7(1)(a)(E) is calculated by taking the gross acreage and subtracting land removed for rights-of-way and tracts and multiplying that net acreage figure by the maximum allowed density and then multiplying that figure by 80 percent.
- ~~Density, Residential, Net.~~ Net Residential Density. Net Residential Density is the number of dwelling units per net acre. See also Acre.

*Design Standards.* Specific defined criteria formulated to guide the preparation of plans for buildings, landscaping, parks, etc.

*Development Agreement.* An agreement between the City and a developer that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, improvements, and any other mutually agreed to terms and requirements.

*Floodplain.* See, TDC Chapter 70 (Floodplain District) ~~Land adjacent to a water course that is covered with water during periods of flooding; normally defined as an area of land inundated by a flood having a one percent chance of occurring in any year.~~

*Grade Crossing.* A crossing of highways, railroad tracks, or pedestrian walks, or combinations of these at the same ground elevation.

*Greenway.* A naturally landscaped ~~strip~~ area of land usually located adjacent to watercourses and roadways.

*Growth Controls.* A combination of regulations, public policy, and capital expenditures designed to either limit growth or to direct growth into specific geographic areas.

*Historic Resource.* See Chapter 31 and 68 definitions.

*Housing Starts.* The number of building permits issued for the construction of dwelling units for a specific period of time.

*Land-Extensive.* An industrial use characterized by large storage areas or large land areas needed for manufacturing processes and relatively few employees per acre.

*Land Use Intensity.* The relative concentration or activity generated on a parcel of land by a specific land use.

*Moratorium.* A temporary deferment or delay of construction activity, usually based on the lack of adequate capacity for public facilities such as schools, roads, and sewer and water systems.

*Multi-Mode Transportation.* A mix of transportation forms usually integrated as a system.

*Official Map.* A legislatively adopted map indicating the exact location of public improvements such as streets, with the purpose of prohibiting uses within these locations that would prohibit future municipal use of the location.

*Peak Hour.* A specific period of time at which traffic counts are highest.

*Planning District.* See Chapter 31 definitions.

*Right-of-Way.* A strip of land reserved for public uses, which includes but is not limited to roadways, sewer facilities, and water facilities, and stormwater facilities.

*Transportation Mode.* A form of transportation such as the automobile mode, bus mode, light rail mode, etc.

*Truck Route.* A selected course of travel for trucks, primarily intended to route trucks away from residential neighborhoods.

*Unincorporated Land.* Land not within the corporate or city limits of a city.

*Urban Growth Boundary.* An adopted line at or outside the current City limits defining an area that would accommodate future City growth.

*Urban Growth Management Agreement (UGMA).* An agreement between the City and Clackamas County establishing a process for coordinating comprehensive planning and

development in a geographically defined area composed of both area within city limits and unincorporated properties.

*Urban Planning Area Agreement (UPAA)*. An agreement between the City and Washington County establishing a process for coordinating comprehensive planning and development in a geographically defined area composed of both area within city limits and unincorporated properties.  
of State Lands to be wetlands.

**SECTION 2. TDC Chapter 2 (Introduction) is amended to read as follows:**

**Section 2.010 – Background.**

(1) The City of Tualatin's first Comprehensive Plan was adopted in 1972, 59 years after the City was incorporated in 1913. In 1975, the City adopted a plan for the City's Urban Renewal Area, and then produced a more detailed Renewal Plan in 1977. Since the adoption of the 1972 Plan, the City has seen rapidly changing circumstances that have created the need for a revised plan. These circumstances included the establishment of the State Land Conservation and Development Commission (LCDC), adoption of the Statewide Planning Goals, annexation of most of the industrial area west of the City in 1982, and accelerated economic development that has occurred since 1972 in the Tualatin area.

(2) In 1973, the Oregon Legislature passed a law establishing the Land Conservation and Development Commission (LCDC) and empowered the Commission to adopt Statewide Planning Goals. The Legislature also required all Oregon cities and counties to adopt plans and ordinances in conformance with the statewide goals and to coordinate their plans with each affected local general purpose government or special district. Each city or county also had to prepare a plan that considered state and federal government programs. To help each local government prepare a plan to meet the planning goals, the State Legislature allocated considerable sums of money to provide planning grants to the local jurisdictions. This planning effort has been achieved by using some of those grant funds.

(3) While the Statewide Planning Goals were being formulated, the nation was recovering from an economic recession. Tualatin was only beginning to feel the double impact of renewed economic growth. At the same time, development of the metropolitan urban fringe finally ~~met~~ reached and ~~passed~~ went beyond Tualatin's border. Because of these factors, the City is now experiencing an unprecedented development boom that must be guided by an adequate plan that will ensure the long-term livability of the City. While the 1972 Plan was adequate for its time, a new plan, building on the strengths of the old plan, was necessary to provide an adequate guide for current and future City growth.

(4) After six years of work, Tualatin adopted a revised comprehensive plan on October 22, 1979, which, with amendments, was acknowledged as being in compliance with the Statewide Goals and Guidelines by the LCDC on September 24, 1981.

(5) The Tualatin Plan is unique in that it involves a single document integrating both the traditional comprehensive plan and zoning ordinance into a single development code. This direction is followed in the land use mapping by having only one map with

planning districts rather than a zone map and a plan map. With this approach, Tualatin ~~has given~~ provides a very strong legal authority to its planning programs.

(6) The 1979 Tualatin Plan dealt with land, both within the City limits and in the unincorporated area, out to the Metropolitan Service District (METRO) Urban Growth Boundary (UGB). However, the acknowledgement of the plan by the LCDC was only for the City limits. Therefore, the 1979 plan was termed "complementary" in that it dealt only with land inside the limits and left the growth areas reaching to the UGB to Washington County for detailed planning and administration. It was the County's responsibility to finalize the plan for this area so that it could be acknowledged by the LCDC.

(7) Planning responsibility shifted to the City with the October 1982 annexation of most of the Industrial Planning Area. At that time, Tualatin and Washington County agreed that the City would assume planning responsibility for the unincorporated balance of the planning area. In order to fulfill this responsibility, the City prepared two separate land use plan amendments, one for the newly annexed industrial area and another for the unincorporated, predominantly residential balance of the planning area. At the same time, the City prepared updates ~~of~~ to the Transportation and Sewer and Water elements of the Public Facilities Plan. These three amendments, ~~scheduled for adoption~~ adopted in 1983, were intended to bring the total plan into "active" status. This ~~means~~ meant that the City ~~has taken~~ was taking authority for its own growth lands and planning for those lands so that they can be integrated into one community.

(8) Map 9-2 shows the Western Industrial District, the Industrial Planning Area, and the individual industrial areas.

(9) Map 9-2 shows the individual Residential Planning Areas.

(10) The Northwest Tualatin Concept Plan technical document development occurred in 2004/05 based on a Metro Urban Growth Boundary expansion in December 2002. The concept plan focus is on industrial uses and related public infrastructure.

(11) The Southwest Tualatin Concept Plan (SWCP) technical document was accepted in October 2010 based on a Metro Urban Growth Boundary expansions in December 2002 and June 2004, and the ~~473~~ 117 acre "Knife River Urban Reserve". The concept plan for industrial development of 615 acres of land in the southwestern corner of Tualatin is based on Metro Urban Growth Management Functional Plan (MUGMFP) Title IV Industrial Land Policy, Title XI Planning for New Urban Areas, a Metro Regionally Significant Industrial Area (RSIA) designation, and other conditions in Metro Ordinances specific to the SWCP area. The SWCP focuses on industrial uses and related public infrastructure. The SWCP requires a minimum of one 100 acre and one 50 acre parcel for industrial development within the properties designated as RSIA and provides for a limited commercial area in the properties north of SW Blake Street that is intended as local services for SWCP industrial facilities and employment.

### **Section 2.020 – Purpose.**

(1) The general purpose of this Plan is to guide the physical development of the City so as to preserve the natural beauty of the area while accommodating economic growth. Specifically, the Plan is intended to define locations for both private and public land uses and to arrange these uses in a manner that reduces conflicts and provides

convenient movement between individual land uses. The Plan is also intended to provide for diverse living and working environments of the highest quality.

(2) When adopted by the City Council, this Plan and the City's Urban Renewal Plan will be an official land use guide for City development. ~~There shall be, at no time after~~ After the adoption of this Plan, there will not be the construction of any building, structure or use, used or occupied contrary to the provisions of this Plan.

### **Section 2.030 – Plan Format.**

(1) The format is intended to organize the Code's content into a logical sequence. The first chapter contains ~~general administrative provisions including interpretation, amendment procedures, and definitions of planning terms that are jargon or are difficult for lay people to understand.~~ Chapter 2 provides general background on the reasons for the plan revision, explains the plan's format, and discusses matters such as citizen involvement and agency coordination. Chapter 3 provides a description of the data that was generated as a part of the planning process and was used to provide an objective analysis of planning alternatives.

(2) Chapter 4 discusses general community growth and describes growth characteristics. It also defines community growth objectives. The next four chapters deal specifically with individual land use categories, providing rationale for their location and explaining their purpose.

(3) Chapter 9 contains the plan map and shows the specific location of private and public land uses. It also provides a graphic description of the City's Urban Growth Boundary, and also provides a narrative description of each plan area.

(4) Chapter 10 provides a description of community design objectives relating to the physical appearance of the City.

(5) Chapters 11 through 15 comprise the public facilities element of the plan. Subjects addressed include transportation, water service, sewer service, and parks and recreation.

(6) Chapter 16 provides objectives relating to the preservation of the City's identified historic landmarks.

(7) Chapter 20 provides objectives related to sign design.

(8) Chapters 40 through 74 80 contain the Planning District Standards. These Standards are equivalent to what is generally referred to as a "Zoning Ordinance" in most cities and counties. Under the system adopted by the City of Tualatin, the traditional comprehensive plan map and zoning map have been combined into a single map, and what used to be called "zones" are referred to as planning districts.

### **Section 2.040 – Planning Area Description.**

(1) The beginning of any planning effort includes a definition of the area to be studied. This planning effort studied an area that is described on the Plan Map in Chapter 9 and referred to as the Study Area.

(2) Subsequent modifications to the original Study Area include Urban Reserve Area 43 in 1998 and the Northwest Tualatin Concept Plan (2005) areas.

(3) The study area corresponds to the Urban Growth Boundary (UGB) adopted by the Columbia Region Association of Governments (CRAG) in 1976 or as modified by Metro in 1981, 1986, 1991, 1998, 2002 and 2004. In the eastern and southern portions of the

City the line follows the 1976 UGB and the Metro 2002 and 2004 UGB Expansion Decision and the Urban Reserve recommended by Metro in 2010. The western portion of the Study Area corresponds to a line generally following Cipole Road, Pacific Highway and the Bonneville Power Administration right-of-way, while the northern portion of the Study Area follows the natural divide of the Tualatin River and the political boundaries of the cities of Durham, Tigard, Lake Oswego and Rivergrove.

### **Section 2.050 – Citizen Involvement.**

(1) The first Statewide Planning Goal is the Citizen Involvement Goal. This goal provides that each community must adopt, implement and periodically review a citizen involvement program. In 1976 the Tualatin City Council appointed a 7 member Committee for Citizen Involvement (CCI) to draft a Citizen Involvement Program. This program was adopted by the City Council on April 12, 1976, and has been the basis for the City's citizen involvement activities. After the adoption of the Citizen Involvement Program, the City Council formed two new advisory committees to provide recommendations to the Council on planning matters. These new groups were the Tualatin Planning Advisory Committee (TPAC), which became the Planning Commission in 2012, and the Urban Renewal Advisory Committee (URAC). URAC provides planning assistance to the Tualatin Development Commission on matters within the Urban Renewal Area, and the Planning Commission provides planning recommendations for the general community.

(2) The City Council transferred the Citizen Involvement Program responsibility to the Tualatin Planning Advisory Committee in 1976. This responsibility was transferred to the Tualatin Planning Commission in 2012.

(3) Another advisory group influencing the plan is the Tualatin Park Advisory Committee (TPARK). This committee over-see's the City's park and recreation programs and thus has an interest in the park and recreation element of the Public Facilities Plan, which is also reflected on the community's General Land Use Plan. Both TPAC (changed to the Tualatin Planning Commission) and TPARK have met regularly to review the plan proposals and to take actions recommending this plan to the City Council. Meeting minutes and ~~tape~~ recordings are available for public review at the Tualatin City Hall. The powers, duties and organizational structure of TPAC (changed to the Tualatin Planning Commission) and TPARK are described ~~below~~ in the Tualatin Municipal Code.

### **Section 2.080 – Agency Coordination.**

(1) Numerous public agencies have been involved in the planning process. This Plan, as well as Phase I Technical Memoranda, the data base for this Plan, and subsequent modifications to this Plan, ~~have been~~ were sent to the following public agencies for comment. This coordination is required by statewide planning legislation, and agency comments are on file at the Tualatin City Hall.

- (a) Land Conservation and Development Commission.
- (b) Columbia Region Association of Governments.
- (c) Metropolitan Service District (Metro).
- (d) Portland Metropolitan Area Local Government Boundary Commission.
- (e) Tri-Met.
- (f) Washington County Planning Commission.



- (g) Clackamas County Planning Commission.
  - (h) Cities of Durham, Lake Oswego, Rivergrove, Sherwood, Tigard, Wilsonville.
  - (i) Tigard-Tualatin School District 23 J.
  - (j) Sherwood School District 88.
  - (k) Tualatin Valley Fire and Rescue (Tualatin Rural Fire Protection District).
  - (l) Clean Water Services (Unified Sewerage Agency).
  - (m) Oregon State Highway Division (Oregon Department of Transportation).
  - (n) Oregon Department of Environmental Quality.
  - (o) Federal Environmental Protection Agency.
  - (p) U.S. Army Corps of Engineers.
  - (q) Oregon Division of State Lands.
- (2) Additionally, the planning process included the following private utility companies:
- (a) Verizon (General Telephone Company of the Northwest, Inc.).
  - (b) Northwest Natural Gas Company.
  - (c) Portland General Electric Company.
  - (d) Comcast.

**SECTION 3. TDC Chapter 31 (General Provisions).** TDC Chapter 31 (General Provisions) is amended to read as follows:

**Section 31.010 – Title.** The following sections shall be ~~are~~ collectively known as "The Planning District Standards of the City of Tualatin Community Development Code."

**Section 31.020 – Classification of Planning District (Zones).** In order to carry out the objectives of the Tualatin Community Plan, land within the City is divided into planning districts or zones. The established planning districts ~~shall be~~ are designated on the Plan Map. ~~The and the~~ planning district (zone) designations ~~shall be~~ are as follows:

<b>Planning District/<u>Zone</u></b>	<b>Abbreviated Designation</b>
Low Density Residential	RL
Medium-Low Density Residential	RML
Medium-High Density Residential	RMH
High Density Residential	RH
High Density Residential - High Rise	RH-HR
Institutional	IN
Office Commercial	CO
Neighborhood Commercial	CN

Recreational Commercial	CR
Central Commercial	CC
General Commercial	CG
<u>Mid-Rise/Office Commercial Planning District</u>	<u>CO/MR</u>
<u>Medical Center Planning District</u>	<u>MC</u>
Light Manufacturing	ML
General Manufacturing	MG
Manufacturing Park	MP
<u>Manufacturing Business Park</u>	<u>MBP</u>

**Section 31.030 Compliance with Planning District Standards.**

~~(1) No building, structure, or land shall hereafter be used, possessed or occupied, and no building, structure, or any part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered contrary to the provisions of Chapters 31-74 of the City of Tualatin Community Development Code. Any use of land or existing structures which is not in conformity with the provisions of the applicable Planning District Standards at the time of the adoption of the City of Tualatin Community Development Code shall be nonconforming uses and structures subject to the provisions herein described by TDC Chapter 35.~~

~~(2) No single-family dwelling building permit application shall be submitted to the City until all required land use approvals have been obtained by the property owner.~~

**Section 31.040 Planning District (Zone) Map.** Each planning district (zone) shall be is designated on the Plan Map of the Tualatin Community Plan. To carry out the purposes of the planning district standards, the Plan Map of the Tualatin Community Plan shall be is known as the "Planning District Map." The primary function of the Planning District Map is to describe the boundaries of the planning districts so that people using this Code may determine which planning district standards regulate the use and development of their land.

**Section 31.050 – Planning District (Zone) Boundaries.** Except as otherwise provided, the boundaries of each planning district designated on the Planning District Map are intended to follow, wherever possible, property lines, extensions of property lines, natural features such as creeks or riverbanks, and the centerlines of public highways. Where this is not possible, the boundaries between planning districts are drawn to scale. In the event that the exact location of any planning district boundary is ambiguous or uncertain for any reason, the Council, by resolution, shall may establish the exact location of any such boundary.

**Section 31.060 – Definitions.** As used in this Code, the masculine includes the feminine and the neuter, and the singular includes the plural. ~~The~~ For the purposes of TDC, the following words and phrases, unless the context otherwise requires, shall mean:

~~A-Frame (also known as an A-Board or Sandwich Board) Sign. A double-faced portable sign constructed with an A-shaped frame, composed of two sign boards attached at the top and separated at the bottom, and not supported by a structure in the ground.~~

~~Abandoned Sign. A sign, associated with a business, lessor, owner, product, use of property or activity, which is no longer conducted or available on the premises where such sign is displayed for on-premise signs, or on other premises for off-premise signs.~~  
~~Access. A way or means of approach to provide pedestrian, bicycle, or motor vehicle entrance or exit to a property.~~

~~Access Management. The process of providing and managing access to land while preserving the flow of traffic in terms of safety, capacity, and speed.~~

~~Accessory Dwelling Unit (ADU). See Residential Structure Types. An interior, attached, or detached residential structure that is accessory to, a single family dwelling. An Accessory Dwelling Unit is not a separate dwelling unit for density purposes~~

~~Accessory Structure or Use. A structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use, such as which includes, but is not limited to, garage, carports, tool sheds, private greenhouses, utility buildings, and home occupations.~~

~~Accessway. A non-vehicular, paved pathway designed for pedestrian and bicycle use and providing convenient linkages between a development and adjacent residential and commercial properties and areas intended for public use such as, which includes, but is not limited to schools, parks, and adjacent collector and arterial streets where transit stops or bike lanes are provided or designated. An accessway is not a sidewalk.~~

~~Adaptive Reuse. As it relates to the landmark structure or an accessory feature of a landmark, modifying the landmark to a use or activity which is allowed under the applicable planning district designation.~~

~~Adequate Public Facilities. Public improvements determined by the Council or City Engineer Manager to be of adequate size and capacity, and capable of supporting and servicing the physical area and designated intensity of the proposed development.~~

~~Adjacent Property. A parcel property or unit of land which is touching, or which is across from a public right-of-way, easement, a small creek, or a small stream, from the extension of the property lines of the subject property.~~

~~Adult Arcade. Any movie or game arcade which is not customarily open to the general public, but which excludes minors as a legal or prevailing business practice.~~

~~Adult Bookstore. Any store having a significant portion of its stock in trade, books, magazines, newspapers, or other printed or written material or any pictures, drawings, photographs, motion pictures or other pictorial representations which are distinguished by their emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," as defined below.~~

~~Adult Business. Any adult arcade, adult bookstore, adult cabaret, adult theater, massage parlor, sexual encounter center, body painting studio, modeling studio, adult hotel or motel, topless or nude bars, or other businesses which are characterized by an emphasis on sexually explicit material dealing with "specific anatomical areas" or "specified sexual activities," as defined below.~~

~~Adult Cabaret. A nightclub, adult theater, bar, or other establishment which features topless dancers, nude dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any establishment which features such activities and excludes minors as a legal or prevailing business practice.~~

~~Adult Hotel or Motel. Any hotel or motel which provides, through closed circuit television or other media, material which is distinguished or characterized by the emphasis on matter depicting or describing or related to "specific sexual activities" or "specified anatomical areas," or any hotel or motel having hourly rates and excluding minors as a legal or prevailing business practice.~~

~~Adult Theater. Any theater or similar facility which is used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," for observation by patrons therein.~~

~~Agricultural Sign. A sign allowed on property which is used for the sale of seasonal agricultural produce.~~

~~Alley. A narrow street through a block, primarily for vehicular service access to the back or side of properties otherwise abutting on another street.~~

~~Alteration. Addition to, or otherwise change the exterior appearance of any part of a landmark including new construction. Maintenance and repair as defined in TDC 68.100(2) is not considered alteration of a landmark.~~

~~Alteration, Structural (for signs). Modification of the location, size, shape or height of a sign structure, including, but not limited to, the addition of illumination to a non-illuminated sign and the replacement of sign structure materials with other than comparable materials, for example, metal parts replacing wood parts.~~

*Animal, Small.* A domestic animal, such as a dog, cat, rabbit, or guinea pig, accepted by the American Veterinary Medical Association as a household pet.

~~Animal Hospital (Including Veterinary Clinic).~~ Any building or portion thereof de-signed or used for the care, observation or treatment of domestic animals.

~~Animated Sign.~~ A sign or display manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical, or other means. Animated signs include the following types:

~~Animated Sign, Naturally Energized:~~ Signs whose motion is activated by wind or other atmospheric impingement. Wind driven signs include flags, pennants, streamers, spinners, metallic disks, or other similar devices designed to move in the wind.

~~Animated Sign, Mechanically Energized:~~ Signs manifesting a repetitious pre-programmed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives.

~~Animated Sign, Electrically Energized:~~ Illuminated signs whose motion or visual impression of motion is activated primarily by electrical means. Electrically energized animated signs are of two types:

~~Animated Electrically Energized Flashing Signs:~~ Illuminated signs exhibit a pre-programmed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) varies with the duration of the period of darkness (off phase), and in which the intensity of illumination varies from zero (off) to 100 percent (on) during the programmed cycle.

~~Animated Electrically Energized Illusionary Movement Signs:~~ Illuminated signs exhibit the illusion of movement by means of a preprogrammed repetitious sequential switching action in which illuminated elements of the sign and are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.

*Antenna.* A device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation. It is typically mounted on a supporting tower, pole, mast, or building.

*Applicant.* The owner of land proposed to be developed, or a representative, who shall have has express written authority to act on behalf of the owner. ~~If the applicant is not the owner, written consent shall be required from the owner.~~

~~Arborist, Qualified.~~ A professional in the field of arboriculture who provides professional consultation about trees and other woody plants regarding damage, diseases, and afflictions which affect them; their health and care; and their value. The arborist must

demonstrate proficiency and credibility through documentation of one or more of the following:

- (1) Current Certification as either a Master Arborist or an Arborist-Municipal Specialist by the International Society of Arboriculture (ISA); or
- (2) Current Certification as a Registered Consulting Arborist by the American Society of Consulting Arborists (ASCA); or
- (3) Any combination of one or more of the following, as deemed acceptable by the City, to demonstrate qualification for inclusion on a list of acceptable qualified arborists:
  - (a) Professional certification, pertinent academic degree, or other form of professional training, other than that detailed in (1) or (2) above;
  - (b) Substantial and regular experience as an arborist;
  - (c) Referential record of practice in the field as an arborist through examples of a variety of arboricultural consultation problem-solving situations.

Arborist. A professional listed as a certified arborist or a registered consulting arborist.

Arcades. A continuous passageway parallel to and open to a street, open space, or building, usually covered by a canopy or permanent roofing, and accessible and open to the public.

Archaeological Site. A geographic locality that contains archeological objects and the contextual associations of the objects with: (1) each other, or; (2) biotic or geological remains or deposits. Examples of archeological sites include, but are not limited to lithic quarries, house pit villages, camps, burials, and lithic scatters.

Archaeological Object. An object that: (1) is at least 50 years old; (2) comprises the physical record of indigenous or other culture found in the state; and (3) is material remains of past human life or activity that are of archeological significance including, but not limited to monuments, symbols, tools, facilities, technological by-products, and dietary by-products.

Architectural Feature or Architectural Features. The portion of a structure or remodeling activity which is regulated or controlled by the objectives, criteria and standards for architectural, graphic and landscaping design, which are subject to Architectural Review, and includes all aspects of an Architectural Review Plan which are not Utility Facilities.

Architectural Focal Element. A publicly-owned structure whose primary function is to attract attention and create a special sense of place.

Assembly. As used in the Manufacturing Planning districts, assembly means the putting together of a final product using parts and components that have been fabricated elsewhere and shipped in. See also Manufacturing.

~~Automobile Service Station. A fueling facility for passenger or commercial vehicles, including a card-lock facility, whether or not retail transactions are made or an attendant is present.~~

*Awning.* A shelter supported entirely by the exterior wall of a building and composed of nonrigid materials except for a supporting framework.

~~Awning Sign. A type of wall sign painted or printed on, or attached flat against the surface of the nonrigid material of an awning.~~

~~Balloon Sign. An inflatable, stationary, temporary sign of any shape anchored by some means to a structure or the ground. It includes simple children's balloons, hot and cold air balloons, helium filled balloons, blimps, and other dirigibles.~~

~~Banner Sign. A temporary sign made of nonrigid material without an enclosing framework. National flags, flags of political subdivisions and symbolic flags of an institution, group or a business are excluded.~~

~~Banner Sign, Special Event. A banner sign that is temporarily displayed over a public right-of-way for a limited period of time for a special event. A special event occurs on a specific date or dates, is open to the community, and has been declared a special event by the City Council.~~

*Barriers.* Physical or topographic conditions that make a street or accessway connection impracticable. Such conditions include but are not limited to freeways; rail-roads; steep slopes; wetlands or other bodies of water where a connection could not reasonably be provided; where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; and where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection, or the requirements of Titles 3 and 13 of the Metro Urban Growth Management Functional Plan (UGMFP).

~~Bench Sign. A sign that is displayed on a bench.~~

*Bike (Bicycle) Facilities.* On and off street improvements and facilities designed to accommodate bicycles.

*Bike (Bicycle) Lane.* A portion of roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicyclists.

*Bike (Bicycle) Parking, Long-term.* Facilities for parking bicycles for stays of more than four (4) hours.

*Bike (Bicycle) Parking, Short-term.* Facilities for parking bicycles for stays of less than four (4) hours.

*Bike (Bicycle) Path.* A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the public street right-of-way or within an independent right-of-way or easement.

*Bikeway.* Any street, road, path or way open to bicycle travel regardless of whether such facilities are designated for the preferential use of bicycles or are to be shared with other transportation modes.

*Buffer.* A landscaped strip portion of land established to separate and protect incompatible land uses.

*Building.* A structure built for the shelter or enclosure that has a roof and is enclosed on at least 50 percent of persons, animals, chattels, or property the area of any kind its sides.

~~Building Materials and Supplies. Wholesale sales and warehousing of materials and supplies including, but not limited to, electrical supplies; fencing materials; building insulation; lumber; prefabricated trusses and structural frames; structural metal materials; masonry supplies; ceramic & stone tile and pavers; painting supplies; plumbing supplies; plywood and wood panel materials; roofing; siding; flooring; window materials; door materials; and tools (handheld and table or stand mounted).~~

*Building Coverage.* That portion or percentage of a lot utilized by a building or structure, excluding parking lots and driveways or sidewalks.

*Building Official.* The person charged by a municipality with responsibility for administration and enforcement of the state building code in the municipality as defined by ORS 455.715.

*Business.* All of the activities carried on by the same legal entity on the same premises, whether or not the enterprise operates for profit, and includes freemasonry, fraternal, religious, educational or social organizations. "Legal entity" includes, but is not limited to, individual proprietorships, partnerships, corporations, nonprofit corporations, associations, and joint stock companies.

*Business Occupant.* A nonresidential use of real property by an owner or lessee. Each user ~~shall be~~ is considered a separate business occupant if the user has an independent or distinct property right in the real property.

~~Bylaws. Rules or procedures adopted by an association or corporation.~~

~~Call Center or Customer Service Center. An operation that serves as a location to initiate or receive communications for others - via telephony, email, or internet - for the purposes of~~  
(1) ~~promoting clients products or services;~~



- ~~(2) taking orders for clients;~~
- ~~(3) soliciting contributions for a client, and;~~
- ~~(4) providing information or assistance regarding a client's products or services.~~

Bus Stop. See Transit Stop.

*Canopy.* A rigid non-movable roof-like structure supported only by columns or posts permanently affixed to the ground, or by a building at one or more points or extremities and by columns or posts in the ground at other points or extremities.

*Central Design District.* The Central Design District as identified in Section F of the Central Urban Renewal Plan.

*Certificate of Appropriateness.* A final written decision of approval, approval with conditions or denial from the ~~Community Development Director~~ City Manager or City Council for demolition, relocation, alteration, or new construction concerning a landmark.

~~Change of Copy.~~ The change of any written or graphic information upon the face of a sign.

~~Day Care Center.~~ A day care facility providing day care to children as defined in ORS 418.805(4), except a Family Day Care Provider.

#### Child Care

- *Child Care Center.* A child care facility that is certified to care for thirteen or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.
- *Child Care Facility.* Any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.
- *Certified Child Care Provider.* A person licensed by the State of Oregon to provide Child Care ORS329A.280.
- *Family Child Care Home, Registered.* The residence of the provider who has a current Family Child Care Registration at that address and who provides care in the family living quarters, as provided by ORS 329A.330.
- *Family Child Care Provider, Registered.* An individual who operates a family child care home that is registered under ORS 329A.330.

*Children's Play Area.* An area designated for the recreation of children. Such are-as may include sand boxes, bark chip areas, areas containing play structures, basketball courts, hard surface courts and wading pools.

*Citizen Involvement Organization.* As provided in the Tualatin Municipal Code Chapter 11-9 Citizen Involvement Program.

*City.* The City of Tualatin, Oregon, a municipal corporation.

~~*City Engineer.* The director of the City's Engineering and Building Department or designee.~~

~~*City Manager.* The person appointed by the City Council as the City Manager or the City employee, employees or agent whom the City Manager may designate to fulfill the responsibilities of City Manager, or the City Manager's designee.~~

~~*City Recorder.* The person appointed by the City Council as the City Recorder or the~~

~~City employee, employees or agent whom the City Recorder may designate to fulfill the responsibilities of City Recorder.~~

*Civic Rooms.* Outdoor areas that are open to the public where the space is defined by the locations of buildings, landscaping, or accessways.

~~*Co-location.* The placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank, or utility pole.~~

*Clean Water Services (CWS).* A special service district (formerly known as the Unified Sewerage Agency) that serves as a separately managed and financed public utility and provides stormwater and wastewater services in partnership with 12 member cities in Washington County, including Tualatin. CWS maintains and enhances the public drainage system to meet public needs and to comply with strict water quality regulations set for the Tualatin River drainage area by the Oregon Department of Environmental Quality (DEQ).

~~*Commercial Use.* See Chapter 39: Use Categories The retail sale of goods and services to individual consumers. See also Retail Service and Professional Services Uses.~~

*Common Wall Dwellings.* Dwelling units characterized by shared wall structures including, but not limited to, duplexes, triplexes, attached single family residences rowhouses, townhouses, multi-family dwellings, and condominiums.

~~*Community Development Director.* The director of the City's Community Development Department, including the Planning Division and Economic Development Division, or designee thereof.~~

*Compliance Agreement.* A contract entered into by the owner and the City Manager, on behalf of the City, by which the owner promises to complete the required public improvements relating to a subdivision or partition within a specified time period in

exchange for the City granting final subdivision or partition plat approval prior to completion of required public improvements.

*Condominium.* A property with a building or group of buildings, submitted to the provisions for condominiums in state statutes, in which units are owned individually, and common areas, structures, facilities, easements, rights and appurtenances belonging to the property are owned by all the owners on a proportional, undivided basis.

~~Conflicting Use. A permitted or conditional use of the site or lot on which a landmark is located or proposed which is inconsistent with the historic use of such landmark. A conflicting use includes additional single family residences in a RL District, commercial uses in a commercial planning district and demolition. Conflicting use does not include public right-of-way improvements or accessory features such as vehicle parking or landscaping, which are provided as part of an otherwise conflicting use.~~

~~Congregate Care Facility. See Residential Structure Types. Retirement housing with common dining facilities and housekeeping services~~

~~Construction and Industrial Equipment Rental and Sales. Uses engaged in retail or sale of tools and powered equipment such as tractors, loaders, hoes, lifts, cranes, and utility trucks to contractors and industrial firms.~~

~~Construction Sign. A temporary sign displayed in conjunction with a construction project on private property.~~

~~Construction Sign, Public Utility Facilities. A temporary sign displayed in conjunction with a construction project for public streets, public waterlines, public sewer lines and pump stations, public storm drain lines and other similar public facilities.~~

~~Copy. Any written or graphic information on a sign.~~

*Core Area Parking District.* The Core Area Parking District as identified in Section D of the Central Urban Renewal Plan.

*Core Area Parking District (CAPD) Parking Standards.* Off-street motor vehicle parking requirements for development within the CAPD provided at 75 percent of required Tualatin Development Code standards.

*Craft of Building.* Using skill and expertise in the design and quality of the construction of the building, especially in the building's architectural details.

*Cross Access.* A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

*Cul-de-sac.* A dead end street terminating in a turnaround.

*Customer Entry Area.* For the Mixed Use Commercial Overlay District only, a customer entry area is defined as the area up to 5 feet on each side of the customer entry doors and extending perpendicular no further than 10 feet from the doors.

*Decibel.*

- *Decibel (dB)* means to a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure. The reference pressure is 20 micropascals (20 micronewtons per square meter).
- *"dBA"* refers to the standard "A" weighting network as specified in the American National Standard Specification for Sound Level Meters (ANSI §1.4 - 1971).

*Demolition.* Raze, destroy, dismantle, or in any other manner cause significant partial or total destruction of a building, structure, or landmark.

*Density Transfer Project.* A residential development in a Medium Low Density Residential (RML) Planning District consisting of an area of single family development wherein the single family development consists of detached and attached (zero lot line) single family dwellings each on a separate lot approved through a Subdivision or Partition application, or consisting of both an area of single family development and an area of multi-family development in an identified project area wherein (1) the single family development consists of detached and attached (zero lot line) single family dwellings each on a separate lot approved through a Subdivision or Partition application, (2) the multi-family development consists of multi-family dwellings on a lot or lots approved through a Subdivision or Partition application and (3) an amount of unused density from the area of single family dwellings may be transferred to and used in the area of multi-family dwellings.

*Developable Area.* The privately owned land area upon which site improvements are to be placed, including but not limited to buildings, landscaping, parking, loading, vehicular circulation areas, outdoor storage, and water quality facilities. Developable areas do not include public rights-of-way and wetlands.

*Development or Redevelopment.* A planning or construction project involving property improvement, or a change of land use character within the site; the act of using land for building or extractive purposes.

*Development Application.* The application form and checklist which sets forth all submittal requirements for approval of development proposals, including but not limited to architectural review, subdivision, partition, and property line adjustment.

*Development Project.* A defined and planned undertaking for the physical development or redevelopment of real property, and subject to a submitted or approved development application.

~~Directional Sign. A permanent sign designed and erected to guide the circulation of vehicles or pedestrians or both which are on the site.~~

~~Directory Sign. A permanent informational sign designed and erected to list the businesses, business occupants or tenants within buildings on the site and to be read by passengers of vehicles or pedestrians or both which are on the site.~~

~~Double Frontage Lot. A lot having public right-of-way frontage on two sides, but is not a corner lot; or a lot having frontage on three sides.~~

*Drip Line.* The outside boundary of the branches of a tree, projected downward to the ground. For the purposes of this Development Code, a drip line will be assumed to be circular rather than irregular, elliptical or whatever its actual shape might be. While the drip line need not be centered on the tree trunk, in the instance of an irregularly shaped tree, the minimum distance radius from the trunk of the tree shall be is measured so that the drip line area is most advantageous to the tree's health.

~~Drive-up Uses. Any establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles. Drive up uses shall not include automobile service stations.~~

*Duplex.* See Residential Structure Types. A building containing two dwelling units

*Dwelling Unit.* See Residential Structure Types. A habitable structure containing one or more rooms designed for occupancy by one individual or family and not having more than one cooking facility.

*Easement.* A nonpossessory interest in the land of another which entitles the owner of the interest to a limited use or enjoyment of the other's land and to protection from interference with this use.

*Election.* The time designated by law for voters to cast ballots for candidates and measures.

~~Electrical Sign. A sign or sign structure in which electrical wiring, connections, or fixtures are used.~~

~~Entry/Exit Sign. A permanent sign designed and erected to show the location of vehicular access onto or off of a location from or to the public right-of-way.~~

~~Erect (for signs). The act of constructing, reconstructing, building, rebuilding, installing, reinstalling, locating, relocating, placing or replacing a sign structure, changing undamaged copy on a sign face, changing an undamaged sign face, suspending or attaching components of a sign and the installation of electrical parts, wiring or~~

~~illumination of a sign. It does not include sign maintenance or repair. "Erect" shall not include changes in copy of a mechanical readerboard.~~

~~*ESEE Analysis.*—An evaluation of the Economic, Social, Environmental and Energy consequences to the community of designating or preserving a landmark. The evaluation considers the balance of land-mark preservation with the community benefit of allowing change or loss of a landmark to a conflicting permitted land use. A type of analysis which is used to help determine if a particular resource should be protected in accordance with Statewide Planning Goal 5. The analysis examines competing values to determine what the controlling value should be for the individual resources being examined. The analysis considers economic, social, energy and environmental values.~~

*Evergreen.* Having foliage that remains green until the formation of new foliage.

~~Exterior.~~ All exterior portions of an historic landmark.

*Exterior Major Remodeling.* Modifications to the exterior of a building or placement of new mechanical equipment which are visible from a public right-of-way such as installation of new exterior material, addition of canopy or installation of dust collectors or storage tanks.

*Family.* A person living alone or two or more related or unrelated persons living together in a single dwelling unit.

~~Family Day Care Provider.~~ A day care provider who regularly provides day care in the provider's home in the family living quarters, as defined in ORS 418.805(5).

~~Family Recreation Center.~~ A business offering two or more forms of recreational activity such as boat rides, bowling, electronic games, go-cart tracks, miniature golf, skating, water slides, or similar commercial amusements. Restaurants, gift shops and other businesses clearly incidental to the primary recreational activities may also be included.

~~Festoon Sign.~~ A string of ribbons, tinsel, small flags, lights, pennants, streamers, pinwheels or similar signs.

~~Fin Sign.~~ A sign which is supported by a pole or poles or columns and partly by a building.

*Final Approval.* The official action taken on a preliminarily approved subdivision, partition or property line adjustment, after all conditions, engineering plans, and other requirements have been completed or fulfilled and the required public improvements have been installed, or where satisfactory security to assure completion of such improvements has been properly posted.

*Fish and Wildlife Habitat Area.* An area in the Natural Resource Protection Overlay District, Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan, or in a Clean Water Services Vegetated Corridor.

~~Flag Lot.~~ A lot the major portion of which has access to a public street by means of a narrow strip of the lot.

~~Freestanding Sign.~~ A sign attached to the ground by one or more poles, columns, or similar supports and not attached to a building, such as pole and monument signs.

~~Frontage.~~ A property line abutting a public right-of-way See Lot Line, Front.

*Functional Classification.* A system used to group public roadways into classes according to their purpose in moving vehicles and providing access.

*Garage.* A building or portion thereof designed for the storage of a motor vehicle licensed to operate on public highways.

~~Garden Apartment.~~ Multi-family housing characterized by the emphasis of open landscaped areas.

*Gateway Tower Element.* A tall structure, rectilinear or round in plain view, that rises to a greater height than the surrounding buildings and which is located in a 3.0 acre or larger commercial center development that is in the ~~GC~~ CG Planning District and within a 1,000 foot radius of either (1) the intersection of the centerline of SW Nyberg Street with the centerline of Interstate 5, or (2) the intersection of the centerline of SW Lower Boones Ferry Road with the centerline of Interstate 5.

*Governmental Structure.* A structure to be used by a federal, state or local government or municipality, special district, or agency of any such government, excepting public transportation shelter structure. ~~A public transportation shelter structure shall be a permitted use in all planning districts~~

~~Grade (for signs).~~ The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the sign and the property line, or when the property line is more than five feet from the sign, between the sign and a line five feet from the sign.

*Green Design.* The use of natural vegetation, alternative building products using natural or recycled materials, or energy efficient design in the construction of buildings or structures.

*Green Building.* The use of natural vegetation, alternative building products using natural or recycled materials, or energy efficient design in the construction of buildings, structure, or energy efficient design in the construction of buildings and sites.

*Green Streets.* The use of natural vegetation, alternative building products using natural or recycled materials, or energy efficient design in the construction of streets, sidewalks and, or parking areas.

*Gross Floor Area.* The sum of the gross horizontal areas of the several floors of a building or structure measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings.

*Gross Leasable Area.* The total floor area designed for tenant occupancy and exclusive use, expressed in square feet and measured from the center-line of joining partitions and from outside wall faces.

*Group Living:*

- *Congregate Care Facility.* Retirement housing with common dining facilities and housekeeping services.
- *Group Living Unit.* In assisted living facilities, residential facilities and congregate care facilities, a room, apartment, cottage or other area set aside for the use of a resident individual or couple.
- *Nursing Facility.* A State of Oregon Licensed Intermediate or Long-term care facility including facilities identified as a nursing home, skilled nursing facility, or convalescent care as defined in Oregon Revised Statutes (ORS) Chapter 678 and Chapter 442.
- *Residential Facility.* A residential facility providing residential care, training or treatment for six or more individuals exclusive of staff, as defined in ORS 443.400.

~~*Health or Fitness Facility.* A facility designed to accommodate indoor or outdoor activities such as racquetball courts, tennis courts, gymnasiums, weight lifting rooms and other exercise areas, swimming pools and similar uses.~~

~~*Height of Sign.* The vertical distance from grade to the highest point of a sign, including any projection, decoration or trim of the sign face or structure.~~

*Height, Structure.* Height of a structure is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall must be elected by either of the following, whichever yields a greater height of building:

- (1) The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten feet above lowest grade.
- (2) An elevation ten feet higher than the lowest grade when the sidewalk or ground surface described in Item (1) above is more than ten feet above lowest



grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

*Highway.* When used in TDC 1.030(2), 31.067(3)(p), 31.071(1)(u), 31.074(2)(e) and (3)(j), 32.060, 33.030(2)(g), 36.120(2)(i), 36.220(3)(h), 36.320(2)(f) and 37.020(3)(e) in reference to railroad-highway grade crossing, "highway" includes all roads, streets, alleys, avenues, boulevards, parkways and other places in this state actually open and in use, or to be opened and used for travel by the public.

~~Home Improvement Materials and Supplies Retail Sales. Retail sale of home improvement materials and supplies including, but not limited to, electrical supplies; fencing materials; floor coverings such as hardwood, linoleum, vinyl, carpet and rugs; garden tractors and lawn mowers; hardware; building insulation; wall coverings, draperies, window shades, and blinds; lawn and garden supplies; lawn mowers; lighting fixtures; lumber; masonry supplies; painting supplies; plumbing supplies and fixtures; plywood and wood panel materials; siding; roofing; window materials; durable household goods (e.g. refrigerators, stoves and washing machines); and tools (handheld and table or stand mounted).~~

*Home Occupation.* A home occupation is a lawful business, occupation, or activity undertaken for financial gain that:

- (a) (1) Is conducted in a residential planning district in or on the premises of a dwelling unit that serves as its principal place of business;
- (b) (2) By a resident of the dwelling unit;
- (c) (3) Who is the sole proprietor, owner, partner, franchise owner or holder of the business, occupation or activity; and
- (d) (4) Is secondary and incidental to the use of the dwelling for dwelling purposes.

~~Homeowners Association. A formally organized group of homeowners within a single housing development having shared responsibility for portions of the development such as building, landscape, parking, maintenance and other activities provided for by the bylaws of the association.~~

~~Hospital. An institution providing health services, primarily for inpatients, and medical, psychiatric or surgical diagnosis and care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient facilities, long-term care facilities, training facilities, central service facilities, retail facilities for the needs of patients, staff and doctors' offices, and residential facilities for staff and patients.~~

*Household.* One or more persons related by blood, marriage, domestic partnership, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

*Housing Density.* The number of dwelling units per acre of land, rounded to the nearest whole number. (For example, 12.5 is rounded to 13 and 12.49 is rounded to 12.).

### Improvement Types

- Landscape Improvements (excluding greenways, parks and other Parks and Recreation Department roadside improvements). Addition or modification of landscape materials to a site which has not obtained prior Architectural Review approval or installation of landscape material which is substantially different than approved through a prior Architectural Review.
- Private Improvements. Includes any drainage ditch, roadway, parkway, bikeway, walkway, pedestrian way, tree, lawn, off-street parking area, lot improvement, water utility, sanitary sewer utility, storm drainage utility, street or other facility which the property owner, and not a governmental authority, is responsible for maintaining and operating.
- Public Improvements. Includes any drainage ditch, roadway, parkway, bikeway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, water utility, sanitary sewer utility, storm drainage utility, street or other facility constructed in compliance with the Public Works Construction Code for which the City or other governmental authority will ultimately assume the responsibility for maintenance and operation.

~~Illegal Sign.~~ A sign which is erected, constructed, altered, relocated, maintained or repaired in violation of any of the provisions of this Ordinance.

~~Illuminated Sign.~~ A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign.

~~Illumination, Direct.~~ Lighting wherein the light source is visible.

~~Illumination, Fluorescent Tube.~~ Lighting wherein an electrical current is passed through a gas-filled tube, with a coating of fluorescent material on its inner surface, which emits visible light.

~~Illumination, Incandescent Bulb.~~ Lighting wherein an electrical current is passed through a filament inside a bulb and the filament emits visible light. The filament source of light may be visible as in clear bulb or bare bulb illumination or it may not be visible as in frosted or painted bulb lighting.

~~Illumination, Indirect.~~ Lighting wherein the light source is separate from the object to be illuminated, including but not limited to a sign face or cabinet, and is directed to shine on the object or sign.

~~Illumination, Internal.~~ Lighting wherein the light source and the bulb or tube enclosing the light source are enclosed within a structure, including but not limited to a sign and are not visible.

~~Illumination, LED. Lighting produced by a light-emitting diode which emits visible light.~~

~~Illumination, Neon. Lighting wherein an electrical current is passed through a tube containing neon gas which emits visible light.~~

~~Industrial Machinery Sales and Service. The sale and service of machines and tools primarily for industrial and commercial firms including machine tools, fabrication, processing and packaging machinery, hoists, conveyors, racking systems and forklifts.~~

*Industrial Master Plan.* A plan, approved by the Tualatin City Council, that guides development within the boundaries of an Industrial Master Plan Area defined by that plan and located within a Manufacturing Park Planning District.

*Industrial Master Plan Area.* The area within the boundaries of an Industrial Master Plan.

*Industrial Use.* See Chapter 39 (Use Categories) ~~Activities directly associated with manufacturing, processing, assembly and packaging, wholesale trade, construction, utilities, transportation and warehousing.~~

*Inlaid Floor Sign.* For the Mixed Use Commercial Overlay District only, a sign on private property that is incorporated into the floor/walkway area in a customer entry area. This sign is intended to be seen only by people looking down who are at a customer entry area and not to be seen by people in a public right-of-way or a public access parking lot. An Inlaid Floor Sign is not a wall sign or a freestanding sign.

*Interconnected Places.* Buildings and distinct areas that are related in their connection to one another through accessways or visual linkages.

*Intersections as a Room.* A place that is defined by the streets, buildings or structures located at the intersection of two or more streets.

*Joint Access (or Shared Access).* A driveway connecting two or more contiguous sites to the public street system.

*Joint Use Parking.* Vehicle parking where two or more separate developments are able to jointly use some or all of the same required parking spaces because their parking demands occur at different times.

*Landmark or Landmark related.* See TDC Chapter 68: Historic Preservation.

~~Landmark. Any site, object, building or structure designated by the City Council and listed on the Landmark Inventory of the City.~~

~~*Landscape Improvement.* See Improvement Types, excluding greenways, parks and other Parks and Recreation Department roadside improvements). Addition or modification of landscape materials to a site which has not obtained prior Architectural Review approval or installation of landscape material which is substantially different than approved through a prior Architectural Review.~~

*Landscaped Plaza.* An open space which may consist of trees, plants and lawn combined with decorative features such as fountains, paving bricks, benches or other site furniture.

*Landscaping.* The improvement of land by such means as contouring, planting of lawn, groundcover plants, shrubs or trees, and by the location of outdoor structures, courtyards, planters, raised beds, walkways and other similar features.

~~Light Truck. Two axle motor vehicles including trucks, cargo vans, school buses and motor homes with a Gross Vehicle Weight (GVW) of 28,000 lbs. or less.~~

*Limited Land Use Decision.* Defined in ORS 197.015 and outlined in ORS 197.195 means a final decision or determination made by a local government pertaining to a site within an urban growth boundary that concerns:

- (1) The approval or denial of a tentative subdivision or partition, as described in ORS Chapter 92.040 (Application for approval of subdivision or partition).
- (2) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

Limited Land Use Decision does not mean a final decision made by a local government pertaining to a site within an urban growth boundary that concerns approval or denial of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan.

*L-max.* A maximum noise level, measured in dBA and occurring over any duration or amount of time.

*Local Government Unit.* Any unit of local government, including a city, county, incorporated town or village, school district, any other special district, or any other municipal or quasi-municipal corporation, intergovernmental authority created pursuant to ORS 190.010, a district as defined in ORS 198.010, 198.180, and 198.210 or an urban renewal agency established under ORS 457.035.

~~*Lollipop Appearance.* A row of street trees with compact, upright canopies that are spaced so that the canopies are discontinuous.~~

*Lot Types:*

- *Lot.* A unit of land that is created by a subdivision of land as set forth in ORS 92.010 - 92.190.

- ~~Lot, Corner~~ Corner Lot. A lot abutting two intersecting streets other than an alley.
- Double Frontage Lot. A lot having public right-of-way frontage on two sides, but is not a corner lot; or a lot having frontage on three sides.
- Flag Lot. A lot the major portion of which has access to a public street by means of a narrow strip of the lot.
- Primary Condominium Lot. A large lot, usually held in common ownership by condominium owners, and containing secondary condominium lots.
- Reserve Frontage Lot. A lot which is required by the City to take access across a specified lot line to separate residential development from railroad tracks or crossings, arterial or collector streets, adjacent non-residential uses, or to overcome specific disadvantages of topography and orientation.
- Secondary Condominium Lot. A small, individually owned lot, usually encompassing the perimeter of a dwelling unit and located inside the primary condominium lot.
- Through Lot. (also called a double frontage lot). A lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lots.

Lot Area. The total horizontal area, calculated in square feet, within the property lines of the lot.

Lot Coverage. The proportional amount of land on a lot covered by buildings.

Lot Line. The property line bounding a lot. (Also known as a property line).

- ~~Front Lot Line, Front~~. The lot line separating the lot from the street other than an alley.
- Rear Lot Line, Rear. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or other-shaped lot, a line ten feet in length within the lot, parallel to and at a maximum distance from the front lot line. On a corner lot, the shortest lot line abutting adjacent property that is not a street is considered a rear lot line.
- Side Lot Line, Side. Any lot line not a front or rear lot line.

Lot Line Adjustment. The relocation of a common property line between two abutting properties. (Also known as Property Line Adjustment.)

~~Lot of Record~~. A lot or parcel conforming to all planning district requirements and Tualatin Development Code provisions in effect on the date a recorded separate deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract. A lot of record is a plot of land:

- (1) Which was not created through an approved subdivision or partition;
- (2) Which was created and recorded before July 26, 1979; and
- (3) For which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.

*Lot Width.* The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line, at the center of the lot, or, in the case of a corner lot, the horizontal distance between the front lot line and a side lot line.

- ~~*Average Lot Width, Average.*~~ The sum of the length of the front lot line and the rear lot line divided by 2.

~~Major Commercial Center (for signs). A development in the Central Commercial or General Commercial Planning Districts, or in the Office Commercial and Mid-rise Office Commercial, or in the Light Manufacturing Planning District and in the Central Urban Renewal District where additional General Commercial uses are permitted in accordance with the Tualatin Development Code (TDC 60.030), and which is on one tax lot of at least 3.0 acres and has either (1) at least one building of no less than 30,000 square feet of gross floor area, or has (2) at least two buildings with one having no less than 12,000 square feet of gross floor area.~~

*Major Driveway.* Access is considered a major driveway when controlled by a traffic signal.

*Major Remodeling.* Any man-made exterior modifications to improved or unimproved real property, including but not limited to the construction, installation, or alteration of a building or other structure; any remodeling that substantially changes the exterior appearance of the building (including painting); any site alteration which substantially alters the topography or appearance of the site; and any change in occupancy from single family use to commercial or industrial use.

~~*Major Transit Stop. See Transit Stop, Major.*~~ Existing and planned light rail stations, commuter rail stations and transit transfer stations, except for temporary facilities; other planned stops designated as major transit stops in TDC Chapter 11 (Figure 11-5); and existing stops which have or are planned for frequently scheduled fixed-route service.

#### *Manufactured Dwelling Types.*

*Manufactured dwelling, as defined in state law ORS 446.003. A residential trailer, mobile home or manufactured home, but not including any building or structure subject to the State of Oregon Structural Specialty Code adopted pursuant to ORS 55.100 to 455.450 and 455.610 to 455.630 or any unit identified as a recreational vehicle by the manufacturer.*

- *Residential Trailer.* A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.
- *Mobile Home.* A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

- Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed after June 15, 1976 and in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

Manufactured Dwelling Park (includes Mobile Home Park). Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person consistent with state law ORS 446.003.

~~Manufactured Dwelling.~~ A residential trailer, mobile home or manufactured home, but not including any building or structure subject to the Structural Specialty Code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

~~Manufactured Home.~~ A structure with a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §5401 et seq.), as amended on August 22, 1981.

~~Manufacturing.~~ As used in the Manufacturing Planning districts, manufacturing means the creation of basic parts of a manufactured product from raw materials. See also Assembly.

*Marijuana.* All parts of the plant of the Cannabis family ~~Moraceae~~ Cannabaceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

- Edible Marijuana, ~~edible~~. Edible product that contains marijuana.
- Homegrown Marijuana, ~~homegrown~~. Marijuana grown or made by a person 21 years of age or older for noncommercial purposes.
- *Marijuana extract.* A product obtained by separating resins from the marijuana plant by solvent extraction.
- *Marijuana facility.* A commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

*Marquee.* A projecting, permanent, roofed structure attached to and supported only by a building.

~~Marquee Sign. A type of wall sign painted, printed on, or attached to the marquee fascia.~~

~~Massage Parlor. An establishment that provides personal massage and is not a part of or directly related to a licensed medical or physical therapy facility.~~

~~Medical Center. A comprehensive, multi-disciplinary health care facility contained in several buildings providing a wide range of diagnostic, imaging and treatment services on an inpatient and outpatient basis to sick and injured persons; and providing training, administrative, maintenance and housing activities related to its health care mission; and providing limited supporting retail and service uses.~~

~~Memorial Planning and Products Center. A facility providing cremation and burial planning assistance and associated products and services, including a crematory, sale of memorial products such as caskets and urns, comfort rooms and witnessed placement cremation services serving the immediate family of the deceased, and similar death-care related products and services, but not including mortuaries, cemeteries, funeral homes or similar facilities that hold memorial or funeral services which are open to the general public.~~

~~Mixed Solid Waste. Solid waste that contains recoverable or recyclable materials, and materials that are not capable of being recycled or recovered for further use.~~

~~Mixed Use Development. A tract of land or building or structure with two or more different uses such as, but not limited to, residential, office, retail, manufacturing, public, or entertainment, in a compact urban form.~~

~~Mixed Use Residential Development. A mixed use development containing one or more residences.~~

~~Mobile Home. See Manufactured Dwelling Types Types A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.~~

~~Mobile Home Park. See Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person.~~

~~Modeling Studio. Any establishment in which figure models are provided to display "specified anatomical areas" for the purpose of being observed, sketched, painted,~~



~~sculptured, photographed, or similarly depicted, and which excludes minors as a legal or business practice.~~

~~Modular Home. See Residential Structure Types A residential structure consisting of prefabricated components manufactured at a remote location and assembled on-site.~~

~~Monument Sign. A freestanding sign which is permanently affixed at grade and has a monolithic or columnar line and which maintains essentially the same contour from grade to top.~~

~~Multi-Family Dwelling. See related Residential Structure Types A building containing two or more dwelling units.~~

~~Mural. A pictorial or graphic decoration, illustration, visual representation or art work which is applied directly to a wall and does not contain letters, numbers, logos, brand names or trademarks. Murals are Architectural Features which are reviewed through the Architectural Review process.~~

~~New Construction. A new building, structure, parking area or other detached improvement on the same parcel as an identified landmark which is ancillary to the current use.~~

~~Noise Sensitive Property. Any residence, apartment, condominium, multi-family dwelling or any school, church, nursing home, retirement home, group care home or day care center located in a residential planning district.~~

~~Non-Conforming Situations, Development, or Lots. See TDC Chapter 35.~~

~~Nonconforming Sign. A lawfully erected sign that does not meet the requirements of TDC Chapter 38 including a sign lawfully erected and existing, and properly maintained and repaired prior to May 13, 1992.~~

~~Nonconforming Structure or Use. A lawful existing structure or use at the time this Code or any amendment hereto becomes effective which does not conform to the requirements of the planning district in which it is located.~~

~~Nonmedical Uses (for signs). In the Medical Center District nonmedical uses are supporting retail and service uses for the convenience of patients, patient visitors, staff physicians and on-site employees and include only the following:~~

- ~~(1) bank branch/automatic teller machine not greater than 1000 square feet (sf) of gross floor area (GFA);~~
- ~~(2) barber/beauty shop not greater than 750 (sf) of GFA;~~
- ~~(3) child day care not greater than 4000 (sf) of GFA;~~
- ~~(4) credit union not greater than 1000 (sf) of GFA;~~
- ~~(5) fitness center not greater than 15,000 (sf) of GFA;~~
- ~~(6) florist/gift shop not greater than 750 (sf) of GFA;~~

~~(7) pharmacy not greater than 2000 (sf) of GFA, and  
(8) restaurant/delicatessen/coffee shop not greater than 1500 sf of GFA.~~

~~Nonretail Cardlock Fueling Station. An unattended facility where gasoline and diesel fuels are dispensed through a card or key activated fuel dispensing device by nonretail customers.~~

~~Nursing Facility. A State of Oregon Licensed Intermediate or Long-term care facility including facilities identified as a nursing home, skilled nursing facility, or convalescent care as defined in Oregon Revised Statutes (ORS) Chapter 678 and Chapter 442.~~

~~Obscene Sign. A sign or other advertising structure displaying any matter in which the dominant theme of the material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.~~

~~Obstructing Sign. A sign, including its supports and structure, which interferes with the use of a fire escape, exit or a window such that light, ventilation or ingress and egress is reduced below the minimum required by law.~~

~~Off-premise Sign. A sign which identifies or gives directions to a use or activity and which is located on premises other than where the activity or use is provided.~~

~~Off-Site. Any area not located within the property to be developed, whether or not in the common ownership of the applicant for development approval.~~

~~Off-Street Parking. Parking spaces provided for motor vehicles on individual lots and not located on public street right-of-way. Off-street parking includes surface lots, parking structures, and underground parking.~~

~~Outdoor Dining Facility. An establishment that serves food and beverages in an outdoor setting as part of a restaurant.~~

~~Outdoor Recreation Trail. A pedestrian path that provides access to and through recreational elements and open spaces. These trails are generally located within the City's designated greenways. Typically they are 1/4 mile or more in length and serve as part of the recreation experience, but can also function as routes for commuter or destination-oriented trips.~~

~~Outdoor Recreational Access Route. A pedestrian path that provides access to a recreation trail. These trails are on City-owned property, exclusive rights-of-way or easements, but are not necessarily located in a designated greenway. They are typically 1/4 mile or less in length.~~

~~Outdoor Sales, Temporary. The temporary sale of seasonal goods or merchandise such as holiday vegetation, fireworks and produce, or temporary outdoor amusements such as carnivals from a location outside of a building in a mobile stand, tent or in the open air.~~

*Outdoor Shared Areas.* Common areas in multi-family developments used by residents for outdoor activities. Outdoor shared areas can include, but are not limited to open lawn areas, gazebos, covered spaces, swimming pool areas, walking trails or sport recreation fields.

~~Outdoor Storage. The storage of materials or merchandise outside of a building. Except as otherwise provided in these standards, outdoor storage shall include only materials or merchandise directly related to the primary permitted use on the site where the outdoor storage is proposed to be conducted.~~

~~Outlet. A retail store, agency, branch or dealer through which a product or service is marketed or sold.~~

*Overhead Door.* An opening in a wall that is at least eight feet wide and eight feet in height and that is used as an access to a loading dock, loading bay, vehicle service bay, or other similar work area. The opening is covered by a door that opens overhead.

~~Overhead Door Sign. A sign located at the uppermost area of the overhead door opening or immediately above an overhead door opening.~~

*Owner.* Any person, firm, corporation or combination, or any other legal entity having legal title to land sought to be the subject of any application or decision of this Development Code.

*Painted Highlights.* Painted areas on a wall which highlight a building's architecture or structure and do not contain letters, numbers, logos, brand names or trademarks. Painted highlights are architectural features which are reviewed through the Architectural Review process.

*Parcel.* A unit of land that is created by a partitioning of land, as set forth in ORS 92.010.

*Parking Lot Improvement or Expansion.* The alteration of land or expansion of existing off-street parking, including grading, paving or installation of landscaping, on land intended to be regularly used for the temporary storage of motor vehicles. Parking lot improvement does not include resurfacing existing asphalt parking or re-striping of parking lots.

*Partition.* An act of partitioning land, or an area or tract of land partitioned, as set forth in ORS 92.010.

*Partition Land.* To divide land into two or three parcels of land within a calendar year, as set forth in ORS 92.010.

*Pedestrian.* A person afoot or using any of the following: A means of conveyance propelled by human power other than a bicycle; or an electric personal assistive mobility device. *Pedestrian* includes a person who is operating a self-propelled wheelchair, motorized tricycle, or motorized quadricycle and, by reason of physical disability, is otherwise unable to move about as a pedestrian.

*Pedestrian Facilities.* On and off-street improvements and facilities such as sidewalks, walkways, pedestrian paths, outdoor recreation trails, outdoor recreation access routes, accessways, and other amenities designed to accommodate pedestrians.

*Pedestrian Paths.* Pedestrian paths are generally located within the City's designated greenways, but may be located elsewhere to provide access between residential, commercial, public, and semi-public uses. The paths serve as routes for recreational, commuter and destination-oriented trips.

~~*Pennant.* A sign that is a triangular flag which is tapered to a point or swallowtail.~~

*Person.* A natural person, his or her heir, executor, administrator, assign or successor in interest; a firm, partnership, corporation, association or legal entity, it's or their successors or assigns; and any agent, employee or representative of any of the above-mentioned.

~~*Pet Day Care.* A business providing pet care services for dogs and cats such as day care, sitting services, grooming, and retail sales of pet products. Pet Day Care is not allowed for animals other than dogs or cats including exotic animals or animals not considered ordinary household pets. Kennels for dog breeding and training are not allowed.~~

*Phase.* A distinct stage of development having adequate public facilities.

~~*Planning Director.* See Community Development Director.~~

*Planning District.* Land use regulatory designation under the Tualatin Development Code. The term "Zone" has the same meaning as "Planning District."

~~*Plaque Sign.* For the Mixed Use Commercial Overlay District only, a type of wall sign associated with and located near a customer entry area.~~

*Plat.* A final subdivision plat, replat or partition plat, as set forth in ORS 92.010.

- ~~*Plat, Partition Plat.*~~ A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition, as set forth in ORS 92.010.

- ~~*Plat, Subdivision Plat.*~~ A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision, as set forth in ORS 92.010.

~~*Porch.*~~ A covered entrance to a building.

~~*Portable Collection Facility.*~~ A trailer, dropbox or similar portable or semi-portable container or enclosure for the collection and storage of repairable or reusable household goods or materials for the purpose of transfer of said goods and materials elsewhere for further processing. In this context, "materials" is specifically intended to include newspaper, magazines and other printed matter.

~~*Portable Construction Office.*~~ An enclosed structure used for a business office or storage of construction or residential, commercial or industrial structures by the owner, subdivider, contractor, or their authorized agents and representatives.

~~*Preliminary Approval.*~~ After specific elements of a development plan have been submitted to and agreed upon by the City and prior to final approval, the conditional approval and qualified acceptance which is given by the City.

~~*Preliminary Plat.*~~ The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision or partition.

~~*Primary Condominium Lot.*~~ A large lot, usually held in common ownership by condominium owners, and containing secondary condominium lots.

~~*Primary Landmark.*~~ A landmark which originated prior to 1900.

~~*Primary Public Customer Doorway.*~~ One or more principal entryways to a business provided for customer access on a day-to-day basis.

~~*Private Areas.*~~ Outdoor areas which are an extension of private interior spaces. Private areas include main entrances to dwelling units and patio areas.

~~*Private Grounds.*~~ Includes all real property not contained within public right-of-way.

~~*Private Improvements.*~~ See Improvement Types, Private.

~~*Project Sign.*~~ For the Mixed Use Commercial Overlay District only, a type of sign to identify a project. For the purposes of this definition a project is a functionally integrated and coordinated development on at least 10 acres that may include more than one lot and be separated by a public street. The project is reviewed through the Architectural Review process as one application, as two or more simultaneous applications, or as two or more applications for phases of the same development.

~~*Property, Adjacent.* A parcel which is touching, or which is across a public right-of-way, an easement, a small creek or a small stream from the extension of the property lines of the subject property.~~

*Property Line.* An imaginary line defining the boundary limits of a tract of land or lot. (Also known as a lot line).

*Property Line Adjustment.* The relocation of a common property line between two abutting properties, as set forth in ORS 92.010. (Also known as Lot Line Adjustment.)

*Public Hearing.* An adjudicatory proceeding held by the City Council preceded by specified public notice at which interested persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating an application complies with applicable development regulations and where the City Council determines whether and under what conditions the application complies or development may occur.

~~*Public Improvement.* See Improvement Types. Includes any drainage ditch, roadway, parkway, bikeway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, water utility, sanitary sewer utility, storm drainage utility, street or other facility constructed in compliance with the Public Works Construction Code for which the City or other governmental authority will ultimately assume the responsibility for maintenance and operation.~~

*Public Road.* A road under the jurisdiction of a public body.

~~*Public Sign.* A sign erected and maintained by a special purpose district, public school district, municipal, county, state or federal government, or any political subdivision or agency thereof.~~

*Public Utility Facility.* All on-site and off-site improvements and related accessories to be accepted for ownership, maintenance and operation by a public agency, including but not limited to, sanitary sewers and pump stations, water lines including related reservoirs, pump stations, pressure reading stations and hydrants, storm drain systems, greenways, bike paths, and streets including, alleys, street lights, street name signs, traffic control systems and devices.

*Public Works Construction Code or Public Works Code.* The document entitled "Public Works Construction Code" adopted by the Council to provide design, materials and workmanship specifications for public improvements constructed by developers.

~~*Qualified Arborist.* (See "Arborist, Qualified").~~

*Quasi-Judicial.* The application of general standards and criteria to a specific set of facts in order to determine the conformance of the facts to the applicable criteria and resulting in a determination that will definitely affect only a small number of identifiable people.

~~Readerboard, Electronic Message Center (Changeable Copy) Sign. A sign on which copy can be changed electronically by using patterns of lights that may be changed at intermittent intervals.~~

~~Readerboard, Mechanical (Changeable Copy) Sign. A permanent sign on which copy can be changed manually, in the field, by using letters, numbers or symbols which can be affixed to the sign face or are snapped into place or are track-mounted.~~

~~Recognized Neighborhood Association. Any homeowners association, neighborhood association, or other similar group which has requested and received recognition by the City in accordance with the requirements of the Tualatin Development Code.~~

~~Recreational Vehicle. See Vehicle Types. A vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and has a gross floor area not exceeding 400 square feet in the set-up mode and as further defined, by rule, by the Oregon Department of Consumer and Business Services Director [ORS 446.003(12)].~~

~~Recreational Water, Snow and Land Vehicles. Motorized vehicles for recreational purposes that do not meet the Oregon Motor Vehicle Code requirements for legal operation on public streets and roads, including but not limited to personal watercraft, such as: Jet Ski and SeaDoo brands, snowmobiles such as Polaris brand, go-carts and swamp or dune buggies.~~

~~Recycling Collection Center. A permanent facility for the collection, storage, repair, processing or distribution of repairable or reusable household goods or materials, when housed in a fully enclosed building. In this context, "materials" is specifically intended to include empty bottles, jars, cans, boxes or similar containers, as well as newspaper, magazines and other printed matter.~~

~~Relocation. Relocating a landmark from its existing parcel to another parcel or repositioning a landmark on an existing parcel.~~

~~Replat. The act of platting the lots, parcels and easements in a previously recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision, as set forth in ORS 92.010.~~

~~Reserve Strip. A narrow strip of land located between a subdivision or partition and other property at the ends of, or parallel to streets which has not been dedicated to public use, but rather conveyed to the City for purposes of enhancing City control over development of the adjacent property.~~

~~Reserve Frontage Lot. A lot which is required by the City to take access across a specified lot line to separate residential development from railroad tracks or crossings,~~

arterial or collector streets, adjacent non-residential uses, or to overcome specific disadvantages of topography and orientation.

*Residential Care.* Services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board, as defined in ORS 443.400(4).

*Residential Structure Types and Related* (includes but is not limited to definitions for Housing Types in Section 39.200 and Group Living in Section 39.210)

- ~~Accessory Dwelling Unit (ADU). A living area in a detached single family dwelling in the RL district or in a Small Lot Subdivision in the RML district that is in the single family dwelling building, but functions as a separate living area from the other living area in the detached single family dwelling. An Accessory Dwelling Unit is not a separate dwelling unit for density purposes. An interior attached or detached residential structure that is accessory to a single family dwelling. An Accessory Dwelling Unit is not a separate dwelling unit for density purposes~~
- Certified or registered family child care home. (see ORS 329A.440). See, Child Care.
- Duplex. A type of dwelling that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling. A building containing two dwelling units.
- Dwelling Unit. A habitable structure containing one or more rooms designed for occupancy by one individual or family and not having more than and only having one cooking facility.
- Modular Home. A residential structure consisting of prefabricated components manufactured at a remote location and assembled on-site.
- Multi-Family Dwelling. A building containing two or more dwelling units A dwelling unit within a multi-family structure.
- Multi-Family Structure. A structure containing three or more dwelling units on one lot. The land underneath the structure is not divided into separate lots. Multi-Family Structure includes, but is not limited to structures commonly called apartments, condominiums, garden apartments, and triplex.
  - Garden Apartments. A multi-family housing structure characterized by the emphasis of open landscaped areas.
  - Triplex. A building containing three dwelling units. A multi-family structure containing three primary dwelling units. Each unit must share a common wall or common floor/ceiling with at least one other unit.
- Residential Home. A residential training home or residential treatment home for five or fewer individuals exclusive of staff, as defined in ORS 443.400.
- Retirement Housing Facility. Retirement housing consisting of dwelling units in a multi-family structure or complex.
- Retirement Housing. Housing occupied by persons who are 58 55 years of age and older, including couples with one person 58 55 years of age or older, where a more supportive living environment than typically afforded to residents in conventional apartments or single-family residential housing is provided. Retirement housing includes "congregate care facility" and "retirement housing



facility," or combinations thereof as defined by this code. Retirement housing does not include "nursing facility" as defined below by this code.

- *Single-Family Dwelling (detached)*. A single dwelling unit detached or separate from other dwelling units. A dwelling unit not having common walls with another dwelling unit.
- *Townhouse (or Rowhouse)*. ~~A dwelling unit in the RML, RMH, RH and CO (in the Central Urban Renewal District's Block 1) Planning Districts that is either attached or detached where the owner of the dwelling unit also owns the land the dwelling is located on, the dwelling unit has its own front door and back door or side door access to the outside, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from another unit by one or more vertical fire-resistant walls. A type of dwelling unit, located on its own lot, and which shares one or more common or abutting walls with one or more other dwelling units.~~

~~*Residential Facility.* See Group Living Types. A residential facility providing residential care, training or treatment for six or more individuals exclusive of staff, as defined in ORS 443.400.~~

~~*Residential Home.* A residential training home or residential treatment home for five or fewer individuals exclusive of staff, as defined in ORS 443.400.~~

~~*Residential Trailer.* See Residential Structure Types/Manufactured Dwelling. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.~~

~~*Restaurant.* An establishment where meals are prepared and served to the public for consumption on the premises entirely.~~

~~*Restaurant, Drive-In.* A restaurant in which patrons order from and are served food in their automobiles and which is designed for consumption of food to occur in the automobiles on the premises. Little or no inside customer seating is provided.~~

~~*Restaurant, Take-Out.* An establishment where some of the meals are prepared and served to the public for consumption on the premises; others are prepared and packaged for customers to take off the premises for consumption. A take-out restaurant may or may not include a drive-up window where customers order through a speaker, drive around and pick up food, then leave premises for consumption.~~

~~*Restrictive Covenant.* A legally binding limitation on the manner in which a tract of land or lot can be used, usually a condition placed on the deed.~~

~~*Retail Commercial Use.* See Commercial Use. See Chapter 39: Use Categories.~~

~~Retail Service and Professional Service Uses. A sub-type of Commercial Use that applies to land designated as Industrial Area on Map 9-4. The retail sale of services that cater to daily customers, including but not limited to financial, insurance, real estate, legal, medical and dental offices.~~

~~Retirement Housing. See Residential Structure Types Housing occupied by persons who are 58 years of age and older, including couples with one person 58 years of age or older, where a more supportive living environment than typically afforded to residents in conventional apartments or single-family residential housing is provided. Retirement housing includes "congregate care facility" and "retirement housing facility," or combinations thereof as defined by this code. Retirement housing does not include "nursing facility" as defined below by this code.~~

~~Retirement Housing Facility. See Residential Structure Types Retirement housing consisting of dwelling units in a multi-family structure or complex.~~

~~Riparian area. The area adjacent to a river, lake, stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial system.~~

~~Riparian corridor. Riparian corridor includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.~~

~~Roadway. The portion of street right-of-way developed for vehicular traffic.~~

~~Roof (for signs). Any exterior building surface that is not vertical.~~

~~Roof Sign. A sign erected on or attached to a roof.~~

~~Rotating, Revolving or Moving Sign. A sign, except a banner, or portion thereof designed to move.~~

~~School. A place for systematic instruction in any branch or branches of knowledge; including any of the following: kindergarten, primary, intermediate, high school, community college, college or university, or combination thereof. May be a public school or a private school offering instruction substantially similar to public school.~~

~~Secondary Condominium Lot. A small, individually owned lot, usually encompassing the perimeter of a dwelling unit and located inside the primary condominium lot.~~

~~Secondary Landmark. A landmark which originated after 1900 and which is at least 50 years of age.~~

~~Setback. The minimum horizontal distance between the public street right-of-way or side and rear property lines to the front, side and rear lines of a building or structure located on a lot.~~

~~Sexual Encounter Center. Any business, agency, or person who, for any form of consideration or gratuity, provides a place where persons may congregate, assemble or associate for the purpose of engaging in the sexual conduct.~~

~~Shared Roadway. A type of bikeway where bicyclists and motor vehicles share the same roadway.~~

~~Shared Service Facility. An operation that serves as a data center for the purposes of storing, managing, processing and exchanging digital data and information, and physically housing large amounts of computer equipment such as servers (e.g., web servers, application servers, database servers), switchers, routers, data storage devices, load balancers, wire cages or closets, vaults, racks, etc...~~

~~Shingle/Blade Sign. A rigid sign hanging from an awning, canopy, marquee or building overhang or attached to a wall and perpendicular or at an angle to that wall.~~

~~Sidewalk. A pedestrian walkway with permanent surfacing located in a street right-of-way, generally constructed as part of a street improvement and parallel to the street improvement. A sidewalk is not an accessway.~~

~~Sight Distance. The distance along which a person can see approaching objects, such as automobiles or pedestrians at a street intersection or from a driveway along a street.~~

~~Sign. An identification, description, illustration, symbol, letter, number, logo, fluorescent tube or row of tubes, incandescent bulb or string of bulbs, or graphic information or device, but not an architectural feature of a building, including the structural supports, which is affixed directly or indirectly, or temporarily or permanently, upon a building, vehicle, structure or land. Signs identify or direct attention to a product, place, activity, person, institution, business, use, idea, belief, candidate or political issue. Murals and painted highlights are not signs.~~

~~Sign Band. An area on each elevation of a building that establishes the location for permanent wall signs.~~

~~Sign Band, Main Building Entrance. An area located on the wall within a distance of no more than eight feet of the main building entrance doorway. A main building entrance is one grade level entrance to a building that is the primary building entrance for occupants and visitors.~~

~~Sign Band, Primary. The sign band associated with the first floor or ground level floor of a multi-story building.~~

~~Sign Clearance. The distance from the grade directly below a sign to the bottom of the lowest portion of the sign.~~

~~Sign Contractor. A person engaged in the business of sign construction, sign maintenance or sign repair and registered with the Oregon Construction Contractors Board.~~

~~Sign Face. The surface to which a sign is affixed. A single-sided sign has one sign face. A double-sided sign may have one or more sign faces on each side. A multi-sided sign may have multiple faces and includes multi-faceted signs and signs in the shape of figures and objects.~~

~~Sign Face Area. The portion of a sign containing copy and the background for the copy. See Section 11, Measuring Signs.~~

~~Sign Maintenance. Normal care needed to keep a sign functional such as cleaning, painting, oiling and changing bulbs and tubes.~~

~~Sign Repair. Fixing or replacement of broken or worn parts, sign faces or copy. Replacement is of comparable materials only. Repairs may be made with the sign in position or with the sign removed. Sign repair includes repairs to damaged signs unless the cost of the repair exceeds 50 percent of the value of the sign during the most recent period of use before repairs are initiated.~~

~~Sign Structure. One or more supports, uprights, braces, or other framework of a sign.~~

~~Single-Family Dwelling. See Residential Structure Types A single dwelling unit detached or separate from other dwelling units. A dwelling unit not having common walls with another dwelling unit.~~

~~Site. For purposes of a decision following the limited land use process, a site refers to the property upon which a development is proposed.~~

~~Sketch Map. A plan map provided to the City Engineer Manager as part of a development application for purposes of property line adjustment.~~

~~Skirting. A covering that totally obscures the undercarriage of a manufactured dwelling, extending from the top of the undercarriage to the ground.~~

~~Small-Lot Subdivision. A subdivision containing lots smaller than 6,500 square feet and that has been granted conditional use approval.~~

~~Small Projecting Sign. A rigid sign hanging from an awning, canopy, marquee or building overhang (shingle-style) or attached to a wall and perpendicular or at an angle to that wall (blade-style).~~

~~Snipe Sign. A sign, usually composed of paper, plastic or plywood, affixed to a tree, fence post, utility pole, or similar structure.~~

~~Source Separated Recyclables. Means, at a minimum, recyclable materials designated "principal recyclable material" by the State Environmental Quality Commission under ORS 495A.025, with the exception of yard debris. Currently these materials include newspaper, ferrous and non-ferrous scrap metal, used motor oil, corrugated cardboard, aluminum, container glass, office paper and tin cans. (OAR 340-60-030).~~

~~Spanner Panel. A cabinet, flat surface or other similar surface erected so that it is approximately vertical and attached to the posts, poles, columns or other supporting members of a canopy or other similar roof-like structure, or attached to the canopy itself. Spanner panels often span the space between the poles or extend from the poles supporting gas station pump island canopies.~~

~~Specified Anatomical Areas.~~

~~(1) Less than completely and opaquely covered:~~

~~(a) Human genitals, pubic region;~~

~~(b) Buttock, and~~

~~(c) Female breast below a point immediately above the top of the areola; and~~

~~(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

~~Specified Sexual Activities. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.~~

~~Stand-Alone Structure. A single purpose building that does not have a mixture of uses within it and therefore has an architectural design appropriate to the use.~~

~~Storage Area. The space necessary to store mixed solid waste and source separated recyclables that accumulate between collection days.~~

~~Store. The space within a building, other than a basement, included between the surface of any finished floor and the surface of the ceiling immediately above said floor.~~

~~Stream. A stream is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.~~

~~Street. A structure within the boundary lines of a public right-of-way which provides for public use of a public roadway for the purpose of vehicular and pedestrian traffic and the placement of utilities, and including the terms "road," "highway," "lane," "place," "avenue," "court," "circle," "alley," or other similar designation.~~

~~Street Right-of-Way. Publicly owned land devoted to the primary purpose of street and utility construction.~~

*Street Tree.* A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

*Stub-out (Stub-street).* A portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future resulting in the extension of the stubbed street.

*Structural Alteration.* Any change to the supporting members of a building or structure, including foundations, bearing walls, partitions, columns, beams, girders, or roof or other supports.

*Structure.* That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some manner and which requires a location on the ground or which is attached to something having a location on the ground.

*Structure Bulk.* The mass or size of a structure.

*Subdivision.* The splitting of a single tract of land into four or more parcels.

*Subdivision Improvements.* Construction of facilities such as streets, water, sewer, gas and telephone lines and other construction related to drainage, landscaping and beautification.

*Subdivision Sign.* See, Sign Types in Chapter 38. ~~A sign located on land in a recorded subdivision approved through the City of Tualatin subdivision review process.~~

*Substantially Complete.* A subdivision or partition will be considered substantially complete when, in the opinion of the City ~~Engineer~~Manager, the City will not be adversely impacted by issuance of building permits prior to acceptance of the public improvements by resolution of the Council. Substantially complete includes, but is not limited to a determination that water and sewer lines have been tested and ready to begin service, that as-built drawings of public facilities have been submitted, that the roadway surfaces and drainage facilities will provide year-round access to each lot and that street lights are installed and authorized to be energized.

~~Telecommuting.~~ ~~The act of an employee working at home by the use of an electronic linkup with a central office.~~

~~Temporary Sign.~~ ~~A sign not permanently attached to the ground (set on or post driven or dug into the ground with no footing or foundation), wall or building and allowed to be displayed for only a short period of time.~~

*Tenant.* A separate business or business occupant whether as owner, purchaser or lessee. See Business and Business Occupant.

~~*Townhouse.* See Residential Structure Types. A dwelling unit in the RML, RMH, RH and CO (in the Central Urban Renewal District's Block 1) Planning Districts that is either attached or detached where the owner of the dwelling unit also owns the land the dwelling is located on, the dwelling unit has its own front door and back door or side door access to the outside, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from another unit by one or more vertical fire-resistant walls.~~

*Tract.* A non-buildable unit of land created in the partitioning or subdivision process.

*Traffic Control Device.* Any sign, signal or other device constructed by a road authority, as defined by State law, for the purpose of vehicular or pedestrian traffic control.

*Transit Stop:* A location where regularly scheduled transit service stops (includes but is not limited to bus stop) to load and unload passengers. For purpose of measuring, the transit stop is the location of a sign denoting the transit stop. See also Transit Stop, Major.

- *Major Transit Stop.* Existing and planned light rail stations, commuter rail stations and transit transfer stations, except for temporary facilities; other planned stops designated as major transit stops in TDC Chapter 11 (Figure 11-5); and existing stops which have or are planned for frequently scheduled fixed-route service.

*Transit System.* The property, equipment and improvements of whatever nature owned, used, constructed, maintained, controlled or operated to provide mass transportation for passengers, or to provide for the movement of people, including park-and-ride stations, transfer stations, parking lots, malls and skyways, as set forth in ORS 267.

*Transportation Facility or Improvement.* Any physical facility constructed for the movement of people or goods, excluding electricity, sewage and water systems; the operation, maintenance, repair and preservation activities of existing facilities including but not limited to road, bicycle, pedestrian and rail facilities; the installation of improvements including but not limited to culverts, fencing, guardrails, landscaping, lighting, medians and pathways within the existing right-of-way; emergency measures necessary for the safety and protection of people and property; acquisition of right-of-way for public roads, highways and other transportation improvements designated in the Transportation System Plan TDC Chapter 11; and construction of a street or road as part of an approved subdivision, land partition, architectural review or other land use decision consistent with the TDC.

*Tree.* A living, standing, woody plant having a trunk eight inches or more in diameter, widest cross section, at a point four feet above mean ground level.

*Tree Removal.* To remove or cut down a tree, or to damage a tree so as to cause the tree to die. Damage which constitutes removal includes, but is not limited to, topping or removing a significant portion of the tree crown; application or injection of a substance toxic to the tree; damage inflicted upon the root system by root cutting, grading, paving,

or storing materials or equipment in the tree's root zone; disrupting bark functions by stripping bark or girdling tree trunks or limbs with rope or wire.

*Tri-Plex.* See Residential Structure Types under Multi-Family Structure ~~A building containing three dwelling units.~~

*Tualatin Development Code (TDC).* The TDC, as amended, as of the date of submittal of a development application.

*Urban Renewal Area.* A portion of the central area of the City legally designated by the City Council as appropriate for urban renewal.

~~Unsafe Sign. Any sign, part of a sign or sign structure which is liable to collapse or fall due to inability to withstand wind, seismic or other loads, as specified in the Uniform Building Code of the City, or as determined by the City Building Official. Whenever any sign or part of a sign obstructs the view of motorists traveling on the public streets or on property open to the public and creates risk of property damage or personal injury, it is an unsafe sign.~~

*Use.* The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.

*Utility Facility or Utility Facilities.* The portion of a new structure or major remodeling activity which is regulated or controlled by applicable portions of the City's Structural Specialty and Fire and Life Safety Code, the City's Public Works Construction Code, the City's Plumbing Code, the City's Mechanical Code, and those portions of the Tualatin Development Code which regulate site access, street, sanitary and storm sewer and water improvements, onsite vehicle circulation, and the location of power, gas, telephone, cable television, and other similar activities. "Facilities" includes Public Utility Facilities, but does not include architectural features.

*Vegetated Corridor.* A corridor adjacent to a water quality Sensitive Area that is preserved and maintained to protect the water quality functions of the water quality sensitive area.

#### *Vehicle Types*

- *Light Truck.* Two axle motor vehicles including trucks, cargo vans, school buses and motor homes with a Gross Vehicle Weight (GVW) of 28,000 lbs. or less.
- *Recreational Vehicle.* A vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes, and has a gross floor area not exceeding 400 square feet in the set-up mode and as further defined, by rule, by the Oregon Department of Consumer and Business Services Director [ORS 446.003(12)].
- *Recreational Water, Snow and Land Vehicles.* Motorized vehicles for recreational purposes that do not meet the Oregon Motor Vehicle Code requirements for legal



operation on public streets and roads, including but not limited to personal watercraft, snowmobiles go-carts and swamp or dune buggies.

*Vision Clearance Area.* A triangular shaped area established at the intersection of any combination of rights-of-way, private roads, alleys and driveways. The sides of the triangle shall extend an equal and specified distance from the intersection of the property lines, or from the property lines extended along the right-of-way away from the intersection.

*Walkway.* A pedestrian facility which provides a paved surface for pedestrian circulation within a development. A walkway may be shared with bicycles and may cross vehicle areas.

~~Wall (for signs).~~ The vertical face elements of a building from the perspective of an architectural elevation, including parapet walls and appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations, wing walls, and windows, doors and other openings.

~~Wall Area.~~ The measurement in square feet of a building wall based on the height and width of an architectural elevation.

~~Wall Sign.~~ A sign which is affixed to or painted on a wall of a building.

~~Wall Sign, Directory style.~~ A type of wall sign with a taller sign face height and with a capability to list messages for more than one building tenant.

~~Wall Sign, Hospital Identification.~~ A wall sign located on one hospital building wall intended for visibility from the I-5/SW Nyberg Avenue Interchange.

~~Wall Sign, Main Building Entrance.~~ A wall sign located on the main building entrance sign band.

*Wetlands.* Land areas determined by the Oregon Division of State Lands to be wetlands.

*Wetlands Conservation Lot.* A parcel consisting principally of wetlands and therefore unsuitable for development, created to preserve and protect wetlands.

~~Wholesale Sales.~~ The sale, lease or rent of products primarily intended for industrial, institutional or commercial firms.

~~Window Sign.~~ A sign permanently or temporarily painted on or affixed to the glazing of a window or window frame, or permanently mounted within two feet of the window pane and intended for viewing from outside the building.

Wireless Communication, Co-location. The placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank, or utility pole.

*Wireless Communication Facility.* An unstaffed facility for the transmission or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

*Wireless Communication Facility Attached.* A wireless communication facility that is affixed to an existing structure, e.g., an existing building wall or roof, mechanical equipment, tower or pole, water tank, utility pole, or light pole, that does not include an additional wireless communication support structure.

*Wireless Communication Support Structure.* A new structure, tower, pole or mast erected to support wireless communication antennas and connecting appurtenances. Support structure types include, but are not limited to, monopoles, lattice towers, wood poles and guyed towers.

*Yard.* An open space on a lot which is unobstructed by buildings or structures from the ground upward.

*Yard Setback.* An open space on a lot which is unobstructed by buildings or structures from the ground upward and is the minimum horizontal distance between the public street right-of-way or side and rear property lines to the front, side and rear lines of a building or structure located on a lot.

- Front Yard Setback, ~~Front~~. An open space between side lot lines, and measured horizontally from the front lot line at right angles to the front lot line to the nearest point of the building.
- Rear Yard Setback, ~~Rear~~. An open space extending between side lot lines, and measured horizontally at right angles from the rear lot line of the nearest point of a building.
- Side Yard Setback, ~~Side~~. A yard between a building and the side lot line, measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the building.\

Zone. Land use regulatory designation under the Tualatin Development Code. The term "Planning District" has the same meaning as "Zone."

### **Section 31.063 Neighborhood/ Developer Meetings.**

(1) This section applies to the following types of Land Use applications: ~~Annexations; Architectural Reviews, except Level I (Clear and Objective) Single-family Architectural Review; Conditional Uses; Historic Landmark actions, including designation, removal of designation, demolition, relocation, or alteration or new construction; Industrial Master Plans; Partitions; Plan Map Amendments for a specific property; Plan Text Amendments~~

for a specific property; Subdivisions; Tree Removal Permit; Transitional Use Permit; and Variances, except for variances to existing single family residences.

(2) Prior to the submittal of an application listed in TDC 31.063(1) and following a pre-application meeting held with the City, the developer shall host a meeting for the surrounding property owners located within the mailing area designated in TDC 31.064(1)(c). Notice of the meeting shall be provided to Recognized Neighborhood Associations within the Notice Area of TDC 31.064(1)(c) and to designated representatives of recognized Citizen Involvement Organizations. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(3) The Neighborhood/Developer Meeting shall be held on a weekday evening, or weekend no earlier than 10:00 a.m. and no later than 6:00 p.m., at a location within the City of Tualatin.

(4) The applicant shall at least 14 calendar days and no more than 28 calendar days prior to the meeting mail notice of the meeting pursuant to TDC 31.064(1) stating the date, time and location of the meeting and briefly discussing the nature and location of the proposal:

(5) Failure of a property owner to receive notice shall not invalidate the Neighborhood/Developer Meeting proceedings.

(6) The applicant shall, at least 14 calendar days before the meeting, post a sign pursuant to TDC 31.064(2). If the sign disappears prior to the meeting date, the applicant shall replace it within forty eight (48) hours. The applicant shall remove the sign no later than fourteen (14) days after the meeting date.

(7) The applicant shall prepare meeting notes identifying the persons attending and the major points that were discussed and expressed.

(8) The applicant is required to hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.

(9) If an applicant fails to hold a neighborhood meeting, the application shall be deemed incomplete.

(10) The application shall include the following materials related to the Neighborhood/Developer meeting:

- (a) the mailing list for the notice;
- (b) a copy of the notice;
- (c) an affidavit of the mailing and posting;
- (d) the original sign-in sheet of participants;
- (e) the meeting notes described in TDC 31.063(7).

(11) Applications shall be submitted to the City within 180 days of the Neighborhood/Developer meeting. If an application is not submitted in this time frame, the Developer shall be required to hold a new Neighborhood/Developer meeting.

### **Section 31.064 Land Use Applications.**

~~This section applies to the following types of Land Use applications: Annexations; Architectural Reviews, except Level I (Clear and Objective) Single-family Architectural Review; Conditional Uses; Historic Landmark actions, including designation, removal of designation, demolition, relocation, or alteration or new construction; Industrial Master Plans; Partitions; Plan Map Amendments for a specific property; Plan Text Amendments for a specific property; Subdivisions; Tree Removal Permit; Transitional Use Permit; and Variances, except for variances to existing single family residences.~~

~~(1) Mail: An applicant shall mail notice of a Neighborhood/Developer Meeting and the City shall mail notice of application submittal as follows:~~

~~(a) Recipients: The mailing recipients shall be the applicant, the owners of the subject property, owners of property within the Mailing Area of TDC 31.064(1)(c) recognized neighborhood associations as defined in TDC 31.060 recognized through TDC 31.065 and within the Mailing Area of TDC 31.064(1)(c), and designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.~~

~~(b) Recipient Identification: The City shall use the names and addresses of the owner or owners of record as shown in the current, or within thirty (30) days of a completed application, computer roll of the County Assessor. The applicant shall be responsible for having one of the following prepare the list: a land title company; a land use planning consultant authorized by the State of Oregon to conduct business in the state; a registered architect, landscape architect, engineer, surveyor, or attorney; or where the City is the applicant, the Community Development Director or when applicable the City Engineer. The applicant shall update the list of property owners no less than every ninety (90) days until a final land use decision is rendered. The applicant shall provide a copy of the list of recipients and their current mailing addresses as part of the land use application.~~

~~(c) Mailing Area, Buffer, or Distance: The mailing area shall extend 1,000 feet from the boundaries of the subject property. If the 1,000-foot area includes lots within a platted residential subdivision, the notice area shall extend to include the entire subdivision of which the lots are part, and the applicant shall identify these subdivisions for staff as part of the mailing notification list. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases.~~

~~(d) ARB: The notice of application submittal for an Architectural Review application subject to review by the Architectural Review Board (ARB) shall have the minimum information pursuant to TDC 31.074(3).~~

~~(2) Sign Posting: The applicant shall as follows both provide and post on the subject property a sign that conforms to the standard design established by the City for signs notifying the public of land use actions:~~

~~(a) Minimum Design Requirements: The sign shall be waterproof, and the face size shall be eighteen (18) by twenty-four (24) inches (18 x 24) with text being at least two (2) inches tall.~~

~~(b) On-site Placement: Prior to land use application submittal, the applicant shall place a sign along the public street frontage of the subject property or, if there is no public street frontage, along the public right-of-way (ROW) of the street nearest the subject property. A subject property having more than one public street frontage shall have at least one posted sign per frontage with each frontage having one sign.~~

For a subject property that has a single frontage that is along a dead-end street, the applicant shall post an additional sign along the public ROW of the nearest through street. The applicant shall not place the sign within public ROW pursuant to TDC 38.100(1); however, for a subject property that has no public street frontage or that has a single frontage that is along a dead-end street, the applicant may place the sign within public ROW of the nearest street.

(c) Proof of Posting: The applicant shall submit as part of the land use application submittal an affidavit of posting to the Community Development Director or when applicable the City Engineer.

(d) Removal: If the sign disappears prior to the final decision date of the subject land use application, the applicant shall replace it within forty-eight (48) hours. The applicant shall remove the sign no later than fourteen (14) days after the City makes a final decision on the subject land use application.

### **Section 31.065 Procedure for Council Recognition of a Neighborhood Association.**

(1) The purpose of this Section is to provide a method whereby a group of residents or property owners in a location which is distinct from existing, recognized neighborhood associations, may form a recognized neighborhood association. The business of such association may include any legitimate activity, but shall at a minimum include acting as the recipient and neighborhood disseminator of information from the City which may be of interest to the neighborhood.

(2) A petitioner who wishes to receive City Council recognition for a neighborhood association shall complete and submit to the City Recorder a written request. The written request shall include at least the following information:

(a) a map which accurately illustrates the proposed boundaries of such association, so long as they do not overlap with any other recognized association boundaries.

(b) a current list of names and addresses of households within the proposed boundaries;

(c) the names, addresses, telephone numbers and hierarchy of leaders within the proposed association, so long as each such leader resides within the proposed boundaries of such association.

(d) the petition shall be signed by representatives of greater than 50% of the households within the proposed association boundaries, so long as the total number of households within said boundaries is not less than three.

(3) The City Recorder or designee shall review the petition for completeness and thereafter schedule a public hearing for City Council consideration.

(4) The City Council shall conduct a quasi-judicial hearing to determine whether to recognize the association, giving due consideration to logical geographic boundaries, other nearby residences which lie outside recognized association boundaries, planning district boundaries, subdivision boundaries, and in the case of multiple unit structures, whether all residents proposed to be included. The City Council may approve, approve with conditions, or deny the application or it may continue the public hearing for the presentation of additional evidence.

The Council shall adopt a written order as a final decision. After the City Council has adopted an order recognizing the neighborhood association, the association leaders

shall be responsible for disseminating to its members official information which is directed to the association by the City. No particular form of dissemination of official information is required, so long as it is reasonably calculated to apprise the membership. Members of such association include all residents within the boundaries of the association. The City shall not be responsible for overseeing elections, choosing between competing factions or verifying the fulfillment of duties to be fulfilled by leaders.

### **Section 31.067 Procedure for Annexing Territory to the City Limits.**

(1) The purpose of this Section is to establish a procedure to be used in conjunction with Metro Code 3.09 and Oregon Revised Statutes for annexing territory to the City Limits.

(2) An applicant for an annexation to the City Limits shall discuss the proposed annexation with the Community Development Director, or designee, and City Engineer, or designee, in a pre-application conference prior to submitting an application. An applicant for an annexation shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063.

(3) Sign Posting: The applicant shall post a sign pursuant to TDC 31.064(2).

(4) After the pre-application conference, the applicant shall submit to the Community Development Department an Annexation Application which shall contain:

- (a) The Application For Annexation form;
- (b) The Petition To Annex To The City of Tualatin form;
- (c) A legal description of the subject territory including any abutting public street right-of-way that is not yet in the City Limits;
- (d) The Certification of Legal Description and Map form;
- (e) The Certification of Property Ownership form;
- (f) The Certification of Registered Voters form;
- (g) The Property Owner Information Sheet form;
- (h) The City application fee, and the Metro application fee in a separate check made payable to Metro;
- (i) The 3 column by 10 row matrix sheet listing the Assessors Map Number and Tax Lot Number, name and mailing address for:
  - (i) the owner (fee title) of the subject territory, and
  - (ii) recipients pursuant to TDC 31.064(1) and the governing jurisdiction of any public street right-of-way to be annexed;
- (j) The Request For Expedited Procedure form if the expedited process is desired by the applicant;
- (k) The Annexation Property Information Sheet form;
- (l) A copy of the County Assessors Maps showing the subject territory, any public street right-of-way to be annexed and the lots within 1,000 feet of the subject territory including any public street right-of-way. The subject territory and right-of-way to be annexed shall be outlined with a wide, light colored ink marker;
- (m) If necessary, a letter from the County or State Road Authority stating its consent to annex the right-of-way described in the legal description; and
- (n) The Community Development Director may require information in addition to the above.

~~(o) The information on the Neighborhood/Developer meeting specified in TDC 31.063(10).~~

~~(p) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify ODOT Rail Division and the railroad company that the application has been received.~~

~~(5) The Community Development Director shall set the City Council public hearing date.~~

~~(a) For an Expedited Application the hearing shall be at least 20 days after the application is complete to allow for the Metro Code 3.09.045 comment period.~~

~~(b) For a Non-expedited Application the hearing shall be at least 45 days after the application is complete to allow for the Metro Code 3.09.030 comment period and the date shall be determined within 30 days after the application is complete.~~

~~(6) The City Council shall conduct a quasi-judicial public hearing, or a legislative public hearing if the proposed annexation is a legislative action, and before granting the annexation shall find the application conforms to TDC Objectives 4.050(20) and (21) and the applicable criteria in Metro Code 3.09 and Oregon Revised Statutes.~~

~~(7) For quasi-judicial and legislative Expedited Annexation Applications public hearing notice shall be provided as follows:—~~

~~(a) Mail notice at least 20 calendar days prior to the hearing to property owners (fee title) in accordance with TDC 31.077 and City recognized neighborhood associations whose boundaries are within 1,000 feet of the subject territory, designated representatives of recognized Citizen Involvement Organizations as established in TMC 11-9 and to Necessary Parties as defined in Metro Code 3.09, and~~

~~(b) Post notice in two public and conspicuous places.~~

~~(8) For quasi-judicial and legislative Non-expedited Annexation Applications public hearing notice shall be provided as follows:~~

~~(a) Mail notice at least 45 calendar days prior to the hearing to property owners (fee title) in accordance with TDC 31.077, City recognized neighborhood associations whose boundaries are within 1,000 feet of the subject territory, designated representatives of recognized Citizen Involvement Organizations as established in TMC 11-9, and to Necessary Parties as defined in Metro Code 3.09;~~

~~(b) Post notice in two public and conspicuous places and post 2 weather-proof notices at least 45 calendar days prior to the hearing along the subject territory's public street frontage, or if there is no public street frontage, along a public street right-of-way near the subject territory, and~~

~~(c) Publish one notice at least 17 calendar days prior to the hearing in a newspaper of general circulation in the affected territory.~~

~~(d) For quasi-judicial and legislative Non-expedited Annexation Applications initiated by less than 100% of the owners and less than 50% of the electors in the territory, notice shall be provided in accordance with ORS Chapter 222.~~

## **Section 31.068 Jurisdiction of the Planning Commission.**

(1) ~~The Planning Commission is the hearing body for the following land use applications:~~

- ~~(a) Conditional Use Permits (CUP);~~
- ~~(b) Industrial Master Plan (IMP);~~
- ~~(c) Reinstatement of Use;~~
- ~~(d) Sign Variance (SVAR);~~
- ~~(e) Transitional Use Permit (TRP); and~~
- ~~(f) Variance (VAR).~~

(2) ~~The Planning Commission will use the quasi-judicial hearing process in TDC 31.077 to make all decisions.~~

(3) ~~Request for Review of Planning Commission decisions must be made to the City Council and follow the Requests for Review process in TDC 31.076 and TDC 31.078.~~

### **Section 31.070 – Interpretation of Code Provisions.**

(1) ~~The City Manager or designee shall have~~ has the initial authority and responsibility to interpret all terms, provisions and requirements of the Tualatin Development Code.

(2) Unless accompanied by an application, submitted under some other Development Code or Ordinance provision, a party wishing an interpretation ~~shall~~ must submit a written application to the ~~Planning Department. City Manager.~~ The application ~~shall~~ must be accompanied by a detailed description of factors related to the issue for interpretation, including, but not limited to:

- (a) The amount and type of traffic generated;
- (b) The type of manufacturing or commercial process;
- (c) The nature of any machinery used;
- (d) Noise and odor characteristics, associated with the use or activity;
- (e) Outside storage of materials or products;
- (f) Type of structures required;
- (g) Character of activity to be conducted on the site;
- (h) Amount of parking required;
- (i) Number of persons who would occupy the premises at any one time; and
- (j) Any other information which the City Manager ~~or designee~~ determines to be relevant to a determination of the issue.

(3) Within 30 days of the submission of all required information, the City Manager ~~or designee shall~~ must cause a final decision to be made on the issue. The decision ~~shall~~ must include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. Notice of the decision must be provided to the City Council. ~~The Planning Department shall~~ City Manager must maintain a collection of such decisions.

(4) The final decision on a Code interpretation under this section may be appealed to the City Council pursuant to the provisions of TDC 31.076 and 31.077,



**Section 31.100 – Application Fee Required.** All applications for a land use action must be accompanied by the appropriate fee, as set by resolution of the City Council. The City will not process any land use action until the appropriate fee is paid. Land use actions initiated by the City do not require a fee.

**Section 31.102 – Waiver or Reduction of Fees.** The City Council may reduce or waive fees upon showing of just cause to do so by the applicant.

## **COMPLIANCE AND ENFORCEMENT**

### **Section 31.105 – Interpretation, Conflict and Rules of Construction.**

(1) The provisions of this Chapter are minimum requirements.

(2) Unless a particular provision of the Tualatin Development Code provides otherwise, where two or more provisions of the Tualatin Development Code conflict, the provisions must be read in conjunction to give both meaning, unless only one can be given meaning in which case the provision imposing the more restrictive or higher standard applies.

(3) Unless a particular provision of the Tualatin Development Code provides otherwise, the rules of statutory construction under ORS Chapter 174, as interpreted by Oregon courts, apply to the Tualatin Development Code.

### **Section 31.110 – Conformance Required; Revocation.**

(1) No building, structure, or land will hereafter be used, possessed or occupied, and no building, structure, or any part thereof will hereafter be erected, constructed, reconstructed, moved, or structurally altered contrary to the provisions of Chapters 31 – 80 of the City of Tualatin Development Code.

(2) Real property may be occupied or developed and a structure may be occupied or developed only as this Code and applicable City regulations permit. The requirements of this Code and applicable City regulations apply to the person undertaking the development or the user of a development and to any successor in interest.

(3) Any use of land or existing structures which is not in conformity with the provisions of the applicable standards at the time of the adoption of the City of Tualatin Community Development Code is nonconforming and subject to the provisions herein described by TDC Chapter 35.

(4) A building permit must not be issued by the Building Official for the City of Tualatin for the erection, construction, conversion or alteration of any building or structure or use of land unless the City Manager has first determined that such land use, building or structure, as proposed, would comply with the Tualatin Community Plan and Development Code.

(a) All applications for building permits must be accompanied by plans and specifications, drawn to scale, showing the exact sizes and locations on the lot of the building and other structures existing and proposed; the existing and intended use of each building, structure, structures, or part thereof; and such other information as is needed to determine conformance with the Tualatin Community Plan and Development Code.

(b) If, during the course of constructing any building or structure, the City Manager or Building Official determines that such construction activity is in violation of any

provision of the Tualatin Community Plan or Development Code, the City Manager or Building Official is hereby authorized to issue a stop-work order. This remedy is in addition to and not in lieu of any other right or remedy available to the City to enforce the provisions of this ordinance.

(5) The City Council may, after conducting a hearing pursuant to TDC 32.140 (Type IV-A), revoke any permit approval previously given and may revoke any Certificate of Occupancy for any of the following reasons:

(a) Material misrepresentation or omission of fact in the application or in testimony or evidence submitted; whether such misrepresentation be intentional or unintentional; or

(b) Failure to complete the work within the time and in the manner approved without obtaining an extension of time or modification of plans from the granting authority; or

(c) Failure to maintain and use the property in accordance with the approved plans and conditions.

(d) A representation, misrepresentation or omission is material if it bears directly upon some relevant standard, if it could affect the outcome of the hearing, or if it could affect a condition on which approval is given.

(6) The rights and remedies provided by this section are in addition to right, remedy, or penalty available to the City under any other provision of law.

#### **Section 31.111 – Civil Violation.**

(1) Any person who violates any provision of the Tualatin Development Code commits a civil infraction and is subject to a fine of up to \$1,000 for each violation. Each violation, and each day that a violation continues, is a separate civil infraction.

(2) Where a specific violation of the Tualatin Development Code specifies a different fine, the fine specific to that violation controls.

(3) The civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of the Tualatin Development Code.

(4) The remedies for civil infraction are not exclusive and are in addition to any other remedies provided by law or in equity.

**Section 31.112 – Concurrent Jurisdiction.** The City of Tualatin Municipal Court and Circuit Courts of the State of Oregon for Washington County and Clackamas County have concurrent jurisdiction over prosecutions of violations of the Tualatin Development Code.

**Section 31.113 – Injunction.** In the event of a violation of this Code, City, or any person, firm or corporation whose interest in real property in the City is or may be affected by the violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement, or any other appropriate proceeding to prevent, temporarily or permanently enjoin, abate, or remove the violation.

#### **Section 31.071 Architectural Review Procedure.**

(1) An applicant for a building or other permit subject to architectural review, except Level I (Clear and Objective) Single-family Architectural Review, Accessory Dwelling Unit Review, and Sign Design Review, shall discuss preliminary plans with the

Community Development Director and City Engineer in a pre-application conference prior to submitting an application. An applicant for Architectural Review of a development in the Central Design District shall conduct a Neighborhood Meeting subject to TDC 31.071(5). An applicant for Architectural Review of a development in other parts of the City shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. An applicant for Single-family Architectural Review shall follow Level I (Clear and Objective) or Level II (Discretionary) Single-family Architectural Review procedures subject to TDC 31.071(7). An applicant for an Accessory Dwelling Unit Review shall follow the clear and objective Accessory Dwelling Unit Review procedures subject to TDC 31.071(9) and TDC 34.310(2). An applicant for Sign Design Review shall follow Level 1 (Clear and Objective) Sign Design Review procedures subject to TDC 31.071(8). Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall submit to the Community Development Director an Architectural Review Plan application which shall contain:

- (a) The project title;
- (b) The names, addresses and telephone numbers of the property owners, applicants, architect, landscape architect and engineer;
- (c) The signatures of the property owners and applicants;
- (d) The site address and the assessor's map number and tax lot number;
- (e) A Service Provider Letter from Clean Water Services indicating a "Stormwater Connection Permit Authorization Letter" will likely be issued;
- (f) Any necessary wetland delineations applicable to the site;
- (g) Any Fill/Removal Permit issued by the Oregon Division of State Lands and the Army Corps of Engineers;
- (h) The application fee as established by City Council resolution;
- (i) A site plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the proposed layout of all structures and other improvements including, where appropriate, driveways, pedestrian walks, landscaped greenways, mixed solid waste and recyclables storage and railroad tracks. A site plan at a scale of 1":40' or 1":50' for larger developments may be substituted for the above stated scales as directed by the Community Development Director. The site plan shall illustrate the location of existing structures, existing facility utilities, and whether they will be retained as part of the project. The site plan shall indicate the location of entrances and exits, pedestrian walkways and the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth, and areas of turning and maneuvering vehicles. The site plan shall indicate how utility service and drainage are to be provided. The site plan shall also indicate conditions and structures on adjacent properties sufficient to demonstrate that the proposed development is coordinated with existing or proposed developments on adjacent properties. Where the applicant proposes to change the existing topography, then a proposed grading plan shall be submitted drawn at a scale of 1":10', 1":20' or 1":30'. Trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on-site shall be indicated on the grading plan.
- (j) A landscape plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the location of existing trees having a trunk diameter of eight inches or greater, as measured at a

point four feet above ground level, proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties and size of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain trees and plant materials.

(k) Architectural drawings or sketches, drawn at a scale of 1/16":1', 1/8":1' or 1/4":1', including floor plans, in sufficient detail to permit computation of yard requirements and showing all elevations of the proposed structures and other improvements as they will appear on completion of construction. Building perspectives may also be needed.

(l) Specifications as to type, color and texture of exterior surfaces of proposed structures.

(m) A public utility facilities plan, drawn at a scale of 1":10', 1":20' or 1":30', showing the location, size and grade of all existing and proposed utility facilities, including but not limited to sanitary and storm sewers; water lines and fire hydrants; streets and sidewalks; water quality swales, traffic study information as required by the City Engineer pursuant to TDC 74.440 and other utility facilities as required by the City Engineer. A grading plan at a scale of 1":40' or 1":50' for larger developments may be substituted for the above stated scales as directed by the City Engineer.

(n) Developments in the Central Design District shall provide the Neighborhood Meeting notes and evidence of the notice and posting required in TDC 31.071(5) and shall provide narrative statements considering each of the Design Guidelines in TDC 73.610.

(o) A completed City fact sheet on the project.

(p) An 8 1/2" x 11" black and white site plan suitable for reproduction.

(q) A letter from the franchise solid waste and recycling hauler reviewing the proposed solid waste and recyclables method and facility.

(r) A Clean Water Services Service Provider Letter or Pre-screen for the proposed development.

(s) An acoustical engineer's report as required by the Community Development Director.

(t) the information on the Neighborhood/Developer meeting specified in TDC 31.063(10).

(u) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify ODOT Rail Division and the railroad company that the application has been received.

(2) Excepting Level I (Clear and Objective) Single-family Architectural Review and clear and objective Accessory Dwelling Unit Review, the applicant shall provide a list of mailing recipients pursuant to TDC 31.064(1).

(3) Excepting Level I (Clear and Objective) Single-family Architectural Review and clear and objective Accessory Dwelling Unit Review, the applicant shall post a sign pursuant to TDC 31.064(2).

(4) For an application to be approved, it shall first be established by the applicant that the proposal conforms to the Tualatin Development Code, and applicable City ordinances and regulations. For Expedited Architectural Review Plan Applications the application shall describe the manner in which the proposal complies with each of the

expedited criterion for an Expedited **Application**. Failure to conform is sufficient reason to deny the application.

(5) Excepting Level I (Clear and Objective) Single-family Architectural Review and clear and objective Accessory Dwelling Unit Review, the applicant shall hold a Neighborhood/Developer meeting pursuant to TDC 31.063 and meet the additional requirement that the Neighborhood/Developer Meeting shall be held within the Central Design District.

(6) The Community Development Director may require information in addition to that stated in this section.

(7) An applicant for a new Single-family dwelling or an addition or alteration to an existing Single-family dwelling when it results in a 35% or more expansion of the structure's existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling) shall follow Level I (Clear and Objective) or Level II (Discretionary) Single-family Architectural Review procedures subject to TDC 31.071(9).

(8) Attached or detached Accessory Dwelling Units use only the Clear and Objective Accessory Dwelling Unit review process in TDC 31.071(9) and TDC 34.310.

(9) An application for Level I (Clear and Objective - SF), Level II (Discretionary) Single-family Architectural Review or an Accessory Dwelling Unit Review must be filed on form(s) provided by the Community Development Director, must be accompanied by a filing fee established by Council resolution, and must be accompanied by the following information and submittals:

(a) Level I (Clear and Objective) Single-family Architectural Review application and Accessory Dwelling Unit Review application must include:

- (i) A completed City fact sheet;
- (ii) The names, addresses, and telephone numbers of the property owners and applicants;
- (iii) The signatures of the property owners and applicants;
- (iv) The site address and the assessor's map number and tax lot number;
- (v) Three copies of a plot plan (minimum size 8.5" x 11") drawn to a legible scale, which includes north arrow, scale, property lines or lot lines, public and/or private easements, lot dimensions, setbacks, structure footprint, roof lines, deck/porch/balcony lines, impervious ground surfaces, driveway location and driveway slope, and trees 8" or greater in diameter; and
- (vi) Three copies of building elevations, drawn to scale, for all sides of the dwelling. Single Family reviews only must include a calculation of the percentage of window coverage (glazing) for each elevation.

(b) Level II (Discretionary) Single-family Architectural Review application must include:

- (i) All information required for Level I Single-family Architectural Review in TDC 31.071(7)(a);
- (ii) One black and white copy (no larger than 11" x 17") of each submittal, of a size suitable for reproduction and distribution;
- (iii) A narrative statement that describes the manner in which the proposed development meets each of the approval criteria set forth in TDC 73.190;

- (iv) Neighborhood/Developer Meeting information specified in TDC 31.063(10);
- (v) A verified statement showing that required signage, as described in TDC 31.071(2), has been posted on the property in a conspicuous location; and
- (vi) Current notification information for all owners of property described pursuant to TDC 31.064(1).

(10) An applicant for a new freestanding monument or pole sign or a replacement or renovation of a non-conforming freestanding monument or pole sign in CC/CG Planning Districts subject to TDC 35.210 shall follow Level 1 (Clear and Objective) Sign Design Review procedures subject to this section. An Application shall be filed on form(s) provided by the Community Development Director, shall be accompanied by a filing fee established by Council resolution, and shall be accompanied by the following information and submittals:

(a) Level 1 (Clear and Objective) Sign Design Review Application:

- (i) A completed City fact sheet;
- (ii) The names, addresses, and telephone numbers of the property owners and applicants;
- (iii) The signatures of the property owners and applicants;
- (iv) The site address and the assessor's map number and tax lot number;
- (v) Three copies of a plot plan (minimum size 8.5"x11") drawn to a legible scale, which includes north arrow, scale, property lines or lot lines, public and/or private easements, lot dimensions, setbacks, structure footprint, driveway & access locations, and trees 8" or greater in diameter; and
- (vi) Three copies of sign elevations, drawn to scale, for each side of the sign and including exterior sign design & materials with calculation of the sign height, sign base & face dimensions, sign face height, sign face area and the areas of exterior materials.

**Section 31.072 Consideration of Architectural Review Plan.** The Architectural Review Plan shall consist of utility facilities and architectural features. Prior to the processing of the Architectural Review Plan, the following shall be completed:

- (1) The applicant shall obtain any required use approvals, including but not limited to plan amendments, variances, conditional use permits, Clean Water Services Service Provider Letter, partitions, historic preservation certificate of appropriateness, property line adjustments and preliminary subdivision approvals.
- (2) The City Engineer shall verify and advise the Community Development Director whether the utility facilities portion of the Architectural Review Plan is complete and addresses all applicable ordinances, resolutions, rules and regulations.
- (3) The Community Development Director shall verify that the architectural features portion of the Architectural Review Plan is complete and addresses all applicable ordinances, resolutions, rules and regulations.
- (4) If the Architectural Review Plan, submitted by the applicant is not complete or does not adequately comply with the applicable requirements of (1), (2) and (3) of this Section, the Community Development Director or City Engineer shall identify in writing the reasons for which the application is not complete or does not comply with particular requirements. A copy of the Community Development Director's and City Engineer's

comments, if any, shall be mailed to the applicant at the address shown on the application.

(5) Except as provided herein the Architectural Review Plan, submitted by the applicant, shall be deemed complete when it is determined that the applicable requirements of (1), (2), and (3) of this Section have been satisfied. Where the applicant fails or refuses to submit information which has been requested by the Community Development Director or the City Engineer, then the application shall be deemed complete when submittal of application is received, whichever is earlier. The application shall be date stamped by the Community Development Director as of the date the application is deemed complete.

(6) Revisions or alterations of an application may be made following the determination that an application is complete, provided such revisions or alterations do not render the application incomplete and do address applicable requirements. When revisions or alterations are desired by the applicant or required by the City, the applicant shall be responsible for providing fully revised application materials and for clearly identifying those application materials which are revised.

### **Section 31.073 Action of the Community Development Director and City Engineer on Architectural Review Plans.**

(1) Except as provided in subsection (4), the Community Development Director and City Engineer shall issue final decisions for Expedited Architectural Review Plan Applications, on the Architectural Features and Utility Facilities, respectively, of the proposed Architectural Review Plan. Architectural Reviews shall be conducted as limited land use decisions. Decisions shall be made in accordance with TDC 31.074. The decision of the City Engineer on the Utility Facilities portion of the proposed Architectural Review Plan may be made after the Community Development Director issues a decision, provided the decision is made in accordance with this section.

(2) Each decision shall be one of the following:

- (a) approval
- (b) approval with conditions
- (c) denial, or
- (d) except for Expedited Architectural Review Plan Applications, a request for review by the Architectural Review Board of the Architectural Features as described in subsection (4) or a request for review by the City Council of the Utility Facilities of an Architectural Review.

(3) The Architectural Features and Utility Facilities decision shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. At a minimum, the decisions shall identify the Architectural Review Plan, the applicant or a person to be contacted on behalf of the applicant, the date of the decision, the decision, and any time frame and conditions to which the decision is subject.

(4) When the Community Development Director determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property owners or residents, the Community Development Director may request the Architectural Review Board review the Architectural Features of the proposal without the

~~Director first reaching a decision. The Architectural Review Board shall conduct a de novo hearing in accordance with quasi-judicial evidentiary hearing procedures in TDC 31.077. This applies to all Architectural Reviews except for an Expedited Architectural Review Plan Application which shall not be the subject of a public hearing, and Architectural Reviews meeting the requirements of TDC 73.030(2). The Community Development Director shall prepare a report for presentation to the Architectural Review Board, which may include a recommendation on Board action. In this case the City Engineer shall make a decision on the Utility Facilities within 14 calendar days after the Architectural Review Board adopts a final order that approves or approves with conditions the Architectural Features and, unless otherwise required by the City Council, after any review has been completed by the City Council.~~

**~~Section 31.074 Architectural Review Application Review Process.~~**

- ~~(1) Architectural Review shall be conducted as a limited land use decision in accordance with this section and other applicable sections.~~
- ~~(2) Once the Architectural Features and Utility Facilities portions of an Architectural Review application are deemed complete by the Community Development Director and the city Engineer respectively, written notice of the application shall be provided to:
  - ~~(a) recipients pursuant to TDC 31.064(1); and~~
  - ~~(b) potentially affected governmental agencies such as: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a County road or otherwise be subject to review by the County, then the County, and Clean Water Services.~~
  - ~~(c) ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property.~~~~
- ~~(3) The notice provided in TDC 31.074(2) shall:
  - ~~(a) state the nature of the application and the proposed use, if known;~~
  - ~~(b) state the applicable decision criteria by TDC section for the decision;~~
  - ~~(c) state the street address or other easily understood geographical reference to the subject property;~~
  - ~~(d) state the date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;~~
  - ~~(e) state that issues which may provide the basis for a request for review to the Architectural Review Board, City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail and clarity to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;~~
  - ~~(f) state that notice of the decision will be provided only to those persons who submitted written comments in accordance with this section;~~
  - ~~(g) state the name of a City representative to contact and the telephone number where additional information may be obtained;~~
  - ~~(h) state that copies of all evidence submitted by the applicant are available for review and can be obtained at cost ; and~~
  - ~~(i) briefly summarize the local decision making process for the limited land use decision being made.~~~~



~~(j) state a railroad-highway grade crossing provides or will provide the only access to the subject property.~~

~~(4) Failure of a person or agency identified in TDC 31.074(2) to receive the notice required in TDC 31.074(2) shall not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.~~

~~(5) Parties who received notice of application in accordance with TDC 31.074(2) shall submit written comments to City offices no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.~~

~~(6) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that:~~

~~(a) explains the criteria and standards considered relevant to the decision;~~

~~(b) states the facts relied upon in issuing the decision; and~~

~~(c) explains the justification for the decision based on the criteria, standards and facts set forth.~~

~~(7) Notice of the decision shall be provided to the property owner, applicant and any person who submitted written comments in accordance with TDC 31.074(5) when the decision is made by staff. If the Architectural Review Board makes the initial decision, then anyone who testified orally or in writing at the public hearing shall be provided the notice of decision, in addition to those persons listed above. The notice shall include an explanation of rights to request a review of the decision.~~

~~(8) Requests for reviews can be filed as specified in TDC 31.075, and shall follow TDC 31.076.~~

### **Section 31.075 Effective Date of Decision.**

~~(1) The decisions of the Community Development Director and the City Engineer on the Architectural Features and Utility Facilities respectively or the Architectural Review Board, where the plan is initially reviewed by the Architectural Review Board shall each become final 14 calendar days after the date the notice of the decision is given unless written request for review of the Architectural Features or Utility Facilities decision is sought and submitted on a form provided by the City for that purpose.~~

~~(2) The Community Development Director shall prepare a form that shall be used to request a review. The form shall consist of the following:~~

~~(a) the description of the subject property or the proposed name of the project;~~

~~(b) the date on which the request for review is received by the Community Development Director;~~

~~(c) whether the decision for which review is requested pertains to Architectural Features or Utility Facilities or both;~~

~~(d) a statement that the form is being used in part to determine whether the Architectural Review Board or the City Council is the appropriate hearing body for review;~~

~~(e) a statement that the form shall be signed and submitted in writing; and~~

~~(f) a place to indicate how a person is adversely affected by the decision and how the decision is allegedly not in conformance with applicable Code requirements.~~

~~(3) The Community Development Director may request additional information for administrative purposes.~~

~~(4) A request for review for an Architectural Review or Utility Facility decision may only be made by a party that has submitted written comments within 14 calendar days of the mailing date of the notice of application and may be adversely affected by the Architectural Review or Utility Facility decision. If the Architectural Review Board made the initial decision, a request for review may be made by a party that submitted written comments prior to the hearing or testified orally or in writing at the public hearing. A request for review shall be filed in accordance with this section, shall be complete and signed by the person making the request or the person's agent, and shall be accompanied by a fee as established by City Council resolution. Filing a request for review shall automatically stay the effective date only of the decision for which review is requested until either:~~

~~(a) review is conducted together with any appeals to the City Council or Architectural Review Board and a final decision is made; or~~

~~(b) a written withdrawal of the request for review is received from the person filing the request prior to the hearing and the 14 calendar day time frame for filing a request for review has otherwise passed.~~

~~(5) The written decision of the Architectural Review Board shall become final 14 calendar days after notice of the decision is given, unless within the 14 calendar days a written request for review to the City Council is received at the City offices by 5:00 p.m. on the 14th day. A request for review of Utility Facilities to the City Council shall be filed within 14 calendar days after notice of the decision is mailed. Requests shall be signed and submitted in writing by 5:00 p.m. on the 14th calendar day at the City offices.~~

~~(6) Where no properly filed request for review of a decision relating to an Architectural Review Plan has been filed, then a withdrawn request for review and the expiration of the filing deadline, shall render the decision which is the subject of the request final. If both the Architectural Features and Utility Facilities decisions are subject to requests for review, the effective date of each decision shall be stayed until each decision becomes final.~~

### **Section 31.076 Requests for Review.**

~~(1) Upon receipt of a request for review, the City Manager must indicate the date of receipt, determine the appropriate hearing body to conduct review, schedule the hearing and give notice of the hearing in accordance with this section. A request for review must be accompanied by a fee as established by City Council resolution.~~

~~(2) The City Manager will determine the appropriate hearing body to conduct review as follows:~~

~~(a) Architectural Review Board. The Architectural Review Board is the hearing body if the request for review is an appeal from a staff level Architectural Features decision.~~

~~(b) City Council. City Council is the hearing body if the request for review is an appeal of any one of the following:~~

~~(i) Utility Facilities decision;~~

~~(ii) Architectural Review Board decision;~~

~~(iii) An interpretation of Code under TDC 31.070;~~

~~(iv) A minor variance under TDC Chapter 33;~~

~~(v) A tree removal permit under TDC Chapter 34;~~

- ~~(vi) A temporary use decision under TDC Chapter 34;~~
- ~~(vii) A decision on the demolition, relocation, alteration, or new construction involving an historic landmark under TDC Chapter 68;~~
- ~~(vii) A decision on a partition or subdivision under TDC Chapter 36;~~
- ~~(ix) A decision on a minor variance involving a property line adjustment under TDC Chapter 36;~~
- ~~(x) A decision on a request for access onto an arterial street under TDC Chapter 75;~~
- ~~(xi) A decision on a floodplain development permit under TDC Chapter 70;~~
- ~~(xii) A decision on a permit within the Wetlands Protection District under TDC Chapter 71;~~
- ~~(xiii) A final decision by the Planning Commission; or~~
- ~~(xiv) Any other decision not listed in this subsection.~~

~~(3) Where a request for review is directed to the Architectural Review Board, a meeting of the Board shall be scheduled for a meeting date which is not less than seven nor more than 21 days from the expiration date of the request for review period. Except as provided herein, the Architectural Review Board shall conduct a hearing in accordance with TDC 31.077. The review conducted by the Board shall be limited to the applicable criteria, i.e. architectural features. The decision of the Architectural Review Board shall be adopted by a majority of the Board following the conclusion of the hearing. Within 14 calendar days of the decision, the Planning Department shall place the Architectural Review Board decision together with findings in support of the decision and other necessary information in a written form. The written materials prepared by the Planning Department shall be approved and signed by the Chair or Acting Chair of the Board, and thereafter such materials shall be the final decision of the Board. The written decision of the Architectural Review Board shall become final 14 calendar days after notice of the decision is given, unless within the 14 calendar days a written request for review to the City Council is received at the City offices by 5:00 p.m. on the 14th day. Notice of the final decision of the Architectural Review Board decision may be provided to any person, but shall be mailed by first class mail to:~~

- ~~(a) recipients pursuant to TDC 31.064(1) and those owners of property within the vicinity of the subject property as described in TDC 31.064(1)(c) who commented on the proposal;~~
- ~~(b) City Council members;~~
- ~~(c) potentially affected governmental agencies such as: school districts, fire district, Clean Water Services, where the project site either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a county road or otherwise be subject to review by the county, then the County; and~~
- ~~(d) members of the Architectural Review Board.~~

~~(4) Where a request for review is directed only to the City Council, the review hearing shall be scheduled for a Council meeting date. The City Council shall conduct a hearing in accordance with quasi-judicial evidentiary hearing procedures in TDC 31.077.~~

~~(5) Where a request for review is directed by the City Manager to both the City Council on a Utility Facilities decision and the Architectural Review Board for an Architectural Features decision, the review hearing conducted by the City Council shall be stayed~~

pending a final decision of the Architectural Review Board. The Council may consolidate evidentiary hearings on matters subject to direct review by the Council with related matters appealed to the Council from the Architectural Review Board. Quasi-judicial evidentiary hearing procedures shall be followed.

(6) Upon review, the decision shall be to approve, approve with conditions or deny the application under review. The decision shall be in writing and include findings of fact and conclusions for the particular aspects of the decision, which shall be based upon applicable criteria. At a minimum, the decision shall identify the Architectural Review Plan, if any, the applicant or a person to be contacted on behalf of the applicant, the date of the decision, the decision, an explanation of the rights to request a review of the decision, and any time frame or conditions to which the decision is subject.

### **Section 31.077 Quasi-Judicial Evidentiary Hearing Procedures.**

- (1) A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons. Except as otherwise provided, the procedures set out in this section shall be followed when the subject matter of the evidentiary hearing would result in a quasi-judicial decision, including, but not limited to an annexation to the City Limits pursuant to TDC 31.067, an interpretation of a Code provision pursuant to TDC 31.070, a conditional use application ( TDC Chapter 32), a variance or minor variance application (TDC Chapter 33), a transitional use application (TDC 34.180-34.186), a conditional use permit for a small lot subdivision application (TDC 40.030(3), 41.030(2)), a nonconforming use, or reinstatement of a nonconforming use application (TDC Chapter 35), a quasi-judicial amendment to the Tualatin Community Plan or Map, a decision by staff whether or not to extend approval of an Architectural Review decision, a request for review of a final decision by the City staff on a partition, subdivision, property line adjustment with a minor variance, arterial access decision or the Utility Facility portion of an Architectural Review, or a re-quest for review of a decision of the Architectural Review Board on an Architectural Review Plan.
- (2) Notice of hearing shall be provided by regular first class mail to the following:
- (a) for requests for review of a decision following the limited land use process:
    - (i) the applicant and owner of the subject property;
    - (ii) recipients pursuant to TDC 31.064(1) and those owners of property within the vicinity of the subject property described in TDC 31.064(1)(c) who commented on the proposal pursuant to TDC 31.074(5);
    - (iii) members of the hearing body; and
    - (iv) potentially affected government agencies such as school districts, fire district, Clean Water Services, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and the county if the project site would access a county road or other wise be subject to review by the county.
  - (b) for all other requests for review:
    - (i) recipients pursuant to TDC 31.064(1);
    - (ii) members of the hearing body;

- ~~(iii) the following government agencies: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a county road or otherwise be subject to review by the county, then the county; and~~
- ~~(iv) persons who have indicated in writing their desire to participate in the process on a particular application, and~~
- ~~(v) for annexation, Necessary Parties as defined in Metro Code 3.09.~~

~~(3) For purposes of identifying property owners to receive notification of hearing, the names and addresses of the owner or owners of record (fee title) as shown in the current, or within 30 days of a completed application, computer roll of the County Assessor shall be used. Preparation of the list of property owners shall be the applicant's responsibility and shall be prepared by one of the following persons: a land title company, a land use planning consultant authorized by the State of Oregon to conduct business in the State, a registered architect, landscape architect, engineer, surveyor or attorney, or where the City is the applicant, the Community Development Director. The list of property owners shall be updated not less than every 90 days by the applicant, until a final decision is rendered.~~

~~(4) Failure of a person or agency to receive a notice, shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.~~

~~(5) Notice of a hearing shall:~~

- ~~(a) Explain the nature of the application and the proposed use or uses which could be authorized;~~
- ~~(b) list the applicable criteria from the TDC and other ordinances that apply to the application at issue;~~
- ~~(c) set forth the street address or other easily understood geographical reference to the subject property;~~
- ~~(d) state the date, time and location of the hearing;~~
- ~~(e) state that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient detail and clarity to enable a decision maker to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;~~
- ~~(f) include the name of the particular City representative to contact and the telephone number where additional information may be obtained;~~
- ~~(g) state that a copy of the application, all evidence submitted by the applicant documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;~~
- ~~(h) state that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;~~
- ~~(i) include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;~~
- ~~(j) if the development application includes another request or application clearly state and describe the type of request or application.~~

~~(6) The person chairing the hearing shall follow the order of proceedings set forth in subsection (7) of this section. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions~~

concerning the propriety or the conduct of a hearing shall be addressed to the chair with a request for a ruling. Rulings from the chair shall, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the hearing body present and eligible to vote on the application before the body.

(7) The procedures to be followed by the chair in the conduct of the hearing are as follows:

(a) A statement by or on behalf of the chair of the nature of the application, a general summary of these procedures, whether the decision of the body is a final decision, and the nature of the available appeal procedures within the City, if any. In addition to the foregoing and for hearings conducted before the City Council only, the statement shall include the list of the applicable substantive criteria, the requirement that testimony and evidence must be directed toward the criteria or other plan or land use regulations which the person believes to apply and that failure to raise an issue with sufficient detail and clarity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

(b) A request that all hearing body members announce any potential conflict of interest, bias or ex parte contacts.

(c) Allow for consideration of challenges to a hearing body member's right to sit in the consideration of the application. Any such challenge shall be entertained only if the person making the challenge has delivered to the member challenged and the hearing, a statement of intent to challenge and the hearing body "chair," at least 48 hours prior to the hearing, a statement of intent to challenge the person setting forth with particularity the reasons and authority for such challenge. A copy of the statement of intent to challenge with proof that the "chair" and challenged member have been served shall be served upon the City Recorder at least 24 hours prior to the hearing. If due to information made public in accordance with subsection (7)(b) of this section, a person wishes to challenge a member's right to sit notwithstanding their failure to properly file, the hearing body, by majority vote, may decide to entertain such challenge.

(d) Presentation of the City staff report.

(e) Proponent's case.

(f) Other testimony or evidence in support of the application.

(g) Opponent's case.

(h) Other testimony or evidence against the application.

(i) Testimony or evidence concerning the application which by its nature is neither in favor nor against.

(j) Rebuttal, limited to comments on evidence in the record.

(k) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.

(l) If additional documents or evidence is provided in support of the application less than seven days prior to the hearing, any party shall be entitled to a continuance of the hearing.

~~(m) Close of hearing and deliberation. The body's deliberations may include questions directed to City staff, comments from City staff, or inquiries in paragraph (1) of this subsection, if new evidence, conditions or modifications not presented in the staff report or raised during the public hearing are raised after the close of the hearing, the hearing can be reopened and an opportunity shall be presented for any person to comment on or rebut that evidence or information.~~

~~(n) Except as provided in TDC 31.076(3) for the Architectural Review Plan decisions, the hearing body shall make a tentative oral decision or continue the matter to a time certain. If the body deems it necessary or advisable it may at any time prior to the adoption of a written order reopen the hearing and direct that additional evidence be presented on the entire application or only on certain stated issues. Notice of such reopened hearing shall be given in the manner provided by the original notice of hearing. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.~~

~~(o) Except as otherwise provided, the hearing body shall, within a reasonable time after making a tentative decision, but not more than ten City business days or the next regular meeting adopt a written order which sets forth with particularity the basis for that decision. The decision shall be based upon the record of the proceeding. A proposed order or report submitted by the City Manager or designee or any other person may be adopted by the hearing body as its written order or findings. Where an application is approved, the terms of the approval shall be specified, including any restrictions and conditions. The written order is the final decision on the application and the date of the order is the date it is signed by the chairperson certifying its approval by the hearing body. No publication or other notice of the final City Council decision shall be required, however in the case of the Architectural Review Board decision, notice shall be given in accordance with TDC 31.074(3).~~

~~(8) The chair may admit and the hearing body may rely on all oral, documentary, physical, and mechanically recorded evidence if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.~~

~~Documentary, physical and mechanically recorded evidence may be admitted in the form of copies or excerpts or incorporated by reference. Evidence that is irrelevant, immaterial or unduly repetitious may be excluded from the hearing.~~

~~(9) Following a final decision only by the City Council, a person may request rehearing of the matter, which shall be allowed by the Council only if authorized by all of the Council members present and eligible to vote at the meeting at which the petition for rehearing is considered. Action on the rehearing request or the filing of a petition for rehearing shall not be required prior to seeking judicial review. If a rehearing is allowed, then quasi-judicial evidentiary hearing procedures shall apply.~~

### **~~Section 31.078 Requests for Review of Architectural Re-view Board Decisions and Planning Commission Decisions to the City Council.~~**

~~(1) The applicant or any person who submitted written comments or testified orally or in writing at the Architectural Re-view Board hearing or Planning Commission hearing and who may be adversely affected by the Board's or Planning Commission's decision may~~

file a request for review of the final decision of the Architectural Review Board or Planning Commission to the City Council.

(2) The review of the Architectural Review Board or the Planning Commission decision to the Council shall be accomplished in accordance with this section. Failure by a person to follow the procedures described in this section may preclude that person from requesting a review by the City Council.

(3) A final decision of the Architectural Review Board or Planning Commission shall be final for the purposes of review requests, unless a written request for review is received at the City offices within 14 calendar days of the date notice of the final decision is given; or unless prior to the date a member of the City Council or the City Manager requests a review of the decision.

(4) The request for review shall contain:

- (a) a description of the subject property or the proposed name of the project;
- (b) the date on which the request for review is filed at the City offices;
- (c) the specific matters raised for Council consideration on review and the specific reason the appellant contends the Architectural Review Board decision or Planning Commission decision is allegedly not in conformance with applicable Code requirements and reason the person is adversely affected by the decision. This requirement shall not be used to limit the matters actually considered by the City Council.

(5) The request shall be accompanied by the required fee unless it is made by a member of the City Council or the City Manager, in which case no fee shall be required.

(6) Filing a request shall automatically stay the effective date of the Architectural Features decision or a decision by the Planning Commission as described in TDC 2.060(4) until either:

- (a) a hearing on the request for review is conducted and a final decision is issued; or
- (b) a written withdrawal of the request for review is received by the Community Development Director from the person filing the appeal before any hearing on the request is conducted and the 14 calendar day time frame for a review request has otherwise passed.

(7) The City Council members, prior to the hearing, shall announce any potential or existing conflict of interest, bias or ex parte contacts. A Council member's right to sit may be challenged in the same manner as provided in TDC 31.077(7)(c).

(8) The City Council's consideration of the Architectural Review Board's decision or the Planning Commission's decision shall follow the procedures set forth in TDC 31.077 and shall be de novo. The record of proceedings presented before the Architectural Review Board or the Planning Commission shall be presented to the City Council and shall include:

- (a) all materials, pleadings, memoranda, stipulations, exhibits and motions submitted during the proceeding and received or considered by the Architectural Review Board or Planning Commission;
- (b) all materials submitted by the City staff with respect to the application;
- (c) the minutes of the hearing below;
- (d) the order or decision of the Architectural Review Board or Planning Commission;
- (e) the request for review;



~~(f) a person who wishes to submit for Council consideration and as part of the record a verbatim transcript of the Architectural Review Board proceedings or Planning Commission proceedings shall be provided an opportunity to do so in a timely fashion and at the person's own expense, but a transcript shall not be required.~~

~~(9) Notice of the City Council's hearing shall be given in the manner set forth in TDC 31.077(5).~~

~~(10) The Council may affirm, revise, modify or reverse the action of the Architectural Review Board or the Planning Commission in all or in part. The Council may also remand the matter back to the Architectural Review Board or the Planning Commission for further consideration. The Council may order material defects in the earlier proceedings, to be corrected, while retaining jurisdiction of the matter so that the proceedings will have been conducted in a fair and impartial manner.~~

~~(11) The Council shall adopt a written order that clearly states the basis for its decision. Where an application is approved, the terms of the approval shall be specified, including any restrictions and conditions. A proposed order submitted by the Community Development Director or any other person may be adopted by the City Council. The written order is the final decision on the matter and the date of the order is the date it is signed certifying the approval by the City Council. Unless otherwise directed by the Council, no publication or other notice of the final decision shall be required.~~

### **Section 31.079 Development in Accordance with Permit; Revocation.**

~~(1) Real property may be occupied or developed and a structure may be occupied or developed only as this Code and applicable City regulations permit. The requirements of this Code and applicable City regulations apply to the person undertaking the development or the user of a development and to any successor in interest.~~

~~(2) The City Council may, after conducting a hearing pursuant to TDC 31.077, revoke any permit approval previously given and may revoke any Certificate of Occupancy for any of the following reasons:~~

~~(a) Material misrepresentation or omission of fact in the application or in testimony or evidence submitted; whether such misrepresentation be intentional or unintentional; or~~

~~(b) Failure to complete the work within the time and in the manner approved without obtaining an extension of time or modification of plans from the granting authority; or~~

~~(c) Failure to maintain and use the property in accordance with the approved plans and conditions.~~

~~(d) A representation, misrepresentation or omission is material if it bears directly upon some relevant standard, if it could affect the outcome of the hearing, or if it could affect a condition on which approval is given.~~

~~(3) The rights and remedies provided by this section are in addition to right, remedy, or penalty available to the City under any other provision of law.~~

## **AMENDMENTS**

### **Section 31.080 Initiation of Amendments.**

~~(1) An amendment to the text of the Planning District Standards may be initiated by the City Council, the City staff, or by a property owner or person authorized in writing by the property owner.~~

~~(2) An application for an amendment to the text of the Planning District Standards shall be on forms provided by the Planning Department and the application shall be accompanied by an amendment fee as established by City Council resolution.~~

~~(3) Notwithstanding the foregoing provisions, the Council shall conduct a public hearing at any time to consider an amendment or amendments to the Planning District Standards when it is necessary to amend the standards to comply with the rules, regulations, goals, guidelines or other legal actions of any governmental agency having jurisdiction over matters contained in said standards.~~

~~**Section 31.081 Notice Requirements.** Notice of the public hearing at which the Council will consider proposed amendments to the text of the Planning District Standards shall be in accordance with the provisions of TDC 1.031 for amendments to the text of the Tualatin Community Plan.~~

~~**Section 31.082 Burden of Proof for Amendments.** Before granting an amendment to the text of the Planning District Standards, the Council shall make findings required in TDC 1.032.~~

~~**Section 31.092 Applicability.**~~

~~(1) Except as otherwise provided, the requirements of this ordinance shall apply to all applications subject to architectural review approval which are filed with the Community Development Director on or after April 22, 1992, or which have been filed with the Community Development Director prior to April 22, 1992, but which are not complete for purposes of review until after the effective date of this ordinance.~~

~~(2) Architectural review applications which have been accepted for review and determined to be complete prior to April 22, 1992, shall be reviewed in accordance with standards and procedures in effect prior to April 22, 1992, and if finally approved as submitted shall be constructed in accordance with the approval. Architectural review applications which have been accepted for review and determined to be complete prior to April 22, 1992, but which are substantially changed by the applicant after April 22, 1992, and prior to a determination of completeness or any other recommended or final decision on such amended application, shall be reviewed in accordance with the Tualatin Development Code and standards as amended by this ordinance.~~

~~(3) Architectural review applications which have been finally approved prior to April 22, 1992, but which are substantially amended prior to issuance of a final occupancy permit shall be reviewed in accordance with the Tualatin Development Code and standards as amended by this ordinance.~~

~~(4) For purposes of this section, a substantial change in an architectural review application is a change which would have required an application for architectural review to be submitted if the plans previously submitted had instead reflected a completed project. In other words, would the substantial change have constituted a new structure or major remodeling if applied to an existing facility.~~

~~**Section 31.100 Fee Schedule.** Unless the action is initiated by the City Council, for which action there shall be no fee, a fee as established by City Council resolution shall be paid to the City Recorder at such time as the application for the action is filed.~~

~~**Section 31.101 Commencement of Action by City.** No action shall be initiated by the City until such time as the required fee is paid to the City Recorder.~~

~~**Section 31.102 Waiver or Reduction of Fees.** The City Council may reduce or waive the fees upon showing of just cause to do so by the applicant.~~

~~**Section 31.110 Activities Prohibited.** No person shall erect, construct, reconstruct, alter or maintain or use any land, building or structure contrary to the provisions of the Tualatin Community Plan, the Tualatin Planning District Standards, or the Tualatin Development Code.~~

~~**Section 31.111 Penalties.** Violation of any provision of the Tualatin Development Code is punishable upon conviction by:~~

~~(1) A fine of not more than \$500.00 for each day of violation when the violation is a continuing violation, but such fine shall not exceed \$10,000.00. If the violation is not a continuing violation, the fine shall not exceed \$2,500.00.~~

~~(2) When the violation is removal of one or more trees under TDC Chapter 34 standards, a fine of not more than \$1,000.00 for each tree removed.~~

~~**Section 31.112 Concurrent Jurisdiction.** The City of Tualatin Municipal Court, and the District and Circuit Courts of the State of Oregon for Washington County and Clackamas County shall have concurrent jurisdiction over prosecutions of violations of the Tualatin Development Code.~~

~~**Section 31.113 Injunction.** In the event that any building or structure is, or is proposed to be, erected, constructed, reconstructed, altered, maintained or used, or any land is, or is proposed to be, used in violation of this Code, or any amendment hereto, the City Administrator, the City Attorney, or any person, firm or corporation whose interest in real property in the City is or may be affected by the violation may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or any other appropriate proceeding to prevent, temporarily or permanently enjoin, abate or remove the un-lawful use of building structures.~~

~~**Section 31.114 Conformance With Community Plan and Development Code.** No building permit shall be issued by the Building Official for the City of Tualatin for the erection, construction, conversion or alteration of any building or structure or use of land unless the Community Development Director or designee has first determined that such land use, building or structure, as proposed, would comply with the Tualatin Community Plan and Development Code. All applications for building permits shall be accompanied by plans and specifications, drawn to scale, showing the exact sizes and locations on the lot of the building and other structures existing and proposed; the existing and~~

~~intended use of each building, structure, structures, or part thereof; and such other information as is needed to determine conformance with the Tualatin Community Plan and Development Code. If, during the course of constructing any building or structure, the Building Official determines that such construction activity is in violation of any provision of the Tualatin Community Plan or Development Code, the Building Official is hereby authorized to issue a stop-work order under the applicable provisions of the Uniform Building Code. This remedy is in addition to and not in lieu of any other right or remedy available to the City to enforce the provisions of this ordinance.~~

~~**Section 31.120 Violations.** Violations of the Tualatin Community Plan, the Tualatin Planning District Standards or the Tualatin Development Code, as now or hereafter constituted, or violation of the terms or conditions attached to approval or permits which are issued there under, are hereby declared civil infractions and such violations may, in addition to or in lieu of other remedies or enforcement measures provided by state law or ordinance, be enforced under the provisions of the civil infraction ordinance. Whenever the Community Development Director or designate becomes aware of violations of the provisions of the Tualatin Community Plan, the Tualatin Planning District Standards, the Tualatin Development Code, or the terms or conditions attached to any approval or permit issued there under, the Community Development Director or designate may initiate appropriate enforcement measures.~~

**SECTION 4. TDC Chapter 32 (Procedures).** TDC Chapter 32 (Conditional Uses) is deleted in its entirety and replaced with TDC Chapter 32 (Procedures) to read as follows:

**Section 32.010 – Purpose and Applicability.**

(1) **Purpose.** The purpose of this Chapter is to establish standard procedures for the review and processing of land use applications and legislative land use proposals, as well as ministerial actions. This Chapter is intended to enable the City, the applicant, and the public, where applicable, to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 32-1 provides a key for determining the review procedure and the decision-making body for particular applications.

(2) **Applicability of Review Procedures.** All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

(a) **Type I Procedure (Ministerial Staff Review).** A Type I procedure is used in applying City standards and criteria that do not require the use of discretion, interpretation, or the exercise of policy or legal judgment (i.e., clear and objective standards). Type I decisions are made by the City Manager without public notice and without a public hearing. Appeals of Type I decisions are to Circuit Court under writ of review.

(b) **Type II Procedure (Administrative/Staff Review with Notice).** A Type II procedure is used when the standards and criteria require limited discretion, interpretation, or policy or legal judgment. Type II decisions are made by the City Manager and require public notice and an opportunity for appeal to the Planning Commission, Architectural Review Board, or City Council as shown in Table 32-1. Those Type II decisions which are “limited land use decisions” as defined in ORS 197.015 are so noted in Table 32-1.

(c) **Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

(d) **Type IV-A Procedure (Quasi-Judicial Review – City Council Public Hearing).** Type IV-A procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment and is the procedure used for site-specific land use actions initiated by an applicant. Type IV-A decisions are made by the City Council and require public notice and a public hearing. Appeals of Type IV-A decisions are heard by the Land Use Board of Appeals (LUBA).

(e) **Type IV-B Procedure (Legislative Review).** The Type IV-B procedure is used to review proposals to amend the Tualatin Comprehensive Plan, the City’s land use regulations, and large-scale changes to the Comprehensive Plan or Plan Maps, and involve the creation, revision, or implementation of broad public policy. Type IV-B reviews are first considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance. Appeals of Type IV-B decisions are heard by the Land Use Board of Appeals (LUBA).

(3) **Determination of Review Type.** Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

**Table 32-1 – Applications Types and Review Procedures**

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
<b>Annexations</b>						
Quasi-judicial	TDC 32.26	CC	LUBA	Yes	Yes	TDC 33.010
Legislative	0	CC	LUBA	No	No	TDC

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood/Developer Mtg Required	Applicable Code Chapter
						33.010
<b>Architectural Review</b>						
Architectural Review (except as specified below) (limited land use)	II	CM	ARB / CC	Yes	Yes	TDC 33.020
Single Family Dwelling following Clear and Objective Standards  Accessory Dwelling Units (ADUs) following Clear and Objective Standards  Minor AR including façade and landscape modifications	I	CM	Circuit Court	No	No	TDC 33.020
Commercial Buildings 50,000 square feet and larger  Industrial Buildings 150,000 square feet and larger  Multifamily Housing Projects 100 units and above (or any number of units abutting a single family district) as requested by the CM	III	ARB	CC	Yes	Yes	TDC 33.020
<b>Public Facilities Decision in conjunction with Architectural Review (limited land use)</b>	II	CM	CC	Yes	Yes	TDC 33.020
<b>Driveway Approach and Closure Permits (limited land use)</b>	II	CM	CC	No	No	TDC 33.030
<b>Conditional Use Permit</b>	III	PC	CC	Yes	Yes	TDC 33.040
<b>Floodplain Development</b>	I	CM	Circuit Court	No	No	TDC Ch 70
<b>Floodplain Variance</b>	IV-A	CC	LUBA	Yes	Yes	TDC Ch

<b>Application / Action</b>	<b>Procedure Type</b>	<b>Decision Body*</b>	<b>Appeal Body*</b>	<b>Pre-Application Conference Required</b>	<b>Neighborhood/Developer Mtg Required</b>	<b>Applicable Code Chapter</b>
						70
<b>Historic Landmark Actions</b>						
Applying or removing designation – Quasi-judicial	IV-A	CC	LUBA	Yes	Yes	TDC Ch 68
Applying or removing designation – Legislative	IV-B	CC	LUBA	No	No	TDC Ch 68
Demolition, relocation, alteration, new construction (limited land use) of a Landmark	II	CM	CC	Yes	Yes	TDC Ch 68
National Register Resources actions: demolition or relocation	IV-A	CC	LUBA	Yes	Yes	TDC Ch 68
<b>Industrial Master Plans</b>	III	PC	CC	Yes	Yes	TDC 33.050
<b>Land Divisions</b>						
Property line adjustment (PLA)	I	CM	Circuit Court	No	No	TDC Ch 36
Subdivisions (limited land use)	II	CM	CC	Yes	Yes	TDC Ch 36
Partitions (limited land use)	II	CM	CC	Yes	Yes	TDC Ch 36
Minor (immaterial) modifications to approved plan (prior to plat approval)	I	CM	Circuit Court	No	No	TDC Ch 36
Expedited Land Divisions	Subject to procedures in ORS 197.365					TDC Ch 36
<b>Nonconforming use - Reinstatement of a nonconforming use</b>	III	PC	CC	No	No	TDC 33.060
<b>Plan Amendments</b>						
Map or Text Amendments for a specific property	IV-A	CC	LUBA	Yes	Yes	TDC 33.070
Legislative Map or Text Amendments	IV-B	CC	LUBA	No	No	TDC 33.070
<b>Signs</b>						

<b>Application / Action</b>	<b>Procedure Type</b>	<b>Decision Body*</b>	<b>Appeal Body*</b>	<b>Pre-Application Conference Required</b>	<b>Neighborhood/Developer Mtg Required</b>	<b>Applicable Code Chapter</b>
Sign Permit, New or Alteration, including Sign Design Review	I	CM	Circuit Court	No	No	TDC 33.080
Sign Variance	III	PC	CC	Yes	Yes	TDC 33.080
<b>Temporary Outdoor Sales Permit</b>	I	CM	Circuit Court	No	No	TDC 33.090
<b>Temporary Sales Office</b>	I	CM	Circuit Court	No	No	TDC 33.100
<b>Tree Removal Permit</b>	II	CM	CC	Yes	Yes	TDC 33.110
<b>Variance</b>						
Variance (including Sign Variance) except as specified below	III	PC	CC	Yes	Yes	TDC 33.120
Variance for existing single family residence	III	PC	CC	Yes	No	TDC 33.120
Variance in conjunction with a subdivision or partition (except minor variances)	IV-A	CC	LUBA	Yes	Yes	TDC Ch 36
Minor variance except as specified below	II	CM	CC	Yes	Yes	TDC 33.120
Minor variance in conjunction with a property line adjustment, subdivision or partition	II	CM	CC	Yes	Yes	TDC Ch 36
Minor variance for existing single family residence	II	CM	CC	Yes	No	TDC 33.120
<b>Wetlands Protection District</b>	I	CM	Circuit Court	No	No	TDC Ch 71
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						



**Section 32.020 – Procedures for Review of Multiple Applications.** Multiple applications processed individually require the filing of separate applications for each land use action. Each application will be separately reviewed according to the applicable procedure type and processed sequentially as follows:

- (1) Applications with the highest numbered procedure type must be processed first;
- (2) Applications specifically referenced elsewhere in the TDC as to the particular order must be processed in that order; and
- (3) Where one land use application is dependent on the approval of another land use application, the land use application upon which the other is dependent must be processed first (e.g., a conditional use permit is subject to prior approval before architectural review).

**Section 32.030 – Time to Process Applications.**

(1) **Time Limit - 120-day Rule.** The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)

(2) **Time Limit – 100-day Rule.** The City must take final action including resolution of all local appeals on qualifying applications under ORS 227.180 within 100 days after the application is deemed complete. An application qualifies if it is submitted under ORS 227.175 and meets the following criteria:

- (a) The application is for development of a multifamily residential building containing five or more residential units within the urban growth boundary;
- (b) At least 50 percent of the residential units included in the development will be sold or rented as affordable housing. For the purposes of this section, “affordable housing” means housing that is affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the development is built or for the state, whichever is greater; and
- (c) The development is subject to a covenant appurtenant that restricts the owner and each successive owner of the development or a residential unit within the development from selling or renting any residential unit described in paragraph (b) of this subsection as housing that is not affordable housing for a period of 60 years from the date of the certificate of occupancy.

(3) **Time Periods.** “Days” means calendar days unless otherwise specified. In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins is not included. The last day of the period is included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or City recognized legal holiday.

**Section 32.110 – Pre-Application Conference.**

(1) **Purpose of Pre-Application Conferences.** Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide

applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

(2) **When Mandatory.** Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

(3) **Timing of Pre-Application Conference.** A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

(4) **Application Requirements for Pre-Application Conference.**

(a) **Application Form.** Pre-application conference requests must be made on forms provided by the City Manager.

(b) **Submittal Requirements.** Pre-application conference requests must include:

(i) A completed application form;

(ii) Payment of the application fee;

(iii) The information required, if any, for the specific pre-application conference sought; and

(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.

(5) **Scheduling of Pre-Application Conference.** Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

(6) **Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences.** A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

(a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;

(b) The proposed use, layout, and/or design of the proposal have significantly changed; or

(c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.

### **Section 32.120 – Neighborhood/ Developer Meetings.**

(1) **Purpose.** The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share

information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(2) **When Mandatory.** Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.

(3) **Timing.** A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.

(4) **Time and Location.** Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:

(a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.

(b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.

(5) **Notice Requirements.**

(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.

(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:

(i) All property owners within 1,000 feet measured from the boundaries of the subject property;

(ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and

(iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.

(c) The City will provide the applicant with labels for mailing for a fee.

(d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.

(6) **Neighborhood/Developer Sign Posting Requirements.** The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.

(7) **Neighborhood/Developer Meeting Requirements.** The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

**Section 32.130 – Initiation of Applications.**

(1) **Type I, Type II, Type III, and Type IV-A Applications.** Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

- (a) The owner of the subject property;
- (b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
- (c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
- (d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent's authority.

(2) **Type IV-A or B Applications.** Type IV-A or B applications may be initiated by the City.

**Section 32.140 – Application Submittal.**

(1) **Submittal Requirements.** Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

- (a) A completed application form. The application form must contain, at a minimum, the following information:
  - (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;
  - (ii) The address or location of the subject property and its assessor's map and tax lot number;
  - (iii) The size of the subject property;
  - (iv) The comprehensive plan designation and zoning of the subject property;
  - (v) The type of application(s);
  - (vi) A brief description of the proposal; and
  - (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).
- (b) A written statement addressing each applicable approval criterion and standard;
- (c) Any additional information required under the TDC for the specific land use action sought;
- (d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;
- (e) Recorded deed/land sales contract with legal description.
- (f) A preliminary title report or other proof of ownership.
- (g) For those applications requiring a neighborhood/developer meeting:
  - (i) The mailing list for the notice;
  - (ii) A copy of the notice;
  - (iii) An affidavit of the mailing and posting;

- (iv) The original sign-in sheet of participants; and
- (v) The meeting notes described in TDC 32.120(7).
- (h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;
- (i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;
- (2) **Application Intake.** Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.
- (3) **Administrative Standards for Applications.** The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

### **Section 32.150 – Sign Posting.**

- (1) **When Signs Posted.** Signs in conformance with these standards must be posted as follows:
  - (a) Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and
  - (b) Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.
- (2) **Sign Design Requirements.** The applicant must provide and post a sign(s) that conforms to the following standards:
  - (a) Waterproof sign materials;
  - (b) Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and
  - (c) Sign text must be at least two (2) inch font.
- (3) **On-site Placement.** The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.
- (4) **Removal.** If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:
  - (a) The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or

(b) The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.

**Section 32.160 – Completeness Review.**

(1) **Duration.** Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.

(2) **Considerations.** Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A 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.

(3) **Complete Applications.** If an application is determined to be complete, review of the application will commence.

(4) **Incomplete Applications.** If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

- (a) All of the missing information;
- (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (c) Written notice from the applicant that none of the missing information will be provided.

(5) **Vesting.** If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.

(6) **Void Applications.** An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

**Section 32.170 – Revised Applications.** Revisions or alterations of an application may be made following the determination that an application is complete, provided such revisions or alterations do not render the application incomplete and do address applicable requirements. When revisions or alterations are desired by the applicant or required by the City, the applicant must provide fully revised application materials and clearly identifying those application materials which are revised.

**Section 32.180 – Withdrawal of Application.**

(1) **Withdrawn by Applicant.** An application may be withdrawn by the applicant at any time prior to the issuance of the decision if the owner or contract purchaser consents in writing to withdraw the application.

(2) **Notice.** If an application is withdrawn after the mailing of public notice, the City Manager must send written notice stating the application has been withdrawn to all persons who were provided mailed notice of the application or public hearing.

**Section 32.210 – Type I Procedure (Ministerial).** The City Manager makes ministerial decisions through the Type I procedure without public notice and without a public hearing. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion, interpretation, or policy or legal judgment (i.e., clear and objective standards).

(1) **Submittal Requirements.** Complete Type I applications must include the submittal information required by TDC 32.140(1)(a) through (d).

(2) **Notice of Application Submittal.** No public notice of review is required.

(3) **Notice of Decision.** Written notice of the decision must be provided to the applicant and property owner of record.

(4) **Effective Date.** A Type I decision is final on the date it is signed by the City Manager.

**Section 32.220 – Type II Procedure (Administrative Review with Notice).**

Type II decisions are made by the City Manager with public notice and an opportunity for review and comment. The local appeal body for each application type is specified in Table 32-1. Type II decisions include limited land use decisions under ORS 197.195.

(1) **Submittal Requirements.** Type II applications must include the submittal information required by TDC 32.140(1).

(2) **Determination of Completeness.** After receiving an application for filing, the City Manager will review the application for completeness in accordance with TDC 32.160.

(3) **Written Notice of Application and Opportunity to Comment.** Once the application has been deemed complete, the City must mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days before making the Type II decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.

(a) Recipients:

(i) The applicant and the owners of the subject property;

(ii) All property owners within 1,000 feet measured from the boundaries of the subject property;

(iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;

(iv) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;

(v) Any person who submits a written request to receive a notice;

(vi) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department

of Transportation; where the project site would access a County road or otherwise be subject to review by the County, then the County; Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code; and

(vii) Utility companies (as applicable).

(b) The mailed notice of pending Type II Decision, at a minimum, must contain all of the following information:

(i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;

(ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;

(iii) The proposed site plan;

(iv) Statement noting if a railroad-highway grade crossing provides or will provide the only access to the subject property;

(v) The type of application and a concise description of the nature of the land use action;

(vi) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;

(vii) Brief summary of the local decision making process for the land use decision being made;

(viii) The date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;

(ix) A statement indicating that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;

(x) Statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;

(xi) A statement that comments received after the close of the public comment period will not be considered;

(xii) The name of a City representative to contact and the telephone number where additional information may be obtained; and

(xiii) Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in TDC 32.220(3)(a) to receive the notice required in TDC 32.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.



(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) **Decision.** At the conclusion of the comment period, the City Manager must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

- (a) Explains the criteria and standards considered relevant to the decision;
- (b) States the facts relied upon in issuing the decision; and
- (c) Explains the justification for the decision based on the criteria, standards and facts set forth.

(5) **Notice of Type II Decision.** Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with TDC 32.220(3)(d). If approval is granted to remove a Heritage Tree, a copy of the decision must be sent to the chairman of the Tualatin Park Advisory Committee. The Type II Notice of Decision must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement a statement that the complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final, unless an appeal is submitted; and
- (e) A statement that all person entitled to notice of the decision may appeal the decision in accordance with TDC 32.310.

(6) **Appeal of a Type II Decision.** Appeals may be made in accordance with TDC 32.310.

(7) **Effective Date of Type II Decision.** A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an Appeal is submitted pursuant to TDC 32.310 or unless the conditions of approval specify otherwise.

### **Section 32.230 – Type III Procedure (Quasi-Judicial Review – Public Hearing).**

Type III decisions involve the use of discretion and judgment and are made by the Planning Commission or Architectural Review Board after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 32-1. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons.

(1) **Submittal Requirements.** Type III applications must include the submittal information required by TDC 32.140(1).

(2) **Determination of Completeness.** After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.

(3) **Written Notice of Public Hearing – Type III.** Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

- (i) The applicant and, the owners of the subject property;
- (ii) All property owners within 1,000 feet measured from the boundaries of the subject property;
- (iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;
- (iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;
- (v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;
- (vi) Any person who submits a written request to receive a notice;
- (vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;
- (viii) Utility companies (as applicable); and,
- (ix) Members of the decision body identified in Table 32-1.

(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;
- (iii) The type of application and a concise description of the nature of the land use action;
- (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;
- (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (vi) The date, time and location of the hearing;

(vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;

(viii) The name of a City representative to contact and the telephone number where additional information may be obtained; and

(ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and

(x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.

(c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

(4) **Conduct of the Hearing - Type III.** The person chairing the hearing must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the chair must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the chair in the conduct of the hearing are as follows:

(a) At the commencement of the hearing, the person chairing the hearing must state to those in attendance all of the following information and instructions:

(i) The applicable substantive criteria;

(ii) That testimony, arguments and evidence must be directed toward the criteria described in paragraph (i) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision;

(iii) That failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue;

(iv) At the conclusion of the initial evidentiary hearing, the decision body must deliberate and make a decision based on the facts and arguments in the public record; and

(v) Any participant may ask the decision body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the decision body grants the request, it will schedule a date to continue the hearing as provided in TDC 32.230(4)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.230(4)(f).

(b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of

the decision body must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the decision body must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the decision body must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.

(c) Presenting and receiving evidence.

(i) The decision body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;

(ii) No oral testimony will be accepted after the close of the public hearing.

Written testimony may be received after the close of the public hearing only as provided by this section; and

(iii) Members of the decision body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

(d) The decision body, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

(e) If the decision body decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.

(f) If the decision body leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:

(i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;

- (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030, unless the applicant waives his or her right to a final decision being made within the required timeframe; and
- (iii) If requested by the applicant, the decision body must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

(5) **Notice of Adoption of a Type III Decision.** Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Adoption must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final, unless a request for appeal is submitted; and
- (e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with TDC 32.310.

(6) **Appeal of a Type III Decision.** Appeal of an Architectural Review Board or Planning Commission Type III Decision to the City Council may be made in accordance with TDC 32.310.

(7) **Effective Date of a Type III Decision.**

- (a) The written order is the final decision on the application.
- (b) The mailing date is the date of the order certifying its approval by the decision body.
- (c) A decision of the Architectural Review Board or Planning Commission is final unless:
  - (i) a written appeal is received at the City offices within 14 calendar days of the date notice of the final decision is mailed; or
  - (ii) The City Manager or a member of the City Council requests a review of the decision within 14 calendar days of the date notice of the final decision is mailed.

**Section 32.240 – Type IV-A Procedure (Quasi-Judicial Review – City Council Public Hearing).** Type IV-A decisions are quasi-judicial decisions made by the City Council after a public hearing. A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons. Except as otherwise provided, the procedures set out in this section must be followed when the subject matter of the evidentiary hearing would result in a quasi-judicial decision. City Council decisions may be appealed to the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

(1) **Submittal Requirements.** Type IV-A applications must include the submittal information required by TDC 32.140(1).

(2) **Determination of Completeness.** After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.

(3) **Written Notice of Public Hearing – Type IV-A.** Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

- (i) The applicant and, the owners of the subject property;
- (ii) All property owners within 1,000 feet measured from the boundaries of the subject property;
- (iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;
- (iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;
- (v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;
- (vi) Any person who submits a written request to receive a notice;
- (vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: school districts; fire district; where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation; and where the project site would access a County road or otherwise be subject to review by the County, then the County; and Clean Water Services; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;
- (viii) Utility companies (as applicable); and,
- (ix) Members of the City Council.

(b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:

- (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;
- (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;
- (iii) The type of application and a concise description of the nature of the land use action;
- (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;
- (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
- (vi) The date, time and location of the hearing;
- (vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
- (viii) The name of a City representative to contact and the telephone number where additional information may be obtained;
- (ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and
- (x) Statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost.

(c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.

**(4) Additional Notice Requirements for Certain Type IV-A Application Types.** The following additional notice requirements apply to Type IV-A Hearings where the City Council will be considering the application or removal of a Historic Landmark Designation or a Plan Text or Map Amendment for a particular property or discrete set of properties.

(a) The City Manager will notify in writing the Oregon Department of Land Conservation and Development (DLCD) in accordance with the minimum number of days required by ORS Chapter 197.

(b) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be provided by publication in a newspaper of general circulation in the City.

(c) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be posted in two (2) public and conspicuous places within the City.

**(5) Conduct of the Hearing - Type IV-A.** The Mayor (or Mayor Pro Tem) must follow the order of proceedings set forth below. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to

provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing will be addressed to the chair with a request for a ruling. Rulings from the Mayor must, to the extent possible, carry out the stated intention of these procedures. A ruling given by the Mayor on such question may be modified or reversed by a majority of those members of the decision body present and eligible to vote on the application before the body. The procedures to be followed by the Mayor in the conduct of the hearing are as follows:

(a) At the commencement of the hearing, the Mayor (or designee) must state to those in attendance all of the following information and instructions:

- (i) The applicable approval criteria by Code Chapter that apply to the application;
- (ii) Testimony and evidence must concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
- (iii) Failure to raise an issue with sufficient detail to give the City Council and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
- (iv) At the conclusion of the initial evidentiary hearing, the City Council must deliberate and make a decision based on the facts and arguments in the public record; and
- (v) Any participant may ask the City Council for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the City Council grants the request, it will schedule a date to continue the hearing as provided in TDC 32.240(5)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.240(5)(f).

(b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the City Council must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the City Council must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the City Council must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.

(c) Presenting and receiving evidence.

- (i) The City Council may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
- (ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
- (iii) Members of the City Council may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.



(d) The City Council, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

(e) If the City Council decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.

(f) If the City Council leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:

- (i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
- (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030(1) (ORS 227.178 - 120-day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
- (iii) If requested by the applicant, the City Council must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

**(6) Notice of Adoption of a Type IV-A Decision.** Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type IV-A Notice of Adoption must contain all of the following information:

- (a) A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement a statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final; and

(e) The notice must include an explanation of rights to appeal a City Council decisions to the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

**(7) Effective Date of a Type IV-A Decision.**

(a) The written order is the final decision on the application.

(b) The date of the order is the date it is mailed by the Mayor (or designee) certifying its approval by the decision body.

(c) Appeal of a IV-A City Council decision is to the State Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

**Section 32.250 – Type IV-B (Legislative Decisions).** Type IV-B decisions are legislative land use decisions made by the City Council. Legislative land use proceedings include proposals to amend the Tualatin Comprehensive Plan and zoning maps, and involve the creation, revision, or implementation of broad public policy generally impacting more than one property owner or a large number of individual properties. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178. In most cases a public hearing is required. However, no public hearing is required in a legislative land use proceeding if the purpose of the amendment is to conform to new requirements in state land use statutes, Statewide Land Use Planning Goals, or administrative rules of the Oregon Land Conservation and Development Commission implementing state land use statutes or Statewide Land Use Planning Goals, if the Oregon Department of Land Conservation and Development confirms in writing that the only effect of the proposed change is to conform the City's Comprehensive Plan or land use regulations to the new state requirements. The Council may, in its discretion, hold a public hearing although one is not required.

**(1) Submittal Requirements – Type IV-B.** Legislative land use proceedings may be initiated by the City Council or City staff.

**(2) Notice of Public Hearing – Type IV-B.** Hearings on Legislative Land Use requests must conform to state land use laws (ORS 227.175), as follows:

(a) **DLCD Pre-Adoption Notice.** The City Manager will notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) in accordance with the minimum number of days required by ORS Chapter 197.

(b) **Notice of Rezone and Limitations of Land Use (Measure 56 Notice).** When the proposed legislative decision affects the base zoning classification of a property or limits or prohibits a land use previously allowed, the City must provide notice to the owners of such property at least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance. The notice must comply with ORS 227.175.

(c) **Other Public Notice.** In addition to any other notice required, at least 14 calendar days before the scheduled City Council public hearing date, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies.

(i) Any affected governmental agency;

(ii) Any person who requests notice in writing;

- (iii) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
  - (iv) Designated representatives of recognized Citizen Involvement Organizations;
  - (v) For an amendment which affects the transportation system, ODOT and Metro; and
  - (vi) For a plan amendment or land use regulation amendment that significantly impacts school capacity, the Tigard-Tualatin School District.
- (d) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be provided by publication in a newspaper of general circulation in the city.
- (e) At least 14 calendar days before the scheduled City Council public hearing date, public notice must be posted in two (2) public and conspicuous places within the City.
- (3) **Mailed Notice.** The mailed Notice of a Public Hearing, at a minimum, must contain all of the following information:
- (a) A concise description of the proposal;
  - (b) A map identifying the properties affected by the proposal, if applicable, in relation to major streets or other landmarks;
  - (c) A list of the applicable standards or criteria;
  - (d) The date, time, and location of the public hearing;
  - (e) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;
  - (f) A statement that all interested persons may appear either in person or with representation by an attorney and provide testimony and that only those participating at the hearing, in person or by submission of written testimony, have the right to appeal the decision to the Land Use Board of Appeals;
  - (g) The information required under ORS 227.186 (Measure 56 Notice), if the hearing changes the base zoning classification of a property or limits or prohibits a land use previously allowed;
  - (h) a statement that subsequent to the close of the hearing notice of a decision adopting a new land use regulation will be mailed to all neighborhood associations, anyone who participated in the hearing, either in person or in writing, and anyone who requested to receive notice;
  - (i) The name and contact information for the City representative responsible for collecting comments or responding to questions; and
  - (j) Statement that all documents are available for review and that copies can be obtained at a reasonable cost from the City.
- (4) **Conduct of the Hearing – Type IV-B.** A Type IV-B land use hearing will follow the City’s legislative hearing procedures. There can be pre-hearing contact between citizens and the decision makers on legislative matters. “Ex parte contact” is not a concern.
- (5) **Notice of Adoption and Effective Date of a Type IV-B Decision.**
- (a) Notice of Adoption must be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within 20 business days

after the City Council decision is filed with the City Manager. The City must also provide notice to all persons as required by other applicable laws.

(b) A Legislative Land Use decision, if approved, takes effect and becomes final as specified in the enacting ordinance or, if not approved, upon mailing of the Notice of Adoption to the applicant.

**Section 32.260 – Annexation Procedures.** An Annexation brings property from outside the City Limits into the City Limits. At the same time, the City also removes the property from any county special districts that are no longer needed. For example, property in Washington County is withdrawn from the Washington County Enhanced Sheriff's Patrol District because police services will be provided by the Tualatin Police Department.

**(1) Procedure Type – Annexations.**

(a) Quasi-Judicial Annexations will be conducted by City Council under the Type IV-A process in TDC 32.240, as modified by this Section. The 120-day rule does not apply to annexations.

(b) Legislative Annexations will be conducted by City Council under the Type IV-B process in TDC 32.250 as modified by this Section.

**(2) Submittal Information and Completeness.**

(a) **Quasi-Judicial Annexation.** For quasi-judicial annexation applications, submittal requirements must be in accordance with TDC 33.240(1) and will be reviewed for completeness in accordance with TDC 33.240(2).

(b) **Legislative Annexation.** Only the City Council may initiate legislative annexations.

**(3) Timing of the Hearing.** Within 45-days of determining an annexation application is complete, the City Manager will set the date for public hearing before the City Council.

**(4) Notice of Public Hearing – Annexation.** The City must give notice of its proposed deliberations by at least 20 days prior to the date of deliberations. Notice must be published as required by state law.

(a) For quasi-judicial annexations the City must comply with the same written notice provisions as for Type IV-A. For legislative annexations, the City must comply with the same written notice provisions as for Type IV-B proceedings. In addition, notice of public hearing must also be sent to all "Necessary Parties," as defined by Metro Code 3.09;

(b) The City must post the written notice of public hearing in four public places;

(c) The City must provide weatherproof posting of the notice in the general vicinity of the affected territory; and

(d) The City must post a notice of public hearing in a newspaper of general circulation within the City once each week for two successive weeks before the hearing.

**(5) Final Decision.** Final decisions on quasi-judicial and legislative annexations will be made by ordinance.

(a) The City Council may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice must be reissued in the form required by

TDC 32.260(4) of this section at least five days prior to the continued date of decision.

(b) For quasi-judicial annexation proceedings, the City must send notice of final decision as provided in 32.240(6) (Notice of Adoption - Type IV-A). Notice of adoption is not required for legislative annexation proceedings.

(c) Following a final decision approving an annexation, the City must send notice of the decision to the Metro and other applicable public bodies, in accordance with Metro Code 3.09, to effectuate the annexation decision.

(d) The City must file the annexation with the Secretary of State as provided in ORS 222.

(6) **Effective Date.** The effective date of the annexation is as specified by the City Council in the annexation ordinance. If an effective date of an annexation is more than one year after the date the ordinance proclaiming annexation is adopted, the City must provide notice to the county clerk as provided in ORS 222.

### **Section 32.310 – Appeals (Request for Review).**

#### **(1) Appeals Generally.**

(a) **Type I Decisions.** Type I decisions are final at the local level and may only be appealed to Circuit Court through a writ of review process under state law.

(b) **Type II Decisions.** Type II decisions may only be appealed by a person who has submitted written comments within the 14-day comment period before the decision of the City Manager.

(c) **Type III Decisions.** Type III decision may be made by any person who submitted written comments prior to or during the public hearing, or provided testimony at the public hearing.

(d) **Type IV-A and Type IV-B Decisions.** There is no local appeal for Type IV decisions. Type IV decisions appealed to the Land Use Board of Appeals must follow applicable state laws.

(2) **Timing and Submittal Requirements for a Notice of Appeal – Type II and Type III Decisions.** A Notice of Appeal must be made within fourteen (14) calendar days of the date of mailing the written Notice of Decision or Notice of Adoption. The Notice of Appeal must be on forms provided by the City and be accompanied by the appeal fee. The notice of appeal must contain the following:

(a) Identification of the decision sought to be appealed, including its assigned case number, the title or caption of the decision, and the decision date; and

(b) The name and mailing address of the appellant and a statement establishing the appellant's standing to appeal the decision, including how the appellant is adversely affected by the decision.

(3) **Proper Filing of Notice of Appeal is Jurisdictional.** The timely and complete filing of the notice of appeal and payment of the appeal fee are jurisdictional. The City Manager cannot accept a notice of appeal that does not comply with this section. The City Manager's determination that an appellant has failed to comply with this section is final.

#### **(4) Appeals Hearing Process.**

(a) The appeal body for appeals will be either the Architectural Review Board, Planning Commission, or City Council as provided in Table 32-1. All appeals are "de

novo” meaning new evidence and argument may be submitted at the appeal hearing.

(b) Appeal hearings conducted by the Architectural Review Board or Planning Commission will follow the Type III hearings process in accordance with TDC 32.230.

(c) Appeal hearings conducted by the City Council will follow the Type IV-A hearing process in accordance with TDC 32.240.

**(5) Withdrawing an Appeal.**

(a) At any time before the close of an appeal hearing, any appellant may withdraw the appeal. The appellant must provide written notice of the withdrawal prior to the hearing, or orally at the hearing.

(b) If the withdrawal is made before public notice of the hearing is sent, the City will refund the appeal fee.

(c) Where multiple people or parties sign and file a single Notice of Appeal, all parties to the original filing must consent to the withdrawal of the appeal.

(d) A withdrawn appeal cannot be re-filed by any party and no decision by the appeal body is necessary.

(e) If all appeals are withdrawn, the City Manager must issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties who received a Notice of Final Decision. The Notice of Appeal Withdrawal must state the new effective date of the original decision is the date of the withdrawal of the appeal(s).

**SECTION 5. TDC Chapter 33 (Applications and Approval Criteria).** TDC Chapter 33 (Variances) is deleted in its entirety and replaced with TDC Chapter 33 (Applications and Approval Criteria) to read as follows:

**Section 33.010 – Annexations.**

(1) **Purpose.** The purpose of this Section is to establish the application requirements for annexing territory to the City Limits, consistent with Metro Code 3.09 and Oregon law.

(2) **Applicability.** The requirements of this section apply to all applications for annexation to the City of Tualatin.

(3) **Procedure Type.** Annexations are processed in accordance with the annexation procedure in TDC Chapter 32.260.

(4) **Specific Submittal Requirements.** In addition to the general application submittal requirements in TDC 32.140 (Application Submittal), an applicant(s) for a quasi-judicial annexation must submit the following:

(a) The Application for Annexation form;

(b) The Petition to Annex to the City of Tualatin form;

(c) A legal description of the subject territory including any abutting public street right-of-way that is not yet in the City Limits;

(d) The Certification of Legal Description and Map form;

(e) The Certification of Property Ownership form;

(f) The Certification of Registered Voters form;

(g) The Property Owner Information Sheet form;

(h) The City application fee, and the Metro application fee in a separate check made payable to Metro;

- (i) The 3 column by 10 row matrix sheet listing the Assessors Map Number and Tax Lot Number, name and mailing address for:
    - (i) The owner (fee title) of the subject territory, and
    - (ii) Recipients pursuant to TDC 32.240 (3) and the governing jurisdiction of any public street right-of-way to be annexed;
  - (j) The Annexation Property Information Sheet form;
  - (k) A copy of the County Assessors Maps showing the subject territory, any public street right-of-way to be annexed and the lots within 1,000 feet of the subject territory including any public street right-of-way. The subject territory and right-of-way to be annexed must be outlined with a wide, light colored ink marker;
  - (l) If necessary, a letter from the County or State Road Authority stating its consent to annex the right-of-way described in the legal description; and
  - (m) Any information required by the City Manager in addition to the above.
- (5) **Approval Criteria.** To grant an annexation application, the Council must find:
- (a) The territory to be annexed is within the Metro Urban Growth Boundary;
  - (b) The owners of the territory to be annexed have petitioned to be annexed;
  - (c) The application conforms to the applicable criteria in Metro Code 3.09; and
  - (d) The application is consistent with applicable provisions of ORS Chapter 222.

### **Section 33.020 – Architectural Review.**

(1) **Purpose.** The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping, in the business, commercial, industrial, and certain residential areas of the City hinders the harmonious development of the City; impairs the desirability of residence, investment or occupation in the City; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property; produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the City; and destroys a proper relationship between the taxable value of property and the cost of municipal services therefore. The purposes and objectives of community design standards are to:

- (a) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of development.
- (b) Discourage monotonous, drab, unsightly, dreary and inharmonious development.
- (c) Promote the City's natural beauty and visual character and charm by ensuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain, natural environment, and landscaping. Exterior appearances of structures and other improvements should enhance these qualities.
- (d) Encourage site planning and development to incorporate bikeways, pedestrian facilities, greenways, wetlands, and other natural features of the environment and provide incentives for dedication of access easements and property to the public through shift of residential density, system development charge credits, landscaping credits and setback allowances.

(e) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

(f) Stabilize and improve property values and prevent blighted areas and thus increase tax revenues.

(g) Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and thus decrease the cost of governmental services.

(h) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.

(i) Sustain the comfort, health, safety, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment and thus promote and protect the peace, health and welfare of the City.

(j) Determine the appropriate yard setbacks, building heights, minimum lot sizes when authorized to do so by City ordinance.

**(2) Applicability.**

(a) The following types of development are subject to Architectural Review:

(i) Any exterior modifications to improved or unimproved real property;

(ii) Any remodeling that changes the exterior appearance of a building;

(iii) Any site alteration which alters the topography, appearance or function of the site; and

(iv) Any change in occupancy from single family use to commercial or industrial use.

(b) Examples of development subject to Architectural Review, include but are not limited to the following:

(i) New buildings, condominiums, townhouse, single family dwellings, or manufactured dwelling park;

(ii) Construction, installation, or alteration of a building or other structure;

(iii) Landscape improvements;

(iv) New, improved, or expanded parking lots;

(v) New, or alterations to, above ground public utility facilities, pump stations, pressure reading stations, water reservoirs, electrical substations, and natural gas pumping stations;

(vi) New wireless communication facilities, and new attached wireless communication;

(vii) Installation of decorative lighting; and

(viii) Exterior painting, awnings, or murals.

(c) Exceptions to Architectural Review. The following applications for development do not require Architectural Review:

(i) The addition or alteration of an existing single-family dwelling if it involves:

(A) Less than 35% of the structure's existing footprint;

(B) No new story;

(C) Less than 35% of an existing front or rear wall plane; or

(D) A side wall plane that abuts the side yard of an adjacent dwelling.

(ii) The modification by the City of greenways, parks, other Parks and Recreation Department improvements, and right-of-way landscaping improvements.



(3) **Types of Architectural Review Applications - Procedure Type.**

(a) **Single Family Dwelling, Clear and Objective.** Development applications submitted for a single family dwelling in compliance with the Clear and Objective Standards in TDC 73A.110 are subject to Type I review.

(b) **Accessory Dwelling Unit.** Development applications submitted for an accessory dwelling unit in compliance with the Clear and Objective Standards in TDC 34.600 (Accessory Dwelling Units Standards) are subject to Type I review.

(c) **General Development.** All development applications, (except Single Family Dwelling, Clear and Objective and Large Commercial, Industrial, and Multifamily Development) are subject to Type II Review.

(d) **Large Commercial, Industrial, and Multifamily Development.** Development applications that propose any of the following are subject to Type III Review by the Architectural Review Board as the hearing body:

- (i) New Commercial Buildings 50,000 square feet and larger;
- (ii) New Industrial Buildings 150,000 square feet and larger; and
- (iii) New Multifamily Housing Projects with 100 units or more units (or any number of units abutting a single family district).

(e) **Minor Architectural Review.** An application for a Minor Architectural Review must be approved, approved with conditions, or denied following review based on finding that:

- (i) The proposed development is in compliance with all applicable standards and objectives in TDC Chapter 73A through 73G,
- (ii) The proposed development is in compliance with all conditions of approval on the original decision; and
- (iii) The modification is listed in 33.020(7)(a).

(4) **Application Materials.** The application must be on forms provided by the City. In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

- (a) The project name and the names, addresses, and telephone numbers of the architect, landscape architect, and engineer on the project;
- (b) Existing conditions plan, site plan, grading plan, utility plan, landscape plan, and lighting plan all drawn to scale;
- (c) A materials board that includes example building materials and textures;
- (d) Title report; and
- (e) A Service Provider Letter from Clean Water Services.

(5) **Approval Criteria.**

(a) **Single Family Dwelling, Clear and Objective.** Applications for Single Family Dwelling, Clear and Objective, must comply with the standards in TDC 73A.110.

(b) **General Development.**

- (i) Applications for General Single Family Dwellings (not clear and objective), must comply with TDC 73A.140.
- (ii) Applications for General Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

(c) **Large Commercial, Industrial, and Multifamily Development.** Applications for Large Commercial, Industrial, and Multifamily Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

**(6) Conditions of Approval.**

(a) Architectural Review decisions may include conditions of approval that apply restrictions and conditions that:

- (i) Protect the public from the potentially deleterious effects of the proposal;
- (ii) Fulfill the need for public facilities and services created by the proposal, or increased or in part attributable to the proposal; and
- (iii) Further the implementation of the requirements of the Tualatin Development Code.

(b) Types of conditions of approval that may be imposed include, but are not limited to:

- (i) **Development Schedule.** A reasonable time schedule placed on construction activities associated with the proposed development, or portion of the development.
- (ii) **Dedications, Reservation.** Dedication or reservation of land, or the granting of an easement for park, open space, rights-of-way, bicycle or pedestrian paths, Greenway, Natural Area, Other Natural Area, riverbank, the conveyance of title or easements to the City or a non-profit conservation organization, or a homeowners' association.
- (iii) **Construction and Maintenance Guarantees.** Security from the property owners in such an amount that will assure compliance with approval granted.
- (iv) **Plan Modifications.** Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this chapter.
- (v) **Other Approvals.** Evaluation, inspections or approval by other agencies, jurisdictions, public utilities, or consultants, may be required for all or any part of the proposed development.
- (vi) **Access Limitation.** The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

**(7) Modifications to Previously Approved Final Architectural Review Decisions.**

An applicant who wishes to modify a previously approved final Architectural Review decision may utilize one of the following procedures:

(a) **Minor Architectural Review (MAR).** Minor Architectural Review is a Type I process. Minor Architectural Review is used to process a proposal for one of the following:

- (i) Adding awnings, modifying previously approved exterior paint colors, or murals;
- (ii) Relocating windows or doors;
- (iii) Changing exterior material;
- (iv) Expanding the gross floor area of a development, including primary and accessory buildings, may be expanded by no more than 200 square feet maximum.
- (v) Adding or replacing new antennas on an existing Wireless Facility or Attached Wireless Facility or adding equipment within the existing equipment footprint of an existing Wireless Facility equipment space, so long as the modification does

not constitute a substantial change. For the purpose of this subsection, “substantial change” means the following:

(A) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection by up to an additional 5% if necessary to avoid interference with existing antennas; or

(B) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed 4) or more than one new equipment shelter; or

(C) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection to the extent necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

(D) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Increases to height allowed by this subsection above the existing tower is based on the existing height of the tower, excluding any tower lighting required in the original land use approval or in the proposed modification request.

To the extent feasible, additional equipment must maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, mounting configuration, or architectural treatment.

(vi) Replacing an existing Wireless Facility tower, provided the replacement tower must not exceed the height of the original tower by more than 10%, or the diameter of the original tower by more than 25% at any given point.

(vii) Changing structure setback or lot coverage by less than 10% from the most recently approved Architectural Review approved through a Type II or Type III process;

(viii) Changing access location or parking lots that does not result in an increase of Average Daily trips by more than 100 trips from the Average Daily Trips in an Architectural Review most recently approved through a Type II or Type III process; or

(ix) Removing trees originally required to be retained or planted by a previously approved Architectural Review proposal.

(b) **Full Architectural Review.** Modifications to a previously approved final Architectural Review decision that does not qualify as a Minor Architectural Review (MAR) may only be modified by proceeding through the regular Architectural Review process.

- (8) **Effective Date.** The effective date of an Architectural Review decision or Minor Architectural Review decision is the date the notice of decision is mailed.
- (9) **Permit Expiration.** Architectural Review decisions (including Minor Architectural Review decisions) expire two (2) years from the effective date unless the applicant has received a building, or grading permit submitted in conjunction with a building permit application, substantial construction has occurred pursuant to the building permit, and an inspection has been performed by a member of the Building Division.
- (10) **Extension of Permit Expiration.**
- (a) An Architectural Review approval may be extended if the applicant, or successor interest, submits a written request for an extension of time within two (2) years of the effective date.
  - (b) A Minor Architectural Review approval may not be extended. A new application is required if the permit expires.
  - (c) Upon receipt of a request for an extension of time, the City will process the extension request as follows:
    - (i) If the City Manager approved the Architectural Review, then the City Manager will decide the extension request under the Type II procedures in TDC 32.220.
    - (ii) If the Architectural Review Board (ARB) approved the Architectural Review, then the ARB will decide the extension request under the Type III quasi-judicial procedures in TDC 32.230.
  - (d) The City must provide notice of the extension request to past recipients of the Architectural Review notice of decision and the applicant must post a sign pursuant to TDC 32.150.
  - (e) The City Manager or Architectural Review Board, as applicable, may grant the extension of time upon finding the following:
    - (i) The applicant submitted a written extension request prior to the expiration date;
    - (ii) There have been no significant changes in any conditions, ordinances, regulations or standards of the City or applicable agencies that affect the previously approved project so as to warrant its resubmittal for Architectural Review;
    - (iii) If the previously approved application included a special study, the applicant provided a status report includes a letter from a recognized professional that states that conditions have not changed after the original approval and that no new study is warranted; and
    - (iv) If the site has been neglected so as to allow the site to become blighted, the deciding party must factor this into its decision.
  - (f) The City Manager or Architectural Review Board, as applicable, may grant or deny the extension request. The decision must be in writing and must be made within sixty (60) days of receipt of the request for extension. If the decision is to grant the extension, the extension can be no more than a single one-year extension.
  - (g) Upon making the decision, the City must provide notice of the extension decision as provided in TDC 32.220 for Type II decisions made by the City Manager and TDC 32.230 for Type III decisions made by the Architectural Review Board.

### **Section 33.030 – Permit for New Driveway Approach and Closure Decisions.**

- (1) **Purpose.** To provide a process for the review of requests for driveway approaches and closures, as provided in TDC 75.020 and TDC 75.030.
- (2) **Applicability.** All requests for driveway approaches and closures are as provided in this section and TDC 75.020 and TDC 75.030.
- (3) **Procedure Type.** Driveway approaches and closure applications are subject to Type II Review in accordance with TDC Chapter 32.
- (4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the application must be accompanied by a detailed description of factors related to the approval criteria, including, but not limited to a Transportation Impact Analysis, as well as the submittal requirements in TDC 75.020 and TDC 75.030.
- (5) **Approval Criteria.** If the City Manager finds the applicable criteria in TDC 75.020 and TDC 75.030 have been met.
- (6) **Conditions of Approval.** The City may impose conditions on the construction of arterial access including, but not limited to:
  - (a) Dedication of additional right-of-way;
  - (b) Creation of a joint access;
  - (c) Construction of left turn lanes;
  - (d) Construction of right turn lanes;
  - (e) Installation of traffic signals; and
  - (f) Limitation of access to right turn in, right turn out by construction of raised median barriers or other means.
- (7) **Permit Expiration.** The expiration date for permits granting a new driveway approach must be as specified in the decision.

### **Section 33.040 – Conditional Use Permit.**

- (1) **Purpose.** It is the intent of this chapter to provide a set of procedures and standards for conditional uses of land or structures which, because of their unique characteristics relative to locational features, design, size, operation, circulation and public interest or service, require special consideration in relation to the welfare of adjacent properties and the community as a whole. It is the purpose of the regulations and standards set forth below to:
  - (a) Allow practical latitude for utilization of land and structures, while maintaining adequate provision for the protection of the health, safety, convenience and general welfare of the community and adjacent properties; and
  - (b) Provide machinery for periodic review of conditional use permits to provide for further conditions to more adequately assure conformity of such uses to the public welfare.
  - (c) Provide siting criteria for the conditional uses specified herein and guidelines for the imposition of conditions to the end that such uses will:
    - (i) Be consistent with the intent and purpose of the zone in which it is proposed to locate such use, meet the requirements of the Tualatin Community Plan with regard to providing benefit to the general welfare of the public, and fill a probable

need of the public which can best be met by a conditional use at this time and in this place; and

(ii) Comply with the requirements of the zone within which the conditional use is proposed and in accordance with conditions attached to such use under the authority of this chapter.

(2) **Applicability.** A request for a conditional use, modification of an existing conditional use permit, or a review of an existing conditional use permit may be initiated by a property owner or the owner's authorized agent.

(3) **Procedure Type.** Conditional use permits are processed in accordance with the Type III review procedures in Chapter 32.

(4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the applicant must submit the following additional information and materials:

(a) Project title;

(b) The architect, landscape architect and engineer;

(c) A site plan, drawn to scale, showing the dimensions and arrangement of the proposed development;

(d) A Service Provider Letter from Clean Water Services (CWS) indicating that a "Stormwater Connection Permit Authorization Letter" will likely be issued; and

(e) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

(5) **Approval Criteria.** The applicant must provide evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied and demonstrate that the proposed use also satisfies the following criteria:

(a) The use is listed as a conditional use in the underlying zone;

(b) The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features;

(c) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

(d) The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone; and

(e) The proposal satisfies those objectives and policies of the Tualatin Community Plan that are applicable to the proposed use.

(6) **Conditions of Approval.** The Hearing Body may impose, in addition to the regulations and standards expressly specified in this chapter, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the City as a whole. In no event will this Chapter be used as a means to exclude multi-family housing from the City.

(7) **Compliance with Conditions and Revocations.**

(a) Any previously granted conditional use permit may be revoked by the Planning Commission, after a hearing conducted in the manner required for approval of a conditional use permit initially, upon the following grounds:

- (i) Failure to comply with the conditions of approval;
  - (ii) Discontinuance of the use for a period in excess of two years;
  - (iii) Failure to comply with other applicable provisions of the Tualatin Community Plan regarding design, dimensional or use requirements; or
  - (iv) A change in the Tualatin Community Plan or Zone Standards of the zone within which the use is located that have the effect of no longer allowing a new conditional use permit application to be considered in such zone.
- (b) Revocations initiated under TDC 33.040(7)(a)(i) or (ii) above must not be initiated for at least 6 months after approval of the conditional use permit. Revocations initiated under TDC 33.040(7)(a)(i), (ii) and (iii) above has the effect of making the previously granted conditional use permit void until a new application is submitted and granted. Revocations initiated under TDC 33.040(7)(a)(iv) above has the effect of making the previously granted conditional use a nonconforming use.
- (8) Automatic Termination of Conditional Use; Request for Extension.**
- (a) Unless otherwise provided by the Planning Commission in the written decision granting approval of the conditional use permit, a conditional use permit automatically is null and void two (2) years after the effective date upon which it was granted, unless the applicant, or successor in interest, has done one of the following within two (2) years of the effective date of the conditional use permit:
- (i) Secured a building permit and commenced construction of the building or structure in conformance of the building permit and conditional use permit.
  - (ii) Commenced the activity or installation of the facility or structure authorized by the conditional use permit.
  - (iii) Submitted a request for an extension of time on the conditional use permit to avoid the permit's becoming null and void.
- (b) A request for an extension must be submitted prior to the expiration date of the conditional use permit, as established by the Planning Commission in granting the conditional use permit.
- (c) Upon receipt of the request for an extension of time, the Planning Commission will hear the matter under the quasi-judicial procedures in TDC 32.230. The Planning Commission may grant or deny the extension of time, provided the extension of time does not exceed two (2) years.

### **Section 33.050 – Industrial Master Plans.**

- (1) **Purpose.** The Industrial Master Plan sets particular standards for development within the Industrial Master Plan Area (defined by such plan), in accordance with the Tualatin Community Plan, the Southwest Tualatin Concept Plan (SWCP) and the Leveton Tax Increment Plan. Such approved plans are intended to achieve a campus-like setting within an Industrial Master Plan Area, while allowing development to occur independently on a number of smaller parcels within that area. It is the intent of this chapter to provide procedures and criteria for the submission and review of such Industrial Master Plan applications. Development standards approved through a Master Plan process establishes alternative development standards that supersede conflicting provisions in the Tualatin Development Code.
- (2) **Applicability.**

(a) An Industrial Master Plan is required for any development in the Manufacturing Business Park (MBP) Zone in a Regionally Significant Industrial Area (RSIA).

(i) For properties in the Regionally Significant Industrial Area (RSIA) of the MBP Zone, lots or parcels may be divided into smaller lots or parcels of 20,000 sq. ft or larger when the Industrial Master Plan identifies at least one lot or parcel of 100 acres in size or larger and one lot or parcel 50 acres in size or larger.

(b) An Industrial Master Plan is optional for any development in the Manufacturing Park (MP) Zone or Manufacturing Business Park (MBP) Zone. An Industrial Master Plan is required to do any of the following:

(i) Modify the requirements for internal circulation, building location and orientation, street frontage, parking, setbacks, building height, or lot size as provided in TDC Chapter 62 for the Manufacturing Park (MP) Zone and TDC Chapter 64 for the Manufacturing Business Park (MBP) Zone; and

(ii) Provide for individual parcels of less than 40 acres in the Manufacturing Park Zone. However, the parcels must not be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive, unless otherwise provided under TDC 62.050(1).

(c) An Industrial Master Plan must be submitted for the entire Industrial Master Plan Area and include all owners of property within the area.

(3) **Procedure Type.** Industrial Master Plans must be processed in accordance with the Type III review procedures as specified in Chapter 32.

(4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the applicant must submit the following additional information and materials:

(a) The printed names and signatures of all property owners within the area of the proposed Industrial Master Plan.

(b) A written statement describing all alternate development standards that may include the following:

(i) Setbacks from each lot line to buildings, parking areas and circulation areas. Required setbacks may be exact, or minimum and maximum ranges may be specified. Required setbacks may be greater than or less than those required under TDC 62.060 or TDC 64.060;

(ii) Locations of shared parking and circulation areas and access improvement, including truck maneuvering and loading areas and common public or private infrastructure improvements;

(iii) Building heights and placement and massing of buildings with respect to parcel boundaries; and

(iv) Location and orientation of building elements such as pedestrian ways or accesses, main entrances and off-street parking or truck loading facilities, including the number of off-street parking spaces and loading docks required.

(v) Lot dimensions and area;

(A) For properties in the Manufacturing Park (MP) Zone, an individual parcel must not be less than 15 acres north of SW Leveton Drive and five acres south of SW Leveton Drive, unless otherwise provided under TDC 62.050(1).

(B) For properties in the Regionally Significant Industrial Area (RSIA) of the MBP Zone, lots or parcels may be divided into smaller lots or parcels of



20,000 sq. ft or larger when the Industrial Master Plan identifies at least one lot or parcel of 100 acres in size or larger and one lot or parcel 50 acres in size or larger in the RSIA; and

(vi) Location of required building and parking facility landscaped areas.

(c) Except as specifically provided in TDC 33.050(1) above, all other provisions of this Code apply within an Industrial Master Plan Area.

**(5) Approval Criteria.**

(a) Public facilities and services, including transportation, existing or planned, for the area affected by the use are capable of supporting the proposed development or will be made capable by the time development is completed.

(b) The location, design, size, color and materials of the exterior of all structures for the proposed development and use is compatible with the character of other developments within the same general vicinity.

(c) The internal circulation, building location and orientation, street frontage, parking, setbacks, building height, lot size, and access are in accordance with TDC Chapter 62 for the Manufacturing Park (MP) Zone and TDC Chapter 64 for the Manufacturing Business Park (MBP) Zone unless otherwise approved through the Industrial Master Plan process.

**(6) Conditions of Approval.**

(a) The Planning Commission may impose, in addition to the regulations and standards expressly specified in this chapter, other conditions found necessary to protect the best interests of the surrounding property or neighborhood or the City as a whole and for compliance with the Metro UGMFP Title IV policies and requirements.

(b) An Industrial Master Plan may be approved based on proposed parcel boundaries; in this case development under the Industrial Master Plan must be conditioned on creation of the proposed parcels through the subdivision or partition process or may be the subject of a concurrent land division application. Partition applications associated with an Industrial Master Plan may be approved by City Council in accordance with TDC 36.230(8).

**Section 33.060 – Reinstatement of Nonconforming Use or Development.**

(1) **Purpose.** To establish a process by which non-conforming uses or nonconforming development (other than signs) can be reinstated in accordance with TDC Chapter 35.

(2) **Applicability.** A nonconforming use or nonconforming development may not be reinstated unless approved in accordance with this section.

(3) **Procedure Type.** Requests for reinstatement of a non-conforming use or nonconforming developments are processed in accordance with the Type III review procedures in Chapter 32.

(4) **Specific Submittal Requirements.** An application for reinstatement of a non-conforming use must comply with the general submittal requirements in TDC 32.140 (Application Submittal).

**(5) Approval Criteria.**

(a) The nonconforming use or nonconforming development, if reinstated, will not be materially detrimental to the objectives of the Tualatin Community Plan.

(b) The nonconforming use or nonconforming development, if reinstated, will not have an unreasonable detrimental effect upon the value or use of property located within 300 feet of the exterior boundaries of the property on which the reinstated nonconforming use or structure is sought.

(c) The request for reinstatement of a nonconforming use or nonconforming development was filed with the Planning Department not more than 6 months from the date on which the nonconforming use or nonconforming development was terminated.

(6) **Conditions of Approval.** The Planning Commission may attach conditions to the reinstatement that it finds necessary to protect the best interests of the surrounding property including, but not limited to, compliance with those provisions of the Tualatin Community Plan that are necessary to protect the health, peace, safety and welfare of the public.

### **Section 33.070 – Plan Amendments.**

(1) **Purpose.** To provide processes for the review of proposed amendments to the Zone Standards of the Tualatin Development Code and to the Text or the Plan Map of the Tualatin Community Plan.

(2) **Applicability.** Quasi-judicial amendments may be initiated by the City Council, the City staff, or by a property owner or person authorized in writing by the property owner. Legislative amendments may only be initiated by the City Council.

(3) **Procedure type.**

(a) Map or text amendment applications which are quasi-judicial in nature (e.g. for a specific property or a limited number of properties) is subject to Type IV-A Review in accordance with TDC Chapter 32.

(b) Map or text amendment applications which are legislative in nature are subject to Type IV-B Review in accordance with TDC Chapter 32.

(4) **Specific Submittal Requirements.** An application for a plan map or text amendment must comply with the general submittal requirements in TDC 32.140 (Application Submittal).

(5) **Approval Criteria.**

(a) Granting the amendment is in the public interest.

(b) The public interest is best protected by granting the amendment at this time.

(c) The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

(d) The following factors were consciously considered:

(i) The various characteristics of the areas in the City;

(ii) The suitability of the areas for particular land uses and improvements in the areas;

(iii) Trends in land improvement and development;

(iv) Property values;

(v) The needs of economic enterprises and the future development of the area; needed right-of-way and access for and to particular sites in the area;

(vi) Natural resources of the City and the protection and conservation of said resources;

- (vii) Prospective requirements for the development of natural resources in the City;
- (viii) The public need for healthful, safe, esthetic surroundings and conditions; and
- (ix) Proof of change in a neighborhood or area, or a mistake in the Plan Text or Plan Map for the property under consideration are additional relevant factors to consider.

(e) If the amendment involves residential uses, then the appropriate school district or districts must be able to reasonably accommodate additional residential capacity by means determined by any affected school district.

(f) Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules, including compliance with the Transportation Planning Rule TPR (OAR 660-012-0060).

(g) Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

(h) Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

(i) Granting the amendment is consistent with the objectives and policies regarding potable water, sanitary sewer, and surface water management pursuant to TDC 12.020, water management issues are adequately addressed during development or redevelopment anticipated to follow the granting of a plan amendment.

(j) The applicant has entered into a development agreement. This criterion applies only to an amendment specific to property within the Urban Planning Area (UPA), also known as the Planning Area Boundary (PAB), as defined in both the Urban Growth Management Agreement (UGMA) with Clackamas County and the Urban Planning Area Agreement (UPAA) with Washington County. TDC Map 9-1 illustrates this area.

### **Section 33.080 Signs – Permits, Design Review, and Variances.**

(1) **Purpose.** To implement the standards of TDC Chapter 38 and the Sign Objectives in TDC Chapter 20. Sign Variance review provides a public hearing process to review special situations that are not anticipated by the Sign Regulations in TDC Chapter 38, including TDC 38.100, 38.110, 38.120 and 38.140-38.240.

(2) **Applicability.** The requirements of this section apply to sign permits, sign design review and sign variances as required in accordance with TDC Chapter 38.

(3) **Procedure Type.** Sign permits, sign design review and variances are processed in accordance with the procedures in TDC Chapter 32 as follows:

(a) Sign Permits are subject to Type I review.

(b) Sign Design Reviews are subject to Type I review.

(c) Sign Variances are subject to Type III review.

(4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), the applicant must submit the information required by TDC 38.070 (Sign Permit Process).

(5) **Approval Criteria.**

- (a) A Sign Permit may be granted if the City Manager finds that the proposed sign is in compliance with the regulations in TDC Chapter 38.
- (b) Sign Design Review may be approved if the City Manager finds that the proposed sign is in compliance with the regulations in TDC Chapter 38 and the clear and objective standards in TDC 38.075.
- (c) **Sign Variances.** All six of the following criteria must be met before a variance can be granted:
  - (i) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone, and such conditions are a result of lot size or shape or topography over which the applicant or owner has no control;
  - (ii) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances, or from the financial situation of the applicant or owner or the company, or from regional economic conditions;
  - (iii) The variance is the minimum remedy necessary to eliminate the hardship;
  - (iv) The variance is necessary for the preservation of a property right of the owner substantially the same as is possessed by owners of other property in the same zone however, nonconforming or illegal signs on the subject property or on nearby properties does not constitute justification to support a variance request;
  - (v) The variance must not be detrimental to the general public health, safety and welfare, and not be injurious to properties or improvements in the vicinity; and
  - (vi) The variance must not be detrimental to the applicable Sign Design Objectives, TDC 20.030.

### **Section 33.090 – Temporary Outdoor Sales Permit.**

(1) **Purpose.** Temporary Outdoor Sales is the temporary sale of goods or merchandise outside of a building located at a single location for fewer than 55 consecutive days. This includes the temporary sales of holiday vegetation, fireworks, and produce. Temporary outdoor sales may be conducted at mobile stand, tent, or in the open air. This section establishes an application process for the permitting of the temporary sale of seasonal goods or merchandise from a location outside of a building in a mobile stand, tent or in the open air.

#### **(2) Applicability.**

- (a) Temporary Outdoor Sales Permits are only allowed in the following zones:
  - (i) Central Commercial (CC); and
  - (ii) General Commercial (CG).
- (b) This section is not intended to circumvent the strict application of the provisions governing permitted and conditional uses in CC and CG zones.
- (c) Exemptions: A Temporary Outdoor Sales Permit is not required for:
  - (i) activities in public spaces subject to a Community Services Special Event Permit;
  - (ii) seasonal displays or sales located in Architectural Review approved plaza areas adjacent to buildings in the Central Commercial and General Commercial Zones; or
  - (iii) Mobile food units authorized by the Tualatin Municipal Code.

(3) **Procedure Type.** Applications for Temporary Outdoor Sales Permits are subject to Type I Review in accordance with TDC Chapter 32.

(4) **Specific Submittal Requirements.** An application for a Temporary Outdoor Sales Permit must comply with the general submittal requirements in TDC 32.140 (Application Submittal).

(5) **Approval Criteria.**

(a) The total number of days that a parcel of land may be used for temporary outdoor sales in a calendar year is 55 days.

(b) The proposed outdoor sale must be located entirely within private property in a Central Commercial or General Commercial Zone and the applicant must have the written permission from the property owner to utilize the subject property.

(c) The outdoor sale must be located on a site with Architectural Review approved access, parking and landscaping improvements.

(d) The use is listed as a permitted use in the Central Commercial or General Commercial Zones.

(e) The proposed outdoor sale will not result in vehicular traffic congestion.

(f) The applicant can make provision for adequate parking facilities.

(g) The outdoor sale will not result in the elimination of parking spaces required by the applicable City ordinance unless the business or businesses using such required spaces are closed for business on the day of the sale.

(h) The outdoor sale will meet all state and county health rules and regulations.

(6) **Application Fee for Temporary Uses.** The application fee does not apply to non-profit or charitable organizations.

### **Section 33.100 – Temporary Sales Office.**

(1) **Purpose.** To allow for a temporary sales office for the purpose of facilitating the sale of lots or parcels within a subdivision or partition.

(2) **Applicability.** The provisions of this section apply to residentially zoned properties where the property owner wishes to utilize a temporary sales office, for the purpose of facilitating the sale of lots or parcels within such subdivision or partition, but for no other purpose.

(3) **Procedure Type.** Temporary Sales Office applications are subject to Type I Review in accordance with TDC Chapter 32.

(4) **Specific Submittal Requirements.** An application for Temporary Sales Office must comply with the general submittal requirements in TDC 32.140 (Application Submittal).

(5) **Approval Criteria.** The applicant must demonstrate compliance with the following standards:

(a) The subdivision or partition where the temporary sales office is proposed to be located must have a recorded plat.

(b) The office must be located within the boundaries of the subdivision or partition where the lots or parcels to be sold are situated.

(c) The property to be used for a temporary sales office must not be permanently improved for such purpose; providing, however, that a structure designed primarily for other residential purposes or a portion thereof may be used temporarily as a sales office.

(d) The applicant must pay the standard water and sewer hook-up fees if connection to these facilities is required for the temporary sales office.

(e) The applicant must obtain Plumbing Permits to connect to the water and sewer utilities if connection to these facilities is required for the temporary sales office.

(f) Parking for the sales office must only be allowed in the public street adjacent to the sales office and in any driveway constructed for the temporary sales office.

(g) Any signs placed on the lot where the temporary sales office is located must meet the requirements of the Sign Code.

**(6) Permit Expiration.**

(a) The permission granted must not exceed three years from the date of the City Manager's approval.

(b) The granting of permission to use real property for a temporary sales office does not constitute a temporary change of zoning, and the City Manager may impose such terms and conditions as deemed advisable.

**Section 33.110 – Tree Removal Permit / Review.**

(1) **Purpose.** To regulate the removal of trees within the City limits other than trees within the public right-of-way which are subject to TDC Chapter 74.

(2) **Applicability.** No person may remove a tree on private property within the City limits, unless the City grants a tree removal permit, consistent with the provisions of this Section.

(3) **Exemptions.** The following actions are exempt from the requirements of a tree removal permit.

(a) **General Exemption.** Four or fewer trees may be removed within a single calendar year from a single parcel of property or contiguous parcels of property under the same ownership without a permit, if the tree is:

(i) Not located in the Natural Resource Protection Overlay District (NRPO);

(ii) Not located in the Wetlands Protection Area (WPA) of the Wetlands Protection District (WPD);

(iii) Not a Heritage Tree; and

(iv) Not previously required to be retained or planted under an approved Architectural Review decision.

(b) **Forest Harvesting Exemption.** Forest Harvesting Uses, as provided by Agricultural Uses in TDC 39.300 are exempt.

(c) **Orchard Exemption.** Orchards Uses, as provided by Agricultural Uses in TDC 39.300, are exempt.

(d) **Public Property Exemption.** Tree removal on federal, state, county, or City property is exempt from the requirements of a tree removal permit. This exemption includes, but is not limited to road, improvements and maintenance to City parks, rights-of-way, water, sanitary sewer, and stormwater facilities. (Removal of trees from public right-of-way are governed by TDC Chapter 74.)

(3) **Procedure Type.** Tree Removal Permit applications are subject to Type II Review in accordance with TDC Chapter 32. Tree Removal Permit applications submitted with an Architectural Review, Subdivision, or Partition application will be processed in conjunction with the Architectural Review, Subdivision, or Partition decision.

(4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), an applicant must submit the following:

(a) **Tree Preservation Plan.** A tree preservation plan drawn to scale must include:

- (i) The location, size, species, and tag identification number of all trees on-site eight inches or more in diameter;
- (ii) All trees proposed for removal and all trees proposed to be preserved;
- (iii) All existing and proposed structures;
- (iv) All existing and proposed public and private improvements; and
- (v) All existing public and private easements.

(b) **Tree Assessment Report.** A tree assessment prepared by a certified arborist must include:

- (i) An analysis as to whether trees proposed for preservation may be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved;
- (ii) An analysis as to whether any trees proposed for removal could reasonably be preserved in light of the development proposed and health of the tree;
- (iii) a statement addressing the approval criteria set forth in TDC 33.110(5);
- (iv) the name, contact information, and signature of the arborist preparing the report; and
- (v) The tree assessment report must have been prepared and dated no more than one calendar year preceding the date the development or Tree Removal Permit application is deemed complete by the City.

(c) **Tree Tags.** All trees on-site must be physically identified and numbered in the field with an arborist-approved tagging system that corresponds to the Tree Preservation Plan and Tree Assessment Report.

(5) **Approval Criteria.**

(a) An applicant must satisfactorily demonstrate that at least one of the following criteria are met:

- (i) The tree is diseased and:
  - (A) The disease threatens the structural integrity of the tree; or
  - (B) The disease permanently and severely diminishes the esthetic value of the tree; or
  - (C) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.
- (ii) The tree represents a hazard which may include but not be limited to:
  - (A) The tree is in danger of falling; or
  - (B) Substantial portions of the tree are in danger of falling.
- (iii) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.

(b) If none of the conditions in TDC 33.110(5)(a) are met, the certified arborist must evaluate the condition of each tree.

- (i) **Evergreen Trees.** An evergreen tree which meets any of the following criteria as determined by a certified arborist will not be required to be retained:

- (A) Trunk Condition - extensive decay and hollow; or
- (B) Crown Development - unbalanced and lacking a full crown;
- (ii) **Deciduous Trees.** A deciduous tree which meets any of the following criteria as determined by a certified arborist will not be required to be retained:
  - (A) Trunk Condition - extensive decay and hollow;
  - (B) Crown Development - unbalanced and lacking a full crown; or
  - (C) Structure - Two or more dead limbs.

(6) **Emergencies.** If emergency conditions occur requiring the immediate cutting or removal of trees to avoid danger or hazard to persons or property, an emergency permit must be issued by the City Manager without payment of a fee and without formal application, provided the owner provides enough information to the City Manager to document that an emergency exists. If an emergency exists and the City Offices are closed, the emergency condition may be abated provided the person files information documenting the emergency and necessity of immediate removal of the tree as soon as practical after the City Offices reopen. An "emergency condition" for purposes of this section is when a tree presents an immediate danger of collapse, and represents a clear and present hazard to persons or property. For the purposes of this section, "immediate danger of collapse" means that the tree is already leaning, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the nonemergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment. Examples of emergency conditions include:

- (a) A tree leaning on a structure;
- (b) A tree leaning on another tree and there is a significant likelihood that the tree will topple or otherwise fail; or
- (c) If a utility service has been interrupted and repairs cannot be completed without the removal of a tree.

(7) **Conditions of Approval.** Any tree required to be retained must be protected in accordance with the TDC 73B and 73C.

(8) **Permit Expiration.** A Tree Removal Permit is valid for one year from the date of issue. A Tree Removal Permit approved in conjunction with an Architectural Review, Subdivision, or Partition decision is valid as provided in the terms of the Architectural Review, Subdivision, or Partition decision.

(9) **Tree removal in violation of Zone Standards.**

- (a) In addition to any applicable civil violation penalties, any property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions must pay an Enforcement Fee and a Restoration Fee to the City of Tualatin, as follows:
  - (i) Enforcement Fee of \$837.00 per incident, plus \$10 for each tree removed; and
  - (ii) Restoration Fee of \$2,000 per tree removed.
- (b) The City Manager may administratively reduce or waive these fees based upon a demonstration of hardship, adequate mitigation, or other good cause shown.

### **Section 33.120 – Variances and Minor Variances.**

(1) **Purpose.** To establish a procedure for the granting of Variance and Minor Variances to the standards of the Tualatin Development Code. Exceptions:



- (a) Variances to the requirements of TDC Chapter 70 (Floodplain District) must be in accordance with TDC Chapter 70.
  - (b) Sign variances must be in accordance with Section 33.080.
- (2) **Applicability.** Variances may be granted to the requirements of the TDC as provided in this Section when it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the TDC would cause an undue or unnecessary hardship.
- (a) Variances may be requested for the following:
    - (i) Standards in TDC Chapters 40-69 and 71-73A through 73F.
  - (b) Minor variances may be requested for the following:
    - (i) In Residential Low Density Zone (RL) except for Small Lot Subdivisions:
      - (A) Up to a 10% variation from the required lot area, and/or
      - (B) Up to a 20% variation from the required lot width, building coverage, setbacks, projections into required yards and structure height development standards for permitted uses.
    - (ii) For single family dwellings in Small Lot Subdivisions in Residential Low Density (RL) and Residential Medium to Low Density Zone (RML):
      - (A) Up to a 10% variation from the required lot area; and/or
      - (B) Up to a 20% variation from the required lot width, building coverage, setbacks, projections into required yards and structure height development standards.
  - (c) **Prohibited.** Variances and minor variances are not allowed:
    - (i) To permit a use of land that is not permitted or conditionally permitted in a zone.
    - (ii) For Level I (Clear and Objective) Single-family Architectural Review standards referenced in TDC 40.140 and 41.130 and set forth in TDC 73A.110.
- (3) **Procedure Type.**
- (a) Applications for a Minor Variance are subject to Type II review in accordance with TDC Chapter 32.
  - (b) Applications for a Variance are subject to Type III review in accordance with TDC Chapter 32.
- (4) **Specific Submittal Requirements.** In addition to the general submittal requirements in TDC 32.140 (Application Submittal), an applicant must submit the following additional information:
- (a) The name, addresses and telephone numbers of the architect, landscape architect and engineer; and
  - (b) If requesting a variance to lot width, building coverage, setbacks, projections into required yards and structure height then a property survey stamped by a qualified professional is required.
- (5) **Approval Criteria for Granting a Minor Variance.** A minor variance must not be granted unless the application shows the following approval criteria are met:
- (a) A hardship is created by an unusual situation that is the result of lot size, lot shape, topography, development circumstances or being able to use the land or public infrastructure more efficiently;
  - (b) The hardship does not result from regional economic conditions;

(c) The minor variance will not be injurious to property abutting the subject property;  
and

(d) The minor variance is the minimum remedy necessary to alleviate the hardship.

**(6) Approval Criteria for Granting a Variance that is not a Minor Variance or for a Wireless Communication Facility.** A variance must not be granted unless it can be shown that criterion (a) is met and three of the four approval criteria (b)-(e) are met for non-sign requests:

(a) A hardship is created by exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity and the conditions are a result of lot size or shape, topography, or other physical circumstances applying to the property over which the applicant or owner has no control.

(b) The hardship does not result from actions of the applicant, owner or previous owner, or from personal circumstances or financial situation of the applicant or owner, or from regional economic conditions.

(c) The variance is necessary for the preservation of a property right of the applicant or owner substantially the same as is possessed by owners of other property in the same zone or vicinity.

(d) The variance must not be detrimental to the applicable objectives of the Tualatin Community Plan and must not be injurious to property in the zone or vicinity in which the property is located.

(e) The variance is the minimum remedy necessary to alleviate the hardship.

**(7) Approval Criteria for Granting a Variance for a Wireless Communication Facility.** A variance to the separation or height requirements for wireless communication facilities must not be granted unless it can be shown that the following criteria are met. The criteria for granting a variance to the separation or height requirements for wireless communication facilities is limited to this section, and does not include the standard variance criteria of Section TDC 33.120(6), Approval Criteria for Granting a Variance that is not for a Wireless Communication Facility.

(a) The City may grant a variance from the provisions of TDC 73F, which requires a 1,500 foot separation between WCFs, providing the applicant demonstrates compliance with (i) or (ii) below.

(i) **Coverage and Capacity.**

(A) It is technically not practicable to provide the needed capacity or coverage the tower is intended to provide and locate the proposed tower on available sites more than 1,500 feet from an existing wireless communication facility or from the proposed location of a wireless communication facility for which an application has been filed and not denied. The needed capacity or coverage must be documented with a Radio Frequency report;

(B) The collocation report, required as part of the Architectural Review submittal, must document that the existing WCFs within 1,500 feet of the proposed WCF, or a WCF within 1,500 feet of the proposed WCF for which application has been filed and not denied, cannot be modified to accommodate another provider; and

(C) There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the tower is intended to provide.

(ii) **Site Characteristics.** The proposed monopole location includes tall, dense evergreen trees that will screen at least 50% of the proposed monopole from the RL District or from a small lot subdivision in the RML District.

(b) The City may grant a variance to the maximum allowable height for a WCF if the applicant demonstrates:

(i) It is technically not practicable to provide the needed capacity or coverage the tower is intended to provide at a height that meets the TDC requirements. The needed capacity or coverage must be documented with a Radio Frequency report; and

(ii) The collocation report, required as part of the Architectural Review submittal, must document that existing WCFs, or a WCF for which an application has been filed and not denied, cannot be modified to provide the capacity or coverage the tower is intended to provide.

**SECTION 6. TDC Chapter 34 (Special Regulations).** TDC Chapter 34 (Special Regulations) is deleted in its entirety and replaced with TDC Chapter 34 (Special Regulations) to read as follows:

## **HOME OCCUPATIONS**

### **Section 34.010 – Purpose and Definitions.**

(1) The purpose of this Home Occupation Code is:

(a) To allow residents an opportunity to use their residences to engage in small-scale business activities;

(b) To allow for small-scale business activities in a residence as a means to reduce commutes and traffic;

(c) To establish standards by which home occupations operate; and

(d) To ensure that home occupations are conducted subordinate to the residential use of the property, in a manner neither detrimental nor disruptive, in terms of appearance or operation, to neighboring properties and residents.

(2) It is not the intent of TDC 34.031-34.055 to prohibit telecommuting.

(3) For purposes of this TDC section the following terms have the following meanings:

(a) *Employee.* All persons, excluding the owner-operator, working on the premises in the home occupation.

(b) *Equipment.* Physical assets of the home occupation, excluding motor vehicles.

(c) *Motor Vehicle.* A self-propelled mechanical device moving or movable over the highways, roads and streets of the City, excepting devices that move exclusively on stationary rails.

(d) *Owner-operator.* A person undertaking a home occupation; the proprietor of a home occupation.

### **Section 34.020 – Allowed Home Occupations.**

(1) A person must not operate a home occupation or allow a home occupation to occur on property in violation of TDC 34.010 through 34.030.

(2) The following occupations are permitted as home occupations, so long as the home occupation complies with the standards in TDC 34.030:

- (a) Professional occupations including, but not limited to: accounting, architecture, computer consulting, counseling, clergy, drafting, editing, engineering, financial advising, graphic design, immediate disposition company, landscape design, law, psychology, publishing, realty and writing;
- (b) Personal services including, but not limited to: haircutting, manicures and licensed massage therapy;
- (c) Instructional services including, but not limited to: arts, crafts, language, music and scholastic teaching;
- (d) Home craft businesses including, but not limited to: arts, catering, dressmaking, jewelry making, millinery, music, photography, pottery, sculpture, tailoring and weaving;
- (e) Trades, repair and service people who work off-site but maintain an office at home
- (f) Repair services including, but not limited to: hand-held instruments, watch and clock repair; and
- (g) Other home occupations, as determined by a code interpretation pursuant to TDC 31.070.

**Section 34.030 – Home Occupation Standards.** The following standards apply to home occupations in the City of Tualatin:

- (1) A residence that houses a home occupation may have only one sign and the sign must comply with TDC 38.110(11).
- (2) A person operating a home occupation must obtain a business license from the City of Tualatin. This person must also maintain all other permits required by other agencies for the home occupation.
- (3) Home occupations may include the retailing of goods not produced by the home occupation but directly related to the home occupation if:
  - (a) The retailing is secondary and ancillary to the home occupation; or
  - (b) The retailing occurs in a presentation and sale of goods or services to a social gathering of invited guests no more than six times in a calendar year at the home occupation location.
- (4) All materials and equipment must be stored inside built structures on the premises. Interior storage of materials and equipment must be secondary to the residential use of the dwelling. Storage must not be used as a material or equipment staging area. Equipment may be stored on the home occupation vehicle.
- (5) Noise, smoke and odors may not exceed those created by normal residential use.
- (6) The home occupation must be owned and operated by a resident at the home occupation site. The home occupation may employ one other on-site employee who is not a resident of the building. Off-site employees are permitted.
- (7) The home occupation must not be used as a headquarters or meeting location for the assembly of employees or subcontractors for any reason, including staging or dispatch of employees or subcontractors to other locations, except as specified under TDC 34.030(14). Off-site employees and subcontractors may not keep their motor vehicles at the home occupation during a work day.

- (8) The residence must not be altered in a manner that will change its primary residential appearance or use. A home occupation does not change the dwelling unit classification as a dwelling unit in the Oregon Uniform Building Code.
- (9) Only one motor vehicle not exceeding 15,000 pounds GVW is permitted for use in the home occupation at the home occupation location. No other motor vehicle storage is permitted for the home occupation. No commercial motor vehicle as defined in ORS 801.208 may be allowed as part of a home occupation.
- (10) On-street parking may not prevent access to mailboxes, driveways, fire hydrants, garbage or recycling receptacle pick-up
- (11) The home occupation may generate no more than ten one-way client and subcontractor vehicular trips per day. For home occupations relating to instructional services, no more than 20 one-way client and subcontractor vehicular trips may be permitted per day. Trips attributable to the residential use are not attributed to the home occupation in determining compliance with this section.
- (12) No employee, client, subcontractor or delivery trips to the home occupation may be made between 10:00 pm and 7:30 am.
- (13) A person may not work on three or more motor vehicles per week at a residence. If a person is, the City will presume that the person is operating an unauthorized home occupation.
- (14) A board or staff meeting of the home occupation may be held quarterly at the site of the home occupation.

#### **MICROWAVE RECEIVING DISHES**

##### **Section 34.100 – Microwave Dishes Screened.**

- (1) The purpose of TDC 34.100 is to regulate microwave receiving dishes so as to minimize their visual impact.
- (2) For purposes of this section, "microwave receiving dish" means any conical or dish-shaped device or structure used for receiving television or other telecommunication signals transmitted from satellites or earth-based transmitters. Microwave receiving dishes may also be known as "television receive only" (TVRO) dishes, "satellite direct service" (SDS) dishes, "multi-distance service" (MDS) dishes, and "earth stations."
- (3) All microwave receiving dishes having a diameter of more than three feet must be screened by sight-obscuring masonry walls or dense landscape buffers, as approved through the Architectural Review process, subject to the provisions of TDC 73B.

#### **AUTOMOBILE SERVICE STATION SPACING REQUIREMENTS**

**Section 34.200 – Spacing Requirement for Automobile Service Stations near Child Day Care.** All pump islands of any automobile service stations must be a minimum of 400 feet away from the exterior walls and outdoor play areas associated with a Child Day Care Center or Family Day Care Center, irrespective of any structures in between.

#### **CONGREGATE CARE AND RETIREMENT HOUSING FACILITIES**

##### **Section 34.400 – Congregate Care and Retirement Housing Facility Standards.**

- (1) Congregate care and retirement housing facilities may be allowed as a conditional use in a Low Density Residential (RL), Medium Low Density Residential (RML), Medium High Density Residential (RMH), High Density Residential (RH), or High Density

Residential-High Rise (RH-HR) Planning District, in accordance with the provisions of TDC Chapter 32, and subject to these standards.

(2) The following conditions apply to all congregate care and retirement housing facilities:

- (a) The building must be designed or renovated specifically for retirement housing. Any required State license must be obtained before the building is occupied. Public services must have capacity to serve the proposed development;
- (b) The housing may be provided as congregate care or as separate apartment units in a retirement housing facility or any combination thereof;
- (c) Walkways must be paved and lighted and must not exceed eight percent in grade;
- (d) Buffering of noise and screening of lighting is required;
- (e) The requirements of the Planning District must be met unless specifically modified by this section;
- (f) Occupancy is limited to persons 55 years of age and older. In the case of couples, one member of the couple must be 55 years of age or older. This restrictive condition must be recorded in the County deed records;
- (g) The site must be at least one-half acre in size;
- (h) Retail sales or other commercial uses are not permitted; and
- (i) Proposals must be presented according to the requirements of TDC Chapter 32 relating to Conditional Uses.

(3) The allowable density is one and one-half times the density of the underlying Planning District.

(4) For congregate care facilities, one-half of a parking space must be provided for each unit. For retirement housing facilities, one parking space per unit must be provided.

(5) Landscaping/open space must be at least 30% of the site, unless it can be shown that other alternatives for open space are available.

## **MANUFACTURED DWELLING PARKS**

### **Section 34.500 – Manufactured Dwelling Park Development Standards.**

(1) The standards contained in this section apply to all manufactured dwelling park developments, which are established after the effective date of this section, and to all increases in the numbers of spaces contained in or attached to parks, which are in existence on the date this section becomes effective.

(2) Manufactured dwelling park developments and modifications to existing manufactured dwelling parks to which this section applies are reviewed through the Architectural Review Process for compliance with the Tualatin Development Code and any other applicable regulations and ordinances of the City. No person may establish, operate, rent, lease, or occupy a manufactured dwelling park or manufactured dwelling park space without first applying for and obtaining approval through the Architectural Review Process.

(3) Only those manufactured homes and mobile homes, which have a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with federal law are permitted. Recreational vehicles and camping vehicles must not be used for residential purposes in manufactured dwelling parks and

must not be rented a space or hooked up to sewer, water, or electrical facilities within a manufactured dwelling park.

- (4) The minimum gross acreage for a manufactured dwelling park is one acre.
- (5) The manufactured dwelling park street system must include at least one direct access to a public street, containing a right-of-way width of not less than 50 feet.
- (6) Each manufactured dwelling space must be designed to include at least two standard size automobile parking spaces, and may be designed either end-to-end or side-to-side. Such parking spaces must be paved in accordance with City standards for residential driveways.
- (7) Each manufactured dwelling must have its wheels, axles, tongue, and traveling lights removed.
- (8) Each manufactured dwelling must have a continuous and permanently affixed skirt installed. Such skirting must be composed of the same material and finish as the exterior of the manufactured dwelling or material with a brick-like finish or as otherwise approved through the Architectural Review Process.
- (9) No extension, accessory structure, or other out building may be attached to a manufactured dwelling, except for structures conforming to the definition contained in state law concerning accessory structures.
- (10) The distance between any two manufactured dwellings, including any approved accessory building, structure, awning, or tipout, must be ten (10) feet or more on either side and either end.
- (11) The distance between a manufactured dwelling, including approved accessory buildings, structures, awnings, or tipouts, and the nearest manufactured dwelling park property line or other permanent park structure must be 15 feet or the setback requirement of the RML District, whichever is greater.
- (12) The distance between a manufactured dwelling and the nearest manufactured dwelling park street must be eight feet or more.
- (13) The distance between a manufactured dwelling and the nearest manufactured dwelling park sidewalk must be five feet or more.

## **ACCESSORY DWELLING UNITS**

### **Section 34.600 – Accessory Dwelling Units Standards.**

- (1) The purpose of accessory dwelling units is to:
  - (a) Provide needed space for elderly family members or returning adult children;
  - (b) Encourage affordable housing units;
  - (c) Allow small households to retain large houses as residences;
  - (d) Permit young households to achieve home ownership; and
  - (e) Encourage living areas that minimally affect the quality or character of existing neighborhoods.
- (2) An accessory dwelling unit must comply with the following standards:
  - (a) An accessory dwelling unit is allowed in:
    - (i) The RL Planning District; and
    - (ii) In the RML Planning District if part of a Small Lot Subdivision as specified under TDC 41.020(13);
  - (b) There must be no more than one accessory dwelling unit per lot;

- (c) An accessory dwelling unit must not exceed a maximum of 800 square feet of gross floor area;
- (d) Neither a garage, or a former garage, may be converted to an accessory dwelling unit;
- (e) In addition to the parking spaces required in TDC 73C for the detached single-family dwelling, one paved on-site parking space must be provided for the accessory dwelling unit and the space must not be within five feet of a side or rear property line;
- (f) The accessory dwelling unit' s front door must not be located on the same street frontage as the detached single family dwelling' s front door unless the door for the accessory dwelling unit already exists;
- (g) The accessory dwelling unit must not be sold separate from the single family dwelling or as a condominium;
- (h) The accessory dwelling unit must be served by the same water meter as the single family dwelling;
- (i) The accessory dwelling unit must be served by the same electric meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it;
- (j) The accessory dwelling unit must be served by the same natural gas meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it;
- (k) An attached accessory dwelling unit must be connected to the single family dwelling by an internal doorway;
- (l) If the gross floor area of the existing single family dwelling is to be enlarged when an accessory dwelling unit is created, the proposed enlargement must not increase the gross floor area of the single family dwelling more than 10%;
- (m) An accessory dwelling unit must provide at least two Residential Roof Design Elements in TDC 73A.120 (Site Design), and at least four Residential Wall Design Elements in TDC 73A.130 (Site Design); and
- (o) An accessory dwelling unit must not be located in front of the primary structure.

## **RELIGIOUS USES**

### **Section 34.700 – Religious Uses.**

- (1) Whenever a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship is allowed on real property under City zoning ordinances. The following uses are also allowed:
- (a) Worship services;
  - (b) Religion classes;
  - (c) Weddings;
  - (d) Funerals;
  - (e) Meal programs;
  - (f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education; and
  - (g) Providing housing or space for housing in a building that is detached from the place of worship, provided:



- (i) At least 50 percent of the residential units provided under this paragraph are affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located;
  - (ii) The real property is in an area zoned for residential use that is located within the City;
  - (iii) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone; and
  - (iv) The property is subject to a covenant appurtenant for a period of 60 years from the date of the certificate of occupancy that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for the county in which the real property is located.
- (2) Notwithstanding subsection (1) of this section, the City may prohibit or regulate the use of real property by a place of worship if the city finds that the level of service of public facilities, including transportation, water supply, sewer, or storm drain systems are not adequate to serve the place of worship.

**SECTION 7. TDC Chapter 35 (Nonconforming Situations).** TDC Chapter 34 (Nonconforming Uses, Structures and Signs) is deleted in its entirety and replaced with TDC Chapter 35 (Nonconforming Situations) to read as follows:

**Section 35.010 – Purpose and Intent.**

(1) To carry out the purposes, goals and objectives of the Tualatin Community Plan, it is necessary and desirable that all uses and structures incompatible with permitted uses or structures in each planning district be strictly regulated and permitted to exist only under specific regulations. It is the purpose of such specific regulations and control over such incompatible uses and structures that such nonconforming uses or structures be discontinued or brought into conformity with permitted uses or structures in each planning district.

(2) This Chapter sets the requirements for:

- (a) Non-conforming uses;
- (b) Non-conforming development;
- (c) Non-conforming lots;
- (d) Non-conforming signs; and
- (e) Non-conforming wireless facilities.

**Section 35.020 – Non-conforming Use.**

(1) **Generally.** A nonconforming use is any use on real property that was lawfully established under the applicable City or county land use regulations at the time the use was established, but which use is no longer allowed due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming use may be continued on the real property until terminated as provided in this Chapter, provided it conforms to the requirements of this Chapter.

(2) **Ordinary Repairs and Maintenance.** Except as otherwise provided in this Chapter, buildings and structures occupied by nonconforming uses may be repaired and maintained.

(3) **Alteration or Enlargement of Nonconforming Use Prohibited.**

(a) A nonconforming use of land may be continued, but not altered or enlarged, except:

(i) Improvements to required paving, landscaping, or other aesthetic improvements to the premises; and

(ii) Aesthetic changes to the external dimensions of the building;

(b) Notwithstanding subsection (a), the following nonconforming uses may be altered or enlarged:

(i) Warehouse and distribution center uses existing on April 12, 2000 in the Manufacturing Park District;

(ii) The Winona Cemetery (9900 SW Tualatin Road);

(iii) The PGE Substation (6280 SW Borland Road);

(iv) The Stafford Hills Racquet and Fitness Club (5916 SW Nyberg Lane); and

(v) Conditional uses located in the RL Planning District that obtained conditional use approval before January 13, 2011.

(4) **Changing Location of Non-conforming Use Prohibited.** A non-conforming use cannot be moved, in whole or in part, from one lot to another lot, except as to bring the use into conformance with this Code.

(5) **Termination of a Nonconforming Use.**

• A nonconforming use is deemed terminated when:

(i) A nonconforming use of land is discontinued for more than 12 months;

(ii) A nonconforming use dependent upon a building or structure is declared a "dangerous building" pursuant to TMC Chapter 4-03 or the state building code.

Termination of the use is effective upon the date the order declaring the building or structure a dangerous building becomes final; or

(iii) A nonconforming use dependent upon a building or structure is destroyed or damaged by any cause to an extent requiring the discontinuance of the use for more than 6 months while making repairs. Termination of the use is effective upon the date of the damage or destruction.

(b) Once a nonconforming use is terminated, any subsequent use of the subject lot must conform to the current standards and criteria of this Code. After a nonconforming use is terminated, the use must not be allowed to resume, in whole or in part, under the same or different ownership or management.

(6) **Reinstatement of Nonconforming Use.** A nonconforming use that was terminated may only be reinstated as provided in TDC 33.060.

### **Section 35.030 – Nonconforming Development.**

(1) **Generally.** A nonconforming development is any development which met the applicable City or County development standards imposed at the time the development was constructed, but which no longer complies with development standards due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City. A nonconforming development may be continued until the development's nonconforming status is terminated as provided in this Chapter provided

it conforms to the requirements of this Chapter. Examples of nonconforming developments, include but are not limited, nonconformity by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction, or requirement.

(2) **Ordinary Repairs and Maintenance.** Except as provided by this Chapter, nonconforming developments may be repaired and maintained.

(3) **Alteration or Enlargement of Nonconforming Development Prohibited.**

(a) A nonconforming development may be continued, but not altered or enlarged, except:

(i) aesthetic changes to the external dimensions of the building;

(ii) A development conforming as to use but nonconforming as to setback or yard requirements may be altered or enlarged, providing the alteration or enlargement does not result in a violation of the change to setback or yard requirements.

(iii) A nonconforming development may be altered or enlarged when such alteration or enlargement will bring the development or use into conformity with the Planning District Standards for the property.

(b) Notwithstanding subsection (a), the following nonconforming developments may be altered or enlarged:

(i) Warehouse and distribution centers existing on April 12, 2000 in the Manufacturing Park District;

(ii) The Winona Cemetery (9900 SW Tualatin Road);

(iii) The PGE Substation (6280 SW Borland Road);

(iv) The Stafford Hills Racquet and Fitness Club (5916 SW Nyberg Lane); and

(v) Conditional uses located in the RL Planning District that obtained conditional use approval before January 13, 2011.

(4) **Termination of Nonconforming Development.**

(a) A nonconforming development is deemed terminated if:

(i) A nonconforming development is declared a "dangerous building" pursuant to TMC Chapter 4-03 or the state building code. Termination of the nonconforming development is effective upon the date the order declaring the development a dangerous building becomes final; and

(ii) If a nonconforming development is destroyed or damaged by any cause to an extent requiring the discontinuance of the development for more than 6 months while making repairs. Termination of the nonconforming development is effective upon the date of the damage or destruction.

(b) Once a nonconforming development is terminated the development must be removed or any subsequent development of the subject lot must conform to the current standards and criteria of this Code.

(5) **Reinstatement of Nonconforming Development.** A nonconforming development that was terminated may only be reinstated as provided in TDC 33.060.

### **Section 35.040 – Non-conforming Lots.**

(1) **Generally.** A nonconforming lot is a legal lot or lot of record that met the minimum area or lot dimension at the time the lot was created, but which do not meet the dimension or area standards of the zoning district in which the property is located.

(2) **Ordinary Repairs and Maintenance.** Except as otherwise provided in this Chapter, buildings and structures located on nonconforming lots may be repaired and maintained.

(3) **Use of Nonconforming Lot.** A nonconforming lot may be occupied by a use permitted in the zone in which the property is located, subject to other requirements of the zone.

### **Section 35.200 – Nonconforming Signs.**

(1) **Generally.** A non-conforming sign is a lawfully erected sign including existing signs legally erected prior to May 13, 1992, either in the City or in those portions of Washington or Clackamas Counties which were annexed to the City after erection of the sign and do not comply with the provisions of the Tualatin Development Code, are nonconforming signs. They are allowed to remain provided they comply with the provisions of this Section.

(2) **Ordinary Repairs and Maintenance.** To retain nonconforming sign status, nonconforming signs must not be structurally altered. The sign face or the copy on the sign face, or both, may be changed after first obtaining a sign permit. Sign maintenance and repair are required and may occur without first obtaining a sign permit.

(3) **Alteration or Enlargement of Nonconforming Signs Prohibited.**

(a) A nonconforming sign in a former Freeway Oriented Activity Area or in a CC or CG Planning District may be continued, but not structurally altered or enlarged, except when the sign height, sign face height and sign face area are reduced by a minimum of 25 percent of the nonconforming dimension or area and a minimum of two Sign Design Elements - Structure & Site and Sign Design – Sign Exterior of TDC 38.075 are incorporated into the sign.

(b) A nonconforming sign in a ML or MG Planning District may be continued, but not structurally altered or enlarged, except where a nonconforming pole sign's total sign height and sign face area are reduced to no higher than 15 feet and no greater than 40 square feet, respectively.

(4) **Termination of Nonconforming Sign.**

(a) A nonconforming sign is deemed terminated if one of the following occurs:

(i) A nonconforming sign is relocated from one location to another on the same tax lot or to a different tax lot;

(ii) The use on the tax lot where a Freeway Oriented Activity Sign is located is changed;

(iii) A nonconforming sign's structure, including but not limited to the support elements or framework, is changed, except as allowed in TDC 35.200(3) and in the ML and MG Districts;

(iv) A nonconforming sign is damaged by an act of God, including but not limited to wind, earthquake, floodwater, to the extent that the sign contractor's estimated cost of the repair exceeds by more than 75 percent the original cost of the sign or the cost of the most recent renovation to the sign, whichever is greater. The original cost or cost of the most recent renovation must be determined by sign value information submitted at the time a sign permit was issued. If such information was not submitted, the property owner or other person having such information must submit documentation showing the cost; or

(v) A sign permit is issued for a new conforming sign on the same property or on abutting property under the same ownership containing a nonconforming sign of the same type as the one for which the sign permit is issued. A "sign of the same type" means a freestanding pole or monument sign for a freestanding pole or monument sign or a wall sign for a wall sign. Before a new conforming sign is constructed all nonconforming signs of the same type, on the same property or on abutting property under the same ownership must be brought into conformance or meet the sign transition provisions of TDC 35.200(3).

(5) **Permits for Nonconforming Signs.** The City Manager must issue a sign permit for a new conforming sign provided the following condition of approval, or condition with words to the same effect, is stated on the permit:

(a) "A nonconforming sign of the same type for which this sign permit is issued and located on the same property or on abutting property under the same ownership must be brought into conformance prior to erecting the new conforming sign approved by this sign permit;" and

(b) The condition must be met by removing the nonconforming sign before construction begins, including but not limited to grading, on the new conforming sign.

(6) **Prior Variances.** Signs for which variances were granted prior to May 13, 1992 may remain provided the provisions of the variance approval are met.

### **Section 35.300 – Wireless Communication Facilities.**

(1) **Generally.** Wireless communication facilities (WCFs) that have received land use approvals from the City as meeting the provisions of the Tualatin Development Code (TDC) at the time, but do not comply with the TDC because it was amended, are nonconforming WCF's. Additionally, wireless communication facilities that no longer comply with development standards due to the adoption of, or amendment to, the City's land use regulations, or annexation of the property into the City.

(2) **Alternation or Enlargement of Wireless Communication Facilities Prohibited.** A nonconforming WCF is allowed to remain, but must not be altered or enlarged, except for the following:

(a) **Height Increases.** If the alteration or enlargement increases the height by less than 10% or 10 feet, whichever is greater. Changes in height are not cumulative;

(b) **Width Increases.** If the alteration or enlargement protrudes less than 6 feet from the edge of the support structure;

(c) **Equipment Cabinets.** Installing less than the standard number of new equipment cabinets, but not to exceed 4, provided installing of any new cabinets where none exist, or where such cabinets are 10% or more larger than existing cabinets is not allowed; and

(d) **Excavation.** Any excavation or deployment outside the current site of the tower or base station.

**SECTION 8. TDC Chapter 36 (Subdivisions, Partitions, and Property Line Adjustments).** TDC 36 (Subdividing, Partitioning and Property Line Adjustments) is deleted in its entirety and replaced with TDC 36 (Subdivisions, Partitions, and Property Line Adjustments) to read as follows:

**Section 36.010 – Purpose.**

(1) The purpose of this chapter is to protect the public health, safety and general welfare while allowing for efficient development of property and to implement the requirements of the Tualatin Development Code, City Ordinances, state law, and other applicable regulations.

(2) The provisions in this Chapter will be administered to ensure orderly growth and development, and implement and facilitate the provisions in the Tualatin Community Plan, Tualatin Community Map and capital improvement plans.

**Section 36.020 – Expedited Land Division.** An expedited land division, as defined by ORS 197.360(1), provides an alternative to the standard review procedures for land divisions in TDC Chapter 36. When an applicant requests an expedited land division, the application will be processed as provided in ORS 197.360 through ORS 197.380, in lieu of the procedures in TDC Chapter 36.

**Section 36.030 – Variances and Minor Variances.**

(1) A person seeking a Variance or Minor Variance to the provisions of this Chapter must submit an application under TDC 33.120 (Variances and Minor Variances) and comply with its terms.

(2) Notwithstanding TDC 33.120, Variances or Minor Variances for subdivisions and partitions will be processed as part of the Property Line Adjustment decision, Tentative Partition Plan decision, Tentative Subdivision decision, Tentative Phased Subdivision decision, Tentative Manufactured Dwelling Park, Tentative Subdivision Plan decision, or Tentative Replat decision, as applicable.

**Section 36.040 – Applications and Submittal Requirements.**

(1) Applications subject to this Chapter must follow the procedures specified in TDC Chapter 32; however, in case of conflict the procedures specified in TDC Chapter 36 prevail.

(2) Additional Submittal Requirements. In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required to subdivide, partition, or replat land:

- (a) Subdivision or partition plan map;
- (b) Proposed plat name, approved by the County Surveyor;
- (c) The names, addresses, and contact information of the design engineer and surveyor;
- (d) The date the plan was prepared;
- (e) North arrow;
- (f) Scale of drawing;
- (g) Location of the subdivision or partition by 1/4 Section, Township and Range;
- (h) Preliminary utility plans for existing and proposed water, sanitary sewer and storm drainage, including the size and grade;
- (i) Existing and proposed streets (public and private), including location, centerline, right-of-way and pavement width, approximate radius of curves and approximate grades of proposed streets on the subject property and within three hundred feet of the site;

- (j) An outline plan demonstrating that the adjacent property can be divided in the future in a manner that is consistent with the subdivision plan, and illustrating the connections to transit routes, pedestrian and bike facilities, and accessways to adjacent properties;
- (k) Easements, including location, width and purpose of all recorded and pro-posed easements in or abutting the site;
- (l) Flood areas, including the location of any flood plain, drainage hazard areas and other areas subject to flooding or ponding;
- (m) Natural resources, including the location of natural features, such as rock outcroppings, wetlands, water courses, creeks, wooded areas and trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on site;
- (n) Approximate lot dimensions, including all existing property lines and their lengths and the approximate location and dimensions of all proposed lots;
- (o) Approximate area of each lot;
- (p) Proposed lot numbers;
- (q) Existing structures, including the location and present use of all structures, wells and septic tanks on the site and an indication of which structures, wells and septic tanks are to remain after platting; indicate all City-designated historic landmarks;
- (r) All lots intended to be dedicated or reserved for public use;
- (s) A vicinity map showing a minimum one-mile radius;
- (t) Contour lines with intervals at a minimum of two feet for slopes up to five percent and five feet for slopes over five percent;
- (u) For subdivisions and phased subdivisions, a completed trip generation estimate on forms provided by the City and a Traffic Impact Analysis;
- (v) If a variance or minor variance is requested to the dimensional standards of the lots, or the minimum lot size, adequate information to show compliance with the approval criteria in TDC 33.120(5) for a minor variance or TDC 33.120(6) for a variance;
- (w) A "Service Provider Letter" from Clean Water Services;
- (x) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received;
- (y) A completed City fact sheet;
- (z) A title report for the property(ies) subject to the application;
- (aa) Other supplementary material as may be required, such as deed restrictions, a statement of ownership, use, covenants, conditions, limitations, and responsibility for maintenance; and
- (bb) Other information required by the City Manager.

### **Section 36.100 – Property Line Adjustments.**

(1) **Applicability.** Property line adjustment approval is required before a property line can be relocated or eliminated. A property line adjustment is required to relocate or eliminate all or a portion of a common property line between two abutting units of land that were lawfully established, as defined by ORS 92.010(3)(a). Property line

adjustments cannot be used to create an additional unit of land, or to create units of land that are non-conforming.

(2) **Procedure Type.** A property line adjustment is processed as a Type I procedure under TDC 32.210.

(3) **Submittal Requirements.** In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

- (a) A copy of recorded deeds for the existing units of land;
- (b) A site plan, drawn to scale, indicating:
  - (i) The dimensions and areas of the units of land before and after the proposed property line adjustment; and
  - (ii) Setbacks, building separations, lot coverage, vehicular access, and public and private utilities.
- (c) A copy of the proposed property line adjustment deed containing:
  - (i) The names of the owners;
  - (ii) Legal description of the adjusted lines;
  - (iii) References to original recorded deeds; and
  - (iv) Place for the signatures of all parties, along with proper acknowledgment.

(4) **Approval Criteria.** A property line adjustment must be approved if all of the following criteria are met:

- (a) The property line adjustment will not create an additional unit of land;
- (b) The property line adjustment will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or existing development;
- (c) The property line adjustment involves only units of land that were lawfully established, where the instruments creating the units of land have been properly recorded;
- (d) The property line adjustment is not prohibited by any existing City land use approval, or previous condition of approval, affecting one or both of the units of land;
- (e) The property line adjustment does not involve the relocation or elimination of any public easement or right-of-way; and
- (f) The property line adjustment does not adversely affect the availability or access to public and private utilities or streets.

(5) **Multiple Property Line Adjustments.** If more than three property line adjustment applications affecting the same unit of land are proposed within a six month period, the property line adjustments must be processed as follows:

- (a) When the units of land are within a recorded plat, the property line adjustments affecting the units of land must be by replat; and
- (b) When the units of land are not within a recorded plat, the property line adjustments affecting the units of land must be by partition.

(6) **Monumentation.** Property line adjustments must be surveyed and monumented as required by state law.

(7) **Expiration; Recording.**

- (a) Property line adjustment approval expires two years from the effective date, unless a property line adjustment deed is recorded in the deed records of the appropriate county.



(b) Multiple property line adjustments processed according to subsection (5) expire as provided in the expiration period specified for replats, partitions, or subdivisions as applicable.

(c) Evidence demonstrating that the property line adjustment deed has been recorded with the appropriate county must be provided to the City Manager after recording.

### **Section 36.110 – Tentative Partition Plan.**

(1) **Applicability.** Tentative Partition Plan approval is required before land can be divided into three or fewer parcels within a calendar year. When the area of a proposed partition is such that it can be further divided resulting in four or more lots or parcels, the development standards applicable to subdivisions set forth in TDC 36.120 (Tentative Subdivision Plan) apply and any improvements resulting from the application of those standards to the proposed partition must be constructed.

(2) **Procedure Type.** A Tentative Partition Plan is processed as a Type II procedure under TDC 32.220.

(3) **Submittal Requirements.**

(a) Prior to submitting an application for a Tentative Partition Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/ Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for a Tentative Partition Plan must include the information required in TDC 36.040(2)(Additional Submittal Requirements).

(4) **Approval Criteria.** A Tentative Partition Plan must be approved if all of the following criteria are met:

(a) The Tentative Partition Plan complies with the standards of this Chapter and with all applicable provisions of the TDC, including, but not limited to the following:

- (i) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage, and designation of front and rear lot lines;
- (ii) City infrastructure standards; and
- (iii) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

(b) The Tentative Partition Plan does not impede the future use or development of the property or adjacent land.

(c) Development within the Tentative Partition Plan can be adequately served by City infrastructure.

(d) The street system in and adjacent to the Tentative Partition Plan conforms to the Tualatin Transportation System Plan.

(e) The street system in and adjacent to the Tentative Partition Plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the partition area.

(f) The Tentative Partition Plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

(g) The layout, size, and dimensions of the parcels within the Tentative Partition Plan take into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will occur from the reasonable development of the parcels.

(5) **Effective Date.** The effective date of a Tentative Partition Plan approval is the date the notice of decision is mailed.

(6) **Permit Expiration.** Tentative Partition Plan approval expires in two years of the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

### **Section 36.120 – Tentative Subdivision Plan.**

(1) **Applicability.** Tentative Subdivision Plan approval is required before land is divided into four or more lots within a calendar year. For Phased Subdivisions, see TDC 36.130 (Phased Tentative Subdivision Plan). For Manufactured Dwelling Park Subdivisions, see TDC 36.140 (Manufactured Dwelling Park Tentative Subdivision Plan).

(2) **Procedure Type.** A Tentative Subdivision Plan is processed as a Type II procedure under 32.220.

#### **(3) Submittal Requirements.**

(a) Prior to submitting an application for a Tentative Subdivision Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/ Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for subdivision tentative plan must include the information required in TDC 36.040(2) (Additional Submittal Requirements).

(4) **Approval Criteria.** A Tentative Subdivision Plan must be approved if all of the following criteria are met:

(a) The Tentative Subdivision Plan complies with the standards of this Chapter and with all applicable provisions of the TDC, including, but not limited to, the following:

(i) Lot standards, including, but not limited to, standards for lot area, lot width and depth, lot frontage and designation of front and rear lot lines.

(ii) City infrastructure standards; and

(iii) Any special development standards, including, but not limited to, floodplain development, special setbacks, geological or geotechnical analysis, and vision clearance.

(b) The Tentative Subdivision Plan does not impede the future use or development of the property or adjacent land.

(c) Development within the Tentative Subdivision Plan can be adequately served by City infrastructure.

(d) The street system in and adjacent to the Tentative Subdivision Plan conforms to the Tualatin Transportation System Plan.

(e) The street system in and adjacent to the Tentative Subdivision Plan is designed so as to provide for the safe, orderly, and efficient circulation of traffic into, through, and out of the subdivision.

(f) The Tentative Subdivision Plan provides safe and convenient bicycle and pedestrian access from within the subdivision to adjacent residential areas and transit stops, existing or planned schools, parks, shopping areas, transit stops, employment centers, and other neighborhood amenities.

(g) The Tentative Subdivision Plan mitigates impacts to the transportation system consistent with the approved Traffic Impact Analysis, where applicable.

(h) The Tentative Subdivision Plan takes into account the topography and vegetation of the site so the need for variances is minimized to the greatest extent practicable.

(i) The Tentative Subdivision Plan takes into account the topography and vegetation of the site, such that the least disruption of the site, topography, and vegetation will result from the reasonable development of the lots.

(5) **Effective Date.** The effective date of a Tentative Subdivision Plan approval is the date the notice of decision is mailed.

(6) **Permit Expiration.** Tentative Subdivision Plan approval expires approval expires two years from the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

### **Section 36.130 – Phased Tentative Subdivision Plan.**

(1) **Applicability.** Phased Tentative Subdivision Plan approval is required before land is divided as a phased subdivision. When the subdivision of land is phased, one tentative plan is approved for the entire phased subdivision, and each individual phase receives separate final plat approval.

(2) **Procedure Type.** A Phased Tentative Subdivision Plan is processed as a Type II procedure under TDC 32.220 (Type II Procedure).

(3) **Submittal Requirements.**

(a) Prior to submitting an application for a Phased Tentative Subdivision Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/ Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for a Phased Tentative Subdivision Plan must include the information required in TDC 36.040(2) (Additional Submittal Requirements).

(c) An application for a Phased Tentative Subdivision Plan must also include:

(i) A phasing plan that indicates the tentative boundaries of each phase;

(ii) The sequencing of the phases;

(iii) The tentative configuration of lots in each phase; and

(iv) A plan for the construction of all required city infrastructure in each phase.

(4) **Approval Criteria.** A Phased Tentative Subdivision Plan must be approved if all of the following criteria are met:

(a) The Phased Tentative Subdivision Plan meets all of the criteria for Tentative Subdivision Plan approval in TDC 36.110 (Tentative Subdivision);

(b) Connectivity for streets and City utilities between each phase ensures the orderly and efficient construction of required public improvements among all phases;

(c) Each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements; and

(d) Each phase is designed in such a manner that all phases support the infrastructure requirements for the phased subdivision as a whole.

(5) **Modification Pursuant to Final Plat Approval.** If the approval of a final plat for a phase of a phased subdivision requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative phased subdivision plan must be modified prior to approval of the final plat.

(6) **Effective Date.** The effective date of a Phased Subdivision Plan approval is the date the notice of decision is mailed.

(7) **Permit Expiration.** Tentative Phased Subdivision plan approval expires as follows:

(a) The first phase expires two years of from the effective date, unless an application for final plat is submitted or an extension is granted under TDC 36.210 (Extension of Approval Decision); and

(b) All subsequent phases expire ten years from the effective date, and an extension under TDC 36.210 (Extension of Approval Decision) is not available for subsequent phases of a phased subdivision.

### **Section 36.140 – Manufactured Dwelling Park Tentative Subdivision Plan.**

(1) **Applicability.** A manufactured dwelling park or mobile home park that existed as of July 2, 2001, must receive Manufactured Dwelling Park Tentative Subdivision Plan approval before the land is divided as a manufactured dwelling park or mobile home park subdivision.

(2) **Procedure Type.** A Manufactured Dwelling Park Tentative Subdivision Plan is processed as a Type II procedure under TDC 32.220 (Type II Procedure).

(3) **Submittal Requirements.**

(a) Prior to submitting an application for a Manufactured Dwelling Park Tentative Subdivision Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/Developer Meetings).

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for a Manufactured Dwelling Park Tentative Subdivision Plan must include the information required in TDC 36.040(2) (Additional Submittal Requirements).

(4) **Approval Criteria.** A Manufactured Dwelling Park Tentative Subdivision Plan must be approved if all of the following criteria are met:

(a) The proposed area to be subdivided is in compliance with the development standards for manufactured dwelling parks or mobile home parks applicable at the time the park was approved, or the park is a nonconforming use. For purposes of this subsection, a park is in compliance if the City did not issue a written notice of noncompliance prior to before July 2, 2001;

(b) The Manufactured Dwelling Park Tentative Subdivision Plan does not increase or decrease the number of lots, as defined in ORS 446.003, approved for the park, change the external boundary lines or setback requirements, or make other development changes; provided, however, the tentative manufactured dwelling park

subdivision plan may provide for a reduction in the number of lots if the reduction involves only lots that have never been used for the placement of manufactured dwellings;

(c) The Manufactured Dwelling Park Tentative Subdivision Plan restricts the use of lots in the subdivision to the installation of manufactured dwellings, and restricts any other property in the subdivision to use as common property, as defined in ORS 94.550, or for public purposes;

(d) The applicant has recorded with the county the waiver of right to remonstrance required under ORS 92.835; and

(e) The Manufactured Dwelling Park Tentative Subdivision Plan is in compliance with the applicable requirements of ORS 92.010 to 92.179.

(5) **Conditions of Approval.** Conditions of approval of a Manufactured Dwelling Park Tentative Subdivision Plan may only include conditions that:

(a) Were conditions of the original manufactured dwelling park approval; and

(b) Are required by ORS 92.830 to 92.845.

(6) **Effective Date.** The effective date of a Manufactured Dwelling Park Tentative Subdivision Plan approval is the date the notice of decision is mailed.

(7) **Permit Expiration.** Manufactured Dwelling Park Tentative Subdivision Plan approval expires two years from the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

### **Section 36.150 – Replat.**

(1) **Applicability.** A replat is required to reconfigure lots or parcels and public easements in a recorded partition or subdivision plat, to increase or decrease the number of lots in a subdivision, or where multiple property line adjustments require a replat. Tentative Replat Plan approval is required before a replat can occur.

(2) **Procedure Type.** A Tentative Replat Plan is processed as a Type II procedure under 32.220.

(3) **Submittal Requirements.**

(a) Prior to submitting an application for a Tentative Replat Plan, the applicant must comply with the pre-application conference requirements in TDC 32.110 (Pre-Application Conference) and Neighborhood/Developer Meeting requirements in TDC 32.120 (Neighborhood/ Developer Meetings)..

(b) In addition to the submittal requirements for a Type II application under TDC 32.140 (Application Submittal), an application for a Tentative Replat Plan must include the information required in TDC 36.040(2) (Additional Submittal Requirements).

(c) If the Tentative Replat Plan will vacate an easement, the plan must show the easement proposed to be vacated.

(4) **Approval Criteria.** A Tentative Replat Plan must be approved if all of the following criteria are met:

(a) The Tentative Replat Plan does not propose to vacate any public street or road, or any recorded covenants or restrictions;

(b) The Tentative Replat Plan will not create nonconforming units of land or nonconforming development, or increase the degree of nonconformity in existing units of land or development;

(c) The Tentative Replat Plan complies with the standards of this Chapter and with all applicable provisions of the TDC;

(d) The Tentative Replat Plan complies with all applicable provisions of ORS Chapter 92;

(e) The Tentative Replat Plan is not prohibited by any existing City land use approval or previous condition of approval, affecting one or both of the units of land; and

(f) The Tentative Replat Plan does not adversely affect the availability of, or access to, City infrastructure or public or private utilities or streets.

(5) **Notice to Utilities.** When a utility easement is proposed to be realigned, reduced in width, or eliminated by a Tentative Replat Plan, notice of the Tentative Replat Plan application must be mailed to all affected utility companies or public agencies. Any utility company that desires to maintain an easement that would be realigned, reduced in width, or eliminated by a proposed Tentative Replat Plan must notify the City Manager in writing within 14 days of the mailing date of the notice. If an objection to the realignment, reduction in width, or elimination of an easement is received within the 14 day period, the utility easement will not be realigned, reduced in width, or eliminated.

(6) **Effective Date.** The effective date of a Tentative Replat Plan approval is the date the notice of decision is mailed.

(7) **Permit Expiration.** Tentative Replat Plan approval expires two years from the effective date, unless an application for final plat is submitted within two years of the effective date, or an extension is granted under TDC 36.210 (Extension of Approval Decision).

### **Section 36.160 – Final Plat.**

(1) **Applicability.** Final plat approval is required before a final plat of a partition, subdivision, phased subdivision, and manufactured dwelling park subdivision is recorded.

(2) **Procedure.** Final plats are exempt from the procedures TDC 32.220 (Type II Procedure), and instead follow the procedures set forth in this section. Final plats must be reviewed by the City prior to recording with county.

(3) **Submittal Requirements.** Applications for final plat must be submitted prior to expiration of tentative plan approval.

(4) **Approval Criteria.** A final plat must be approved if all of the following criteria are met:

(a) The final plat is in substantial conformance with the approved tentative plan or tentative replat plan.

(b) For phased subdivisions in commercial and industrial zones, unless the divergence from the tentative plan would require a modification of any condition of approval, the final plat for each phase may diverge from the tentative plan and still be in substantial conformance with the approved tentative plan for that phase if there is:

(i) A decrease or increase in the number of lots within the particular phase;

- (ii) A change in the location or width of public rights-of-way within the specific phase; provided, however, the change does not materially affect connectivity, does not increase or decrease the number of connections to streets set forth in the tentative plan, does not change the point of connection with existing or planned streets, and does not change the street designation from one classification to another;
  - (iii) A change in the location or width of a public utility easement, so long as the change does not adversely affect connectivity with constructed or planned utilities;
  - (iv) A decrease in the number of phases; or
  - (v) An increase or decrease in the area of a specific phase.
- (c) If the approval of a final plat for a specific phase requires the change of a boundary of a subsequent phase, or a change to the conditions of approval, the tentative plan must be modified first to reflect the changes.
- (d) The final plat complies with all applicable provisions of ORS Chapter 92.
- (e) Conditions of approval imposed on the tentative plan or tentative replat have been met;
- (f) The final plat dedicates, free and clear of all liens and encumbrances and without any reservation or restriction other than reversionary rights upon vacation, all City infrastructure, if such dedication is required by the Tualatin Development Code or as a condition of approval;
- (g) The City Manager has certified that:
- (i) All required public improvements and private improvements are completed and approved; or
  - (ii) The owner of the property subject to the final plat has executed and filed with the City an Improvement Agreement under TDC 36.320 (Improvement Agreement for Public Improvements), requiring all City infrastructure and private improvements to be completed within 24 months of the final plat approval.
- (5) Approval or Rejection of Final Plat.**
- (a) If the City Manager finds that the final plat does not meet the approval criteria set forth in subsection (3) of this section, the City Manager must notify the applicant of the deficiencies and afford the applicant opportunity to comply. Rejection of a final plat does not affect tentative plan or tentative replat approval.
- (b) If the City Manager finds that the final plat meets the approval criteria set forth in subsection (3) of this section, the City Manager must endorse approval on the final plat, and the applicant may process and record the final plat.
- (6) Recording of Final Plat.** The approved final plat must be recorded within 10 years of the effective date of the tentative plan or tentative replat approval. No building permits for development of lots or parcels will be issued until the final plat is recorded.
- (7) Operation and Maintenance of Facilities and Common Property.** Where facilities and common property, including, but not limited to, private streets, parking areas, privately owned pedestrian walkways and bikeways, and landscape strips, are included within the development, the recorded covenants, conditions, and restrictions for the development must include a provision that such facilities and common property be perpetually operated and maintained by a property owners' association. Each property owner must be a member of the property owners' association. The association must

have the power to levy and assess against privately owned property in the development all necessary costs for operation and maintenance of such facilities and common property. The documents creating such association must be approved by the City Manager.

(8) **Operation and Maintenance of Flag Lot Accessways.** Where a flag lot accessway serving more than one lot or parcel is included within a development, reciprocal and irrevocable access rights for all lots or parcels served by the flag lot accessway must be included on the final plat and in the deeds for the individual lots or parcels. Maintenance of the flag lot accessway must be shared between the owners of the properties served by the flag lot accessway and an agreement requiring maintenance of the flag lot accessway must be recorded in the deeds for the individual lots or parcels.

### **Section 36.200 – Modification of Prior Approval.**

(1) **Applicability.** The approval of a tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, manufactured dwelling park tentative subdivision plan, or tentative replat may be modified after its effective date if the proposed modification meets the criteria set forth in this section. Modifications that do not meet the criteria in this section require submittal of a new application for tentative partition plan, tentative subdivision plan, tentative phased subdivision plan, manufactured dwelling park tentative subdivision plan, or tentative replat.

(2) **Procedure Type.** Modifications pursuant to this section are processed as a Type I procedure under TDC 32.210.

(3) **Submittal Requirements.** In addition to the submittal requirements under TDC 32.220, an application for a modification must include the following:

(a) For modification of a tentative partition plan approval, the information required under TDC 36.100(3)(Submittal Requirements).

(b) For modification of a tentative subdivision plan approval, the information required under TDC 36.110(3)(Submittal Requirements).

(c) For modification of a phased tentative subdivision plan approval, the information required under TDC 36.120(3)(Submittal Requirements).

(d) For modification of a tentative manufactured dwelling park subdivision plan approval, the information required under TDC 36.130(3)(Submittal Requirements).

(e) For modification of a tentative replat approval, the information required under TDC 36.140(3)(Submittal Requirements).

(4) **Criteria.** An application for modification pursuant to this section must be approved if all of the following criteria are met:

(a) The proposed modification is not substantially inconsistent with the conditions of the original approval; and

(b) Accessways to adjacent streets or properties must not be relocated more than 25 feet from the location approved on the subdivision plan. In addition, accessways must not be relocated to a different adjacent property.

(c) Stub streets must not be changed to non-through streets.

(d) Cul-de-sacs must not be changed to stub streets.

(e) Density decreases must not exceed a 20 percent reduction in the total number of approved lots or dwelling units.



(f) The proposed modification must not result in a change or deletion of a condition of approval of the subdivision plan approval.

(g) The proposed modification will not result in significant changes to the physical appearance of the development, the use of the site, and the impacts on surrounding properties.

(5) **Expiration.** The modification does not affect the expiration of the original decision.

### **Section 36.210 – Extension of Approval Decision.**

(1) **Applicability.** The City Manager may grant a one-year extension of a Tentative Partition Plan decision, Tentative Subdivision decision, Tentative Phased Subdivision decision, Tentative Manufactured Dwelling Park Tentative Subdivision Plan decision, and Tentative Replat decision.

(2) **Procedure Type.** Extensions pursuant to this section are processed as a Type I procedure under TDC 32.210.

(3) **Criteria.** An application for an extension of Tentative Partition Plan decision, Tentative Subdivision decision, Tentative Phased Subdivision decision, Tentative Manufactured Dwelling Park Tentative Subdivision Plan decision, or Tentative Replat decision will be approved if all of the following criteria are met:

(a) There have been no significant changes in any conditions, ordinances, regulations, or other standards of the City or applicable agencies that affect the previously approved subdivision so as to warrant its resubmittal; and

(b) If the applicant did not neglect the site, its maintenance, or otherwise allowed the site to become blighted.

(4) **Number of Extensions.** The City Manager cannot grant more than a single one-year extension.

### **Section 36.300 – Special Platting Standards for Greenways and Natural Areas.**

Lots and parcels for Greenways and Natural Area are lots or parcels created as part of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat for the purpose of preservation and management of natural resources through the sale or transfer to a public agency or a non-profit entity. As used in this section, natural resources include, but are not limited to, areas of wildlife habitat, riparian areas, areas of sensitive ecological areas, or areas that contain rare or endangered species.

Conservation lots or parcels proposed as part of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat will be approved subject to the following:

(1) A greenway or natural area lot or parcel must be primarily undeveloped and in a natural state.

(2) A greenway or natural area lot or parcel has no minimum standards for lot area, width, depth, or frontage.

(3) A greenway or natural area lot or parcel must be designated as such on the tentative plan and the final plat.

(4) The deed conveying the greenway or natural area lot or parcel must contain a covenant that requires long-term preservation and management of the lot or parcel as a significant natural resource.

### **Section 36.310 – Approval of Streets and Rights of Way.**

(1) The plat of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat must provide for the dedication of all public rights-of-way, reserve strips, easements, tracts and accessways, together with public improvements therein approved and accepted for public use.

(a) The applicant must comply with the requirements of TDC Chapter 74, Public Improvement Requirements.

(b) The applicant must comply with the design and construction standards set forth in the Public Works Construction Code.

(c) The applicant must provide evidence to the City that property intended to be dedicated to the public is free of all liens, encumbrances, claims and encroachments.

(2) The plat of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat must indicate the ownership and location of private easements and tracts, and the owner-ship and location of private improvements within public rights-of-way and easements.

(3) Approval of the final plat of a partition, subdivision, phased subdivision, manufactured dwelling park subdivision, or replat by the City constitutes acceptance of all public rights-of-way, reserve strips, easements, tracts and accessways shown thereon, as well as public facilities located therein.

### **Section 36.320 – Improvement Agreement for Public Improvements.**

(1) An applicant may submit the subdivision plat for City acceptance prior to installing all required public improvements if the applicant submits a signed Improvement Agreement and written assurances, to City Manager.

(2) The Improvement Agreement must be in a form approved by the City and contain the following provisions:

(a) A promise by the owner to complete the required public improvements within 24 months of final plat approval.

(b) Monetary assurance for the full value of all required public improvements in one of the following forms:

(i) A Corporate Surety Bond issued by a surety company authorized to transact business in the State of Oregon; or

(ii) A cash deposit; or

(iii) Cash in escrow.

(c) A statement that if the owner fails to perform all of the conditions of the Improvement Agreement that the City may collect on the assurance and pursue any and all remedies available to it at law and in equity to enforce the Improvement Agreement.

(3) The value of the monetary assurance must be based upon of the costs of the City completing the public improvements and include, but are not limited to:

(a) Related engineering;

(b) Right-of-way acquisition;

(c) Easement acquisition and public contracting costs;

(d) Labor and materials; and

(e) Incidental expenses.

(4) In the event the applicant fails to perform all provisions of the Improvement Agreement, the City is authorized, but not required, to complete unfinished or improperly constructed portions of the required public improvements and to use the assurance for reimbursement to cover the City's costs, including bringing any necessary action to collect such funds.

(a) If the amount of the assurance exceeds the actual cost and expense incurred by the City to satisfy the provisions of the Compliance Agreement upon the applicant's failure to do so, the City will release the balance.

(b) If the amount of the assurance is less than the actual costs incurred by the City, the owner is liable to the City for such additional costs. A City lien must be placed on the subdivision still owned by the owner in an amount which represents the difference between the City costs and the amount received by the City pursuant to the applicant's assurance.

(5) If the applicant fails to perform under the provisions of the Improvement Agreement the City may, as an additional but not exclusive remedy, refuse to issue building permits for properties subject to the Improvement Agreement.

(6) The remedies provided by this section for violation of an Improvement Agreement are in addition to any other remedies available to the City at law and in equity.

### **Section 36.330 – Issuance of Building Permits.**

(1) Except as provided in subsection (2) of this section, the City must not issue a building permit or permits to connect to City utility services for lots within a subdivision or partition plat until the City Manager has determined that the corresponding public improvements are substantially complete to assure that the health and safety of the citizens will not be endangered from inadequate public facilities.

(2) Subject to submittal and approval of, and compliance with, the subdivision plan, as well as sufficient security to assure completion of the public portions of the subdivision, the applicant or individual lot owners within the subdivision may receive a building permit or utility service for not more than 50 percent of the platted lots within the subdivision prior to:

(a) The completion of all required public improvements in accordance with the Public Works Construction Code; and

(b) The acceptance of the public improvements by resolution of the City Council.

(3) The City must not issue building permits or utility service approval for any lot which together with previously approved lots would exceed 50 percent of the platted lots within the subdivision until:

(a) All required public improvements have been completed in accordance with the Public Works Construction Code; and

(b) The public improvements have been accepted by resolution of the City Council.

(4) City approval for use of a public improvement prior to the final approval and acceptance by the City of the subdivision plat does not constitute a release or waiver of any security which has been filed to assure compliance with the subdivision plan approval or any related agreements.

(5) For a subdivision or partition in commercial, institutional, or manufacturing zones (planning districts) or multi-family residential developments which require Architectural Review approval, the City Manager may authorize building permits to be issued prior to

the public improvements being substantially complete provided the following conditions are satisfied:

- (a) A Public Works Permit for the public improvements has been issued;
- (b) An Architectural Review for the development has been approved;
- (c) The subdivision or partition plat is recorded;
- (d) All easements and dedications required of any development approval have been recorded; and
- (e) Building permits are conditioned to deny occupancy until the public improvements in the subdivision are complete and are accepted by resolution of the City Council.

#### **Section 36.340 – Existing Structures and Appurtenances.**

- (1) Any existing structures proposed to be demolished must be removed prior to the City approval of the subdivision or partition plat. Any structures determined to be a historic City landmark must be reviewed in accordance with TDC Chapter 68.
- (2) Any existing wells must be abandoned in the manner prescribed by State and County regulations prior to the City approval of the subdivision or partition plat.
- (3) Any existing underground fuel or oil tanks, septic tanks and similar underground storage tanks must be removed or filled as required by the Department of Environmental Quality prior to the City's approval of the subdivision or partition plat.

#### **Section 36.400 – Lot Dimensions.**

##### **(1) Double Frontage and Reverse Frontage.**

- (a) Double frontage and reversed front-age lots must be avoided except where essential to provide separation of residential development from railroad tracks or crossings, traffic arterials or collectors, adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.
- (b) Residences on double frontage lots must be oriented towards the lower classification street adjacent to the lot:
  - (i) Local street instead of collector or arterial; and
  - (ii) Collector street instead of arterial.
- (c) If two local streets are adjacent to a series of adjacent double frontage lots, then residences on all such lots must be oriented towards the same local street.

(2) **Large Lots.** When subdividing, partitioning or adjusting land into large lots which at some future time are possible to be resubdivided, repartitioned, or readjusted to a size which more closely conforms to the other lots in the subdivision or area, the applicant must submit a future streets plan. The future streets plan must indicate that proposed large lots be of such size and shape and contain such building site restrictions as will provide for the extension and opening of streets at such intervals and the subsequent division of any such large lot into smaller size lots which meet the requirements of the TDC.

(3) **Side Lot Lines.** The side lines of lots, as far as practicable, must run at right angles to the street upon which the lots face.

(4) **Lot Size and Shape.** The lot size, width, shape and orientation must be appropriate for the location of the lot and comply with the zone (planning district) standards for the type of development and use contemplated.

(5) **Frontage on Public Streets.** All lots created after September 1, 1979 must abut a public street, except for the following:

- (a) Secondary condominium lots, which must conform to TDC 73C and TDC 75;
- (b) Lots and tracts created to preserve wetlands, greenways, Natural Areas and Stormwater Quality Control Facilities identified by TDC Chapters 71, 72 Figure 3-4 of the Parks and Recreation Master Plan and the Surface Water Management Ordinance, TMC Chapter 3-5 respectively, or for the purpose of preserving park lands in accordance with the Parks and Recreation Master Plan;
- (c) Residential lots where frontage along a public street is impractical due to physical site restraints. Access to lots must occur via a shared driveway within a tract. The tract must have no adverse impacts to surrounding properties or roads and may only be approved if it meets the following criteria:
  - (i) Does not exceed 250 feet in length;
  - (ii) If the tract exceeds 150 feet in length, it has a turnaround facility as approved by the Fire Marshal for fire and life safety;
  - (iii) The tract does not serve more than 6 lots;
  - (iv) A public street is not needed to provide access to other adjacent properties as required by TDC Chapter 74;
  - (v) A recorded document providing for the ownership, use rights, and allocation for liability for construction and maintenance has been submitted to the City Manager prior to issuance of a building permit; and
  - (vi) Access easements have been provided to all properties needing access to the driveway.
- (d) Lots in the Manufacturing Park Zone Planning District which have access to the public right-of-way in accordance with TDC 73C and TDC Chapter 75 via permanent access easement over one or more adjoining properties, creating uninterrupted vehicle and pedestrian access between the subject lot and the public right-of-way.

#### **Section 36.410 – Small Lot Subdivisions for RL and RML Zones.**

##### **(1) Conditional Use Permit Required.**

- (a) A conditional use permit is required before lots smaller than 6,500 square feet are permitted in RL and RML zones. An applicant must comply with the provisions of TDC 33.040 (Conditional Use Permit).
- (b) In addition to the submittal requirements for a Conditional Use Permit in TDC 33.040, a Tree Survey is required. The purpose of the tree survey is to show that, by utilizing the small lot subdivision provisions, a greater number of trees can be preserved than would be possible without use of the small lot subdivision provisions.

##### **(2) Small Lot Standards.** In addition to the general subdivision requirement in TDC 36.120, a subdivision that includes the small lots must also meet the following standards:

- (a) **RL Zone.** In the RL zone, small lot subdivisions must comply with the following:
  - (i) Small lots must be no less than 5,000 and no more than 6,499 square feet;
  - (ii) Maximum building coverage for lots between 5,000 and 6,499 square feet must be 45 percent and for lots greater than 6,499 square feet must be 35 percent;

- (iii) Minimum lot width must be at least 30 feet. Lots that have frontage on a public street must have a minimum lot width of 50 feet or 30 feet for lots on a cul-de-sac bulb. For flag lots, the minimum lot width at the street must be sufficient to comply with at least the minimum access requirements contained in TDC 73C;
- (iv) The minimum number of lots for the entire subdivision is 10;
- (v) The small lots must be part of a subdivision that contains lots of at least 7,000 square feet that are necessitated by trees, steep terrain or other topographic constraints. The number of small lots cannot exceed 35 percent of the total number of lots in the subdivision;
- (vi) When a small lot abuts an existing lot or is across from a lot on a local street of a City-approved and recorded subdivision or partition, the small lot must be no more than 500 square feet smaller than the size of the abutting lot or lot across the street. For purposes of this subsection, a small lot is directly across the street if one or more of its lot lines—when extended in a straight line across the local street—intersect the property line of the lot across the street;
- (vii) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase; and
- (viii) When a tract or easement is between a small lot and an existing lot in a City approved and recorded subdivision or partition, the small lot must be separated from the existing lot by at least 50 feet.

(b) **RML Zone.** In the RML zone, small lot subdivisions must comply with the following:

- (i) Small lots must be no less than 4,500 square feet;
- (ii) Maximum building coverage must not exceed 45 percent;
- (iii) Minimum lot width must be at least 30 feet. Lots that have frontage on a public street must have a minimum lot width of 50 feet or 30 feet for lots on a cul-de-sac bulb. For flag lots, the minimum lot width at the street must be sufficient to comply with at least the minimum access requirements contained in TDC 73C;
- (iv) Front yard setback must be a minimum of 20 feet to the garage and 12 feet to the house;
- (v) Side yard setback must be a minimum of 5 feet;
- (vi) On corner lots, the setback for yards adjacent to streets must be a minimum of 20 feet to the garage and 12 feet to the house in the yard where a driveway provides access to a street other than an alley and must be a minimum of 12 feet in the yard where no driveway access exists; and
- (vii) Rear yard setback must be a minimum of 15 feet.

**Section 36.420 – Increased Density for Greenway and Natural Area Dedications in the RL Zone.** In the RL zone, creation of single-family lots smaller than 6,500 square feet will be permitted if land is dedicated for a Greenway or Natural Area in accordance with the following standards.

(1) **Number of Lots.** One small lot is permitted for each 6,500 square foot Greenway or Natural Area Lot created in the subdivision or partition process.

(2) **Minimum Lot Size and Location.** The small lot must:

- (a) Be no less than 5,000 square feet and no more than 5,999.99 square feet;

- (b) Have an average lot width of at least 30 feet;
  - (c) Lots that have frontage on a public street must have a minimum lot width of 50 feet or 30 feet for lots on a cul-de-sac bulb;
  - (d) Have a maximum building coverage of 45 percent;
  - (e) When a small lot abuts an existing lot or is across from a lot on a local street of a City-approved and recorded subdivision or partition, the small lot must be no more than 500 square feet smaller than the size of the abutting lot or lot across the street. For purposes of this subsection, a small lot is directly across the street if one or more of its lot lines—when extended in a straight line across the local street—intersect the property line of the lot across the street;
  - (f) When a tract or easement is between a small lot and an existing lot in a City approved and recorded subdivision or partition, the small lot must be separated from the existing lot by at least 50 feet; and
  - (g) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase.
- (3) **Maximum Density.** The subdivision's or partition's density, net of the Greenway or Natural Area lots, must not exceed 7.5 dwelling units per acre.
- (4) **Location of Greenway or Natural Area Lots.** Each Greenway or Natural Area Lot in the development must be located wholly in:
- (a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72); or
  - (b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
  - (c) Clean Water Services Vegetated Corridor.
- (5) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:
- (a) Dedicated to the City at the City's option; or
  - (b) Dedicated in a manner approved by the City to another public entity; or
  - (c) Dedicated to a non-profit conservation organization; or
  - (d) Retained in private ownership.
- (6) **Ownership Considerations.** The City will consider at a minimum the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot, and other factors may be considered:
- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
  - (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
  - (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
  - (d) Does the lot connect publicly owned or publicly accessible properties;
  - (e) Does the lot abut an existing park, greenway, natural area or other public facility;
  - (f) Does the lot provide a public benefit or serve a public need;
  - (g) Does the lot contain environmental hazards;
  - (h) Geologic stability of the lot; and
  - (i) Future maintenance costs for the lot.

**Section 36.500 – Enforcement and Penalties.**

- (1) The City Manager is responsible for enforcement of the provisions of this Chapter.
- (2) It is a civil infraction to violate to:
  - (a) Violate any of the provisions of this Chapter; or
  - (b) Selling, offering to sell, contracting to sell land or an interest in land, contrary to the provisions of this Chapter, or contrary to the subdivision or partition plat, or the survey map of the property line adjustment.

**SECTION 9.** TDC Chapter 37 (Industrial Master Plan) is deleted in its entirety.

**SECTION 10. TDC Chapter 38 (Sign Regulations).** TDC 38.060 (Sign Permit Required), TDC 38.070 (Sign Permit Process), TDC 38.075 (Purpose of Sign Design Review), TDC 38.090 (Sign Ordinance Interpretations), TDC 38.100 (General Provisions), and 38.130 (Prohibited Signs), are amended, and TDC 38.115 (Definitions) is created, to read as follows:

**Section 38.060 Sign Permit Required.**

- (1) Except as provided in (2) below, no person shall erect, construct, modify, relocate, use or replace a sign, change a sign face, or alter a sign or sign structure unless a sign permit and any required building permit and electrical permit have been issued.
- (2) The following signs are not required to obtain a sign permit; however, they shall comply with applicable sign regulations:
  - (a) Exempt signs in accordance with TDC 38.050;
  - (b) A directory sign's change of readerboard copy of two inches or less in height,
  - (c) Lawn signs;
  - (d) Temporary window signs and displays that do not meet the definition of a sign; for example, murals;
  - (e) Inlaid floor signs in the Mixed Use Commercial Overlay District; and
  - (f) Directional signs in the Mixed Use Commercial Overlay District.
- (3) A separate sign permit application shall be submitted for each sign erected, constructed, modified, relocated, replaced, face changed or structurally altered and for sign repair that includes these activities. Sign maintenance requires no permit. All proposed work on a sign shall be shown in the sign permit application.
- (4) When required by the Oregon Uniform Building Code or the Building Official, a separate building permit shall must be obtained from the City for the erection, construction, modification, relocation, replacement, change of sign face or alteration of a sign or sign structure.
- (5) When required by the State Electrical Code or the Building Official, an electrical permit shall be obtained from the issuing authority before connecting an electrical sign to a source of electricity. The electrical components of signs shall meet the applicable electrical standards as shown by certification from those testing laboratories approved by the State of Oregon as meeting the testing standards for electrical safety as required by Oregon Revised Statutes 479.510 - 479.855 and Oregon Administrative Rule 918-330-000, as constituted on the effective date of this ordinance or as may hereafter be amended.



(6) Building and electrical permits shall be applied for in accordance with the procedures of the issuing agency, provided such permits are not issued until a sign permit has been issued.

(7) The ~~Community Services Director~~ City Manager may require a sign permit application be submitted for each sign on a property required to have a permit if no permit for such sign has been previously issued.

### **Section 38.070 Sign Permit Process.**

(1) Sign permits are subject to the review procedures in TDC Chapter 32 (Procedures) and the sign application requirements of TDC Chapter 33 (Applications). A person may apply for a sign permit and any required building permit and/or electrical permit concurrently. A decision on the sign permit shall be issued first, followed by decisions on the related building or electrical permits.

(2) A sign permit application form, check sheet and instruction sheet shall be established and made available by the ~~Planning Director~~ City Manager. Sign permit applications which do not provide the information required by this ordinance, the application form, check sheet and instruction sheet may be rejected by the ~~Planning Director~~ City Manager. The ~~Planning Director~~ City Manager shall determine if an application provides the required information.

(3) A complete sign permit application shall be submitted to and reviewed by the ~~Planning Director~~ City Manager. The application is not complete unless the application fee is submitted with the application. The application shall be approved, approved with conditions or denied by the ~~Planning Director~~ City Manager, whose decision is final. The ~~Planning Director~~ City Manager shall not approve a sign permit to erect any new freestanding or wall signs on a tax lot with one or more nonconforming freestanding or wall signs erected on it unless the statement in ~~TDC 35.200(3)(d)~~ TDC 35.200(3) (Nonconforming Situations) appears on the sign permit. An application for a sign that is erected prior to submitting the application and does not meet the requirements of this Chapter shall be denied.

(4) Where a sign permit is required, a sign contractor registered with the State of Oregon Construction Contractors Board shall be the applicant. A person, other than the registered sign contractor, may deliver and submit the application to the ~~Planning Director~~ City Manager. The application shall contain or include the following information:

(a) Name, mailing address and telephone number of:

- (i) The land and building owners or authorized agents,
- (ii) The company and a contact person for which the sign is intended, and
- (iii) The sign contractor company and a contact person.

(b) The sign contractor's Construction Contractors Board Number;

(c) The signatures of the land and building owners and the sign contractor applicant;  
and

(d) Tax map, lot number and street address of the property for which the sign is intended;

(e) A site plan drawn to scale showing the proposed location of the sign, existing signs and their heights, widths, face areas and percentage of wall area, property lines, distance of the sign to the property lines, vehicle access points and driveways,

the dripline of trees if the proposed sign is to be within five feet of the dripline of a tree and the outline of existing and proposed structures on the property;

(f) Two sets of clearly legible blue-prints, ink drawings or photocopies of the plans and specifications for the proposed sign drawn to scale;

(g) Applications for wall signs shall include elevations drawn to scale, including dimensions (height and width), of the owned or leased wall to which the sign is to be attached. Such elevations shall show the building owner's designated sign band;

(h) The sign permit application fee; and

(i) Other information requested by the ~~Planning Director~~ City Manager, including but not limited to recorded easements, property line dimensions and the location of on-site and abutting sidewalks.

(5) After a complete sign permit application has been submitted and accepted, the applicant may request in writing that the application be withdrawn. The ~~Planning Director~~ City Manager may return the application, and reimbursement of the application fee, if any, shall be in accordance with TDC 38.080.

(6) If the work authorized by the sign permit is not completed within 90 days after the date of sign permit issuance, the permit shall expire and be null and void. Upon written request of the applicant, submitted to the ~~Planning Director~~ City Manager prior to the expiration date, one 90-day extension of the sign permit approval may be granted by the ~~Planning Director~~ City Manager if there have been no amendments to the specific sign regulations that applied to the proposed sign at the time the sign permit was first approved. The ~~Planning Director's~~ City Manager's decision shall be in writing and mailed to the applicant. As used in this subsection "completed" means the work performed meets the approved sign permit and any conditions attached thereto.

(7) The ~~Planning Director~~ City Manager may revoke any sign permit where there has been a violation of the provisions of this Chapter or a misrepresentation of fact on the permit application, the materials submitted as part of the application, or both.

(8) The ~~Planning Director~~ City Manager may issue a sign permit, if a sign permit is required, to erect a temporary sign on a property with no building, provided the proposed temporary sign meets all applicable regulations.

(9) The ~~Planning Director~~ City Manager shall not issue a sign permit to erect a permanent sign, or to change a sign face on an existing permanent sign, on a property with no building or with an unoccupied building.

(10) The ~~Planning Director~~ City Manager shall not issue a sign permit to erect a permanent sign, or to change a sign face on an existing permanent sign, on an unoccupied building.

### **Section 38.075 Purpose of Sign Design Review.**

(1) **Purpose of Sign Design Review.** The purpose of Sign Design Review is to implement the purposes and objectives of TDC Chapter 20 Sign Design and promote freestanding signs in commercial areas that are attractive to the community, compatible with the design and architecture of the development and the community, and provide adequate business identification.

(2) **Standards for Sign Design Review.** Development of the following is subject to the provisions set forth in TDC 38.075(3) and standards and criteria set forth in TDC 38.220, in addition to all other applicable TDC standards:

- (a) New freestanding monument or pole sign including Service Station signs allowed in TDC 38.110(17)(a) and (b); and
  - (b) Transition of a non-conforming freestanding monument or pole sign in CC/CG Planning Districts subject to TDC 35.200 (Nonconforming Signs).
- (3) No Sign or Building permits shall be issued for signs described in TDC 38.075(2) until plans for the proposed sign have been approved pursuant to the following review, and all other applicable TDC standards are met:
- (a) Level 1 – Clear and Objective Sign Design Review.
    - (i) A Level I Sign Design Review decision is a ministerial decision.
    - (ii) Application for Level I (Clear and Objective) Sign Design Review shall be made pursuant to the ~~application~~ Type I procedures set forth in ~~TDC 31.071(8)~~ TDC 32.210 (Procedures) and the applications provisions in TDC 33.080 (Application and Approval Criteria).
    - (iii) A proposed sign that meets all standards set forth in TDC 38.075(4) shall be administratively approved by the ~~Community Development Director~~ City Manager.
    - (iv) Variances to standards set forth in TDC 38.075(3) are prohibited.
- (4) Sign Design Standards:**
- (a) Level I (Clear and Objective) Sign Design Review Standards. Signs shall:
    - (i) On sign face elevations, provide support poles, pylons, columns or monument base that have a width at least thirty percent (30%) of the sign face width; provide at least three (3) of the Sign Design Elements – Sign Structure & Site in TDC 38.075(3)(a)(ii) and provide at least three (3) of the Sign Design Elements – Sign Exterior in TDC 38.075(3)(a)(iii). The amount of required support pylon or column width in elevation may be reduced in two percent (2%) increments to not less than ten percent (10%) of the sign face width for each additional Sign Design Element provided.
    - (ii) Sign Design Elements – Sign Structure & Site.  
Sign structure & site includes (minimum of 3 applied):
      - (A) Two (2) or more individual pole, pylon or column supports separated by a minimum of 24”-inch.
      - (B) Monument-style base occupying 75 percent or greater (>75%) of sign face width.
      - (C) Sign setback minimum of 5 ft. feet from property lines, measured to any feature of sign structure.
      - (D) Minimum 36” inch pylon or column width or diameter.
      - (E) Landscape plantings including shrubs and groundcover or hardscape features including decorative rock or masonry located at the base of the free-standing sign.
    - (iii) Sign Design Elements – Sign Exterior.  
Sign Exterior Design includes (minimum of 3 applied):
      - (A) Frame trim, cap, wing, grill, exposed bracketing or other decorative sign frame element(s);
      - (B) Variation in sign profile including use of asymmetrical & curvilinear shapes and planes, and irregular height of sign elements;

(C) Use of three (3) or more exterior sign materials that are elements of the site's building architecture, including masonry, concrete, ceramic, glass (figured, block or tile), stucco, metal fabric, metal tubing and wood timber materials;

(D) Use of 3-dimensional lettering and graphic:

(E) Use of "halo," baffled and shrouded indirect illumination sources, or internally-lighted "push thru" lettering and graphic; and

(F) No more than 20 per-cent of sign face feature is illuminated with direct lighting (exposed incandescent bulb, neon tube, LED or LCD electronic bulbs) or internally-lighted panels (fluorescent tube or other light source behind a translucent panel).

**Section 38.090 Sign Ordinance Interpretations.** An interpretation of Chapter 38 or the sign definitions in Chapter 31 shall must be in accordance with TDC 31.070 (Interpretation of Code Provisions).

**Section 38.100 – General Provisions.**

(1) **Location.** Except for traffic control devices, public signs and special event banner signs, signs shall be located on private property outside of the public right-of-way and shall not extend over or into the public right-of-way. Signs shall not be constructed in or extend over or into easements for public sewer, water or storm drain lines or within five feet of such lines, or within the dripline of existing trees. Shingle signs in the ~~Central Urban Renewal Areas~~ Central Design Tualatin Overlay District may extend over the publicly owned promenade, public sidewalks and private walkways.

(2) **Vision Clearance Area.** Signs may be located in vision clearance areas provided they do not extend into the space from higher than 24 inches above the curb, or if no curb exists from higher than 30 inches above grade, to lower than eight feet above the curb or grade, except as noted below in this subsection. Support structures, such as posts, for freestanding signs which extend higher than eight feet above grade may be located in a vision clearance area only if the combined total width of the support structures in the vision clearance area is one foot or less and the combined total depth of support structures in the vision clearance area is one foot or less.

(3) **Pedestrian Area Clearance.** Signs erected over or extending over private or public pedestrian walkways or paths shall provide a vertical clearance of at least eight feet from the surface of the walkway or path to the lowest portion of the sign.

(4) **Signs Incorporated Into Fences.** Except for signs at subdivision entrances located in a private tract median island within a public right-of-way, monument signs may be affixed to and be part of a masonry fence. Pole signs shall be affixed only to the ground.

(5) **Copy.** Copy shall be placed only on the sign face.

(6) **Dedication for Right-of-Way.** Signs and their structures and foundations shall be removed from property subject to dedication to the public before such dedication shall be accepted by the City.

(7) **Illumination.**

(a) Lights providing indirect illumination onto signs shall be directed so the source of light is not visible from the public right-of-way or from properties in residential planning districts.

(b) Neon or LED lighting is the only permitted lighting for direct illumination of all sign types except for electronic signs as described in TDC 38.140(2)(e). Neon, LED incandescent and fluorescent lighting are permitted for indirect or internal illumination.

(c) The surface brightness of any sign shall not exceed that produced by the diffused output obtained from 800 milliampere fluorescent light sources spaced not closer than eight inches on center.

(8) **Sign Maintenance and Repair.** All signs shall be maintained in good order and repair at all times. Signs which have become faded, worn, damaged or are unsafe or pose a danger to the public shall be maintained, repaired or removed.

(9) **Signage for Additional Uses in the Central Urban Renewal District and the Leveton Tax Increment Financing District.** In specific situations the Tualatin Development Code permits selected uses from a given "home" planning district to locate in another "receiving" planning district as an additional use when the "receiving" district is in the ~~Central Urban Renewal District~~ Tualatin Overlay District or the Leveton Tax Increment Financing District. When an additional use exists in a "receiving" planning district, the sign regulations of the "home" planning district shall apply to the additional use. ~~For example, the uses listed in the permitted use section of the General Commercial Planning District are permitted in Blocks 28 and 29 of the Central Urban Renewal District, which are in the Light Manufacturing Planning District, as additional uses. The General Commercial Planning District sign standards apply to a General Commercial use in Blocks 28 and 29 of the Central Urban Renewal District.~~

**Section 38.115 – Definitions.** For the purposes of the Chapter, the following words and phrases mean:

*Sign.* An identification, description, illustration, symbol, letter, number, logo, fluorescent tube or row of tubes, incandescent bulb or string of bulbs, or graphic information or device, but not an architectural feature of a building, including the structural supports, which is affixed directly or indirectly, or temporarily or permanently, upon a building, vehicle, structure or land. Signs identify or direct attention to a product, place, activity, person, institution, business, use, idea, belief, candidate or political issue. Murals and painted highlights are not signs.

*A-Frame (also known as an A-Board or Sandwich Board) Sign.* A double-faced portable sign constructed with an A-shaped frame, composed of two sign boards attached at the top and separated at the bottom, and not supported by a structure in the ground.

*Abandoned Sign.* A sign, associated with a business, lessor, owner, product, use of property or activity, which is no longer conducted or available on the premises where such sign is displayed for on-premise signs, or on other premises for off-premise signs.

*Agricultural Sign.* A sign allowed on property which is used for the sale of seasonal agricultural produce.

Alteration, Structural of Signs. Modification of the location, size, shape or height of a sign structure, including, but not limited to, the addition of illumination to a non-illuminated sign and the replacement of sign structure materials with other than comparable materials, for example, metal parts replacing wood parts.

Animated Sign. A sign or display manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical, or other means. Animated signs include the following types:

- Naturally Energized Animated Sign: Signs whose motion is activated by wind or other atmospheric impingement. Wind driven signs include flags, pennants, streamers, spinners, metallic disks, or other similar devices designed to move in the wind.
- Mechanically Energized Animated Sign,: Signs manifesting a repetitious pre-programmed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives.
- Electrically Energized Animated Sign,: Illuminated signs whose motion or visual impression of motion is activated primarily by electrical means. Electrically energized animated signs are of two types:
  - Flashing Signs: Illuminated signs exhibit a pre-programmed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) varies with the duration of the period of darkness (off phase), and in which the intensity of illumination varies from zero (off) to 100 percent (on) during the programmed cycle.
  - Illusionary Movement Signs: Illuminated signs exhibit the illusion of movement by means of a preprogrammed repetitious sequential switching action in which illuminated elements of the sign and are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.

Awning Sign. A type of wall sign painted or printed on, or attached flat against the surface of the nonrigid material of an awning.

Balloon Sign. An inflatable, stationary, temporary sign of any shape anchored by some means to a structure or the ground. It includes simple children's balloons, hot and cold air balloons, helium filled balloons, blimps, and other dirigibles.

Banner Sign. A temporary sign made of nonrigid material without an enclosing framework. National flags, flags of political subdivisions and symbolic flags of an institution, group or a business are excluded.

- Special Event Banner Sign. A banner sign that is temporarily displayed over a public right-of-way for a limited period of time for a special event. A special event occurs on a specific date or dates, is open to the community, and has been declared a special event by the City Council.

Bench Sign. A sign that is displayed on a bench.

Canopy Sign. A type of wall sign painted or printed on, or attached to the canopy fascia.

Change of Copy. The change of any written or graphic information upon the face of a sign.

Construction Signs.

- Private Construction Sign. A temporary sign displayed in conjunction with a construction project on private property.
- Public Utility Facilities Construction Sign. A temporary sign displayed in conjunction with a construction project for public streets, public waterlines, public sewer lines and pump stations, public storm drain lines and other similar public facilities.

Copy. Any written or graphic information on a sign.

Directional Sign. A permanent sign designed and erected to guide the circulation of vehicles or pedestrians or both which are on the site.

Directory Sign. A permanent informational sign designed and erected to list the businesses, business occupants or tenants within buildings on the site and to be read by passengers of vehicles or pedestrians or both which are on the site.

Electrical Sign. A sign or sign structure in which electrical wiring, connections, or fixtures are used.

Entry/Exit Sign. A permanent sign designed and erected to show the location of vehicular access onto or off of a location from or to the public right-of-way.

Erect (for signs). The act of constructing, reconstructing, building, rebuilding, installing, reinstalling, locating, relocating, placing or replacing a sign structure, changing undamaged copy on a sign face, changing an undamaged sign face, suspending or attaching components of a sign and the installation of electrical parts, wiring or illumination of a sign. It does not include sign maintenance or repair. "Erect" shall not include changes in copy of a mechanical readerboard.

Festoon Sign. A string of ribbons, tinsel, small flags, lights, pennants, streamers, pinwheels or similar signs.

Fin Sign. A sign which is supported by a pole or poles or columns and partly by a building.

Freestanding Sign. A sign attached to the ground by one or more poles, columns, or similar supports and not attached to a building, such as pole and monument signs.

Grade (for signs). The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the sign and the property line, or when the property line is more than five feet from the sign, between the sign and a line five feet from the sign.

Height of Sign. The vertical distance from grade to the highest point of a sign, including any projection, decoration or trim of the sign face or structure.

Illegal Sign. A sign which is erected, constructed, altered, relocated, maintained or repaired in violation of any of the provisions of this Ordinance.

Illuminated Sign. A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign.

Illumination/Lighting Types:

- Illumination, Direct. Lighting wherein the light source is visible.
- Illumination, Fluorescent Tube. Lighting wherein an electrical current is passed through a gas-filled tube, with a coating of fluorescent material on its inner surface, which emits visible light.
- Illumination, Incandescent Bulb. Lighting wherein an electrical current is passed through a filament inside a bulb and the filament emits visible light. The filament source of light may be visible as in clear bulb or bare bulb illumination or it may not be visible as in frosted or painted bulb lighting.
- Illumination, Indirect. Lighting wherein the light source is separate from the object to be illuminated, including but not limited to a sign face or cabinet, and is directed to shine on the object or sign.
- Illumination, Internal. Lighting wherein the light source and the bulb or tube enclosing the light source are enclosed within a structure, including but not limited to a sign and are not visible.
- Illumination, LED. Lighting produced by a light-emitting-diode which emits visible light.
- Illumination, Neon. Lighting wherein an electrical current is passed through a tube containing neon gas which emits visible light.

Inlaid Floor Sign. For the Mixed Use Commercial Overlay District only, a sign on private property that is incorporated into the floor/walkway area in a customer entry area. This sign is intended to be seen only by people looking down who are at a customer entry area and not to be seen by people in a public right-of-way or a public access parking lot. An Inlaid Floor Sign is not a wall sign or a freestanding sign.

Lawn Sign. A temporary, freestanding or A-frame sign.

Location (for signs). A lot, site, building wall, or any place upon which a sign is or can be erected, attached or maintained.



Major Commercial Center (for signs). A development in the Central Commercial or General Commercial Planning Districts, or in the Office Commercial and Mid-rise Office Commercial, or in the Light Manufacturing Planning District and in the Central Urban Renewal District where additional General Commercial uses are permitted in accordance with the Tualatin Development Code (TDC 60.030), and which is on one tax lot of at least 3.0 acres and has either (1) at least one building of no less than 30,000 square feet of gross floor area, or has (2) at least two buildings with one having no less than 12,000 square feet of gross floor area.

Marquee. A projecting, permanent, roofed structure attached to and supported only by a building.

Marquee Sign. A type of wall sign painted, printed on, or attached to the marquee fascia.

Monument Sign. A freestanding sign which is permanently affixed at grade and has a monolithic or columnar line and which maintains essentially the same contour from grade to top.

Mural. A pictorial or graphic decoration, illustration, visual representation or art work which is applied directly to a wall and does not contain letters, numbers, logos, brand names or trademarks. Murals are Architectural Features which are reviewed through the Architectural Review process.

Nonconforming Sign. A lawfully erected sign that does not meet the requirements of TDC Chapter 38 including a sign lawfully erected and existing, and properly maintained and repaired prior to May 13, 1992.

Nonmedical Uses (for signs). In the Medical Center District nonmedical uses are supporting retail and service uses for the convenience of patients, patient visitors, staff physicians and on-site employees and include only the following:

- (1) Bank branch/automatic teller machine not greater than 1000 square feet of gross floor area,
- (2) Barber/beauty shop not greater than 750 square feet of gross floor area,
- (3) Child day care not greater than 4000 square feet of gross floor area,
- (4) Credit union not greater than 1000 square feet of gross floor area,
- (5) Fitness center not greater than 15,000 square feet of gross floor area,
- (6) Florist/gift shop not greater than 750 square feet of gross floor area,
- (7) Pharmacy not greater than 2000 square feet of gross floor area, and
- (8) Restaurant/delicatessen/coffee shop not greater than 1500 square feet of gross floor area.

Obscene Sign. A sign or other advertising structure displaying any matter in which the dominant theme of the material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to

the description or representation of sexual matters, and is utterly without redeeming social value.

*Obstructing Sign.* A sign, including its supports and structure, which interferes with the use of a fire escape, exit or a window such that light, ventilation or ingress and egress is reduced below the minimum required by law.

*Off-premise Sign.* A sign which identifies or gives directions to a use or activity and which is located on premises other than where the activity or use is provided.

*Overhead Door Sign.* A sign located at the uppermost area of the overhead door opening or immediately above an overhead door opening.

*Pennant.* A sign that is a triangular flag which is tapered to a point or swallowtail.

*Plaque Sign.* For the Mixed Use Commercial Overlay District only, a type of wall sign associated with and located near a customer entry area.

*Project Sign.* For the Mixed Use Commercial Overlay District only, a type of sign to identify a project. For the purposes of this definition a project is a functionally integrated and coordinated development on at least 10 acres that may include more than one lot and be separated by a public street. The project is reviewed through the Architectural Review process as one application, as two or more simultaneous applications, or as two or more applications for phases of the same development.

*Public Sign.* A sign erected and maintained by a special purpose district, public school district, municipal, county, state or federal government, or any political subdivision or agency thereof.

*Readerboard, Electronic Message Center (Changeable Copy) Sign.* A sign on which copy can be changed electronically by using patterns of lights that may be changed at intermittent intervals.

*Readerboard, Mechanical (Changeable Copy) Sign.* A permanent sign on which copy can be changed manually, in the field, by using letters, numbers or symbols which can be affixed to the sign face or are snapped into place or are track-mounted.

*Roof (for signs).* Any exterior building surface that is not vertical.

*Roof Sign.* A sign erected on or attached to a roof.

*Rotating, Revolving or Moving Sign.* A sign, except a banner, or portion thereof designed to move.

*Shingle/Blade Sign.* A rigid sign hanging from an awning, canopy, marquee or building overhang or attached to a wall and perpendicular or at an angle to that wall.

Sign Band. An area on each elevation of a building that establishes the location for permanent wall signs.

- Sign Band, Main Building Entrance. An area located on the wall within a distance of no more than eight feet of the main building entrance doorway. A main building entrance is one grade level entrance to a building that is the primary building entrance for occupants and visitors.
- Sign Band, Primary. The sign band associated with the first floor or ground level floor of a multi-story building.

Sign Clearance. The distance from the grade directly below a sign to the bottom of the lowest portion of the sign.

Sign Contractor. A person engaged in the business of sign construction, sign maintenance or sign repair and registered with the Oregon Construction Contractors Board.

Sign Face. The surface to which a sign is affixed. A single-sided sign has one sign face. A double-sided sign may have one or more sign faces on each side. A multi-sided sign may have multiple faces and includes multi-faceted signs and signs in the shape of figures and objects.

Sign Face Area. The portion of a sign containing copy and the background for the copy. See, Measuring Signs.

Sign Maintenance. Normal care needed to keep a sign functional such as cleaning, painting, oiling and changing bulbs and tubes.

Sign Repair. Fixing or replacement of broken or worn parts, sign faces or copy. Replacement is of comparable materials only. Repairs may be made with the sign in position or with the sign removed. Sign repair includes repairs to damaged signs unless the cost of the repair exceeds 50 percent of the value of the sign during the most recent period of use before repairs are initiated.

Sign Structure. One or more supports, uprights, braces, or other framework of a sign.

Sign, Temporary. A sign not permanently attached to the ground (set on or post driven or dug into the ground with no footing or foundation), wall or building and allowed to be displayed for only a short period of time.

Small Projecting Sign. A rigid sign hanging from an awning, canopy, marquee or building overhang (shingle-style) or attached to a wall and perpendicular or at an angle to that wall (blade-style).

Snipe Sign. A sign, usually composed of paper, plastic or plywood, affixed to a tree, fence post, utility pole, or similar structure.

Spanner Panel. A cabinet, flat surface or other similar surface erected so that it is approximately vertical and attached to the posts, poles, columns or other supporting members of a canopy or other similar roof-like structure, or attached to the canopy itself. Spanner panels often span the space between the poles or extend from the poles supporting gas station pump island canopies.

Subdivision Sign. A sign located on land in a recorded subdivision approved through the City of Tualatin subdivision review process.

Unsafe Sign. Any sign, part of a sign or sign structure which is liable to collapse or fall due to inability to withstand wind, seismic or other loads, as specified in the Oregon Uniform Building Code of the City, or as determined by the City Building Official. Whenever any sign or part of a sign obstructs the view of motorists traveling on the public streets or on property open to the public and creates risk of property damage or personal injury, it is an unsafe sign.

Vision Clearance Area. A triangular shaped area established at the intersection of any combination of rights-of-way, private roads, alleys and driveways. The sides of the triangle shall extend an equal and specified distance from the intersection of the property lines, or from the property lines extended along the right-of-way away from the intersection.

Wall (for signs). The vertical face elements of a building from the perspective of an architectural elevation, including parapet walls and appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations, wing walls, and windows, doors and other openings.

Wall Area. The measurement in square feet of a building wall based on the height and width of an architectural elevation.

Wall Sign. A sign which is affixed to or painted on a wall of a building.

- Wall Sign, Directory-style. A type of wall sign with a taller sign face height and with a capability to list messages for more than one building tenant.
- Wall Sign, Hospital Identification. A wall sign located on one hospital building wall intended for visibility from the I-5/SW Nyberg Avenue Interchange.
- Wall Sign, Main Building Entrance. A wall sign located on the main building entrance sign band.

Window Sign. A sign permanently or temporarily painted on or affixed to the glazing of a window or window frame, or permanently mounted within two feet of the window pane and intended for viewing from outside the building.

**Section 38.130 Prohibited Signs.** Nothing contained in this section shall be construed to prohibit the display of national flags, state flags of the United States, special purpose

districts, or local governments. The following signs or advertising devices are prohibited by this Chapter.

- (1) A sign not specifically permitted by this Chapter, except as otherwise provided in Chapter 33 (Applications) for approved sign variances and Chapter 35 (Nonconforming Situations) for legal nonconforming signs.
- (2) A sign required to have been issued a sign permit, but for which no sign permit has been issued.
- (3) Any sign which is erected and fails to comply with sign regulations.
- (4) A-frame (sandwich board) sign, except as otherwise provided in TDC 38.110(12), Lawn Signs.
- (5) Abandoned sign.
- (6) Animated sign.
- (7) Balloons (including children's balloons and balloons inflated by blown, pumped or forced air); blimps, festoon lighting, inflatable signs, pennants and streamers.
- (8) Bench sign or a sign on other furniture.
- (9) Fin sign; flashing sign.
- (10) Indirect illuminated signs which direct light into residential districts.
- (11) Obscene sign.
- (12) Obstructing sign.
- (13) Portable sign, except as otherwise provided in TDC 38.110(5) and (12) for temporary banners and lawn signs, respectively.
- (14) Readerboard sign, mechanical or electronic, except as otherwise provided in TDC 38.110(9)(k) and 38.225(1)(j) for directory signs, 38.140(2)(b) and (2)(d)(vii), 38.150(5)(b), 38.160(2)(b), 38.170(2)(b) and 38.180(2)(b) for schools and churches, 38.240(1)(a)(vii) for schools for kindergarten through 12, and 38.220(1)(c)(viii) and 38.220(1)(d)(vii) for cinemas, theaters and churches.
- (15) Electronic message display sign or changing image sign, except as otherwise provided in TDC 38.140(2)(e) for a public high school located on a School District property in the RL Planning District with an area of 40 acres or greater.
- (16) Roof sign.
- (17) Rotating, revolving or moving signs.
- (18) Search lights, beacons or strobe lights.
- (19) Shingle/blade signs, except as otherwise provided in TDC 38.230(1)(b)(vii), 38.220(1)(d)(viii) and 38.225(1).
- (20) Signs attached to trees.
- (21) Snipe signs and nonpublic signs attached to or mounted on objects within the public right-of-way, such as on utility poles.
- (22) Signs attached to or located on a stationary vehicle or trailer which is visible from a public right-of-way or parking lot or other area accessible to the public, and intended primarily for display of the sign.
- (23) Signs resembling official traffic signs or signals, for example signs stating "stop," "go slow," "caution," "danger" and "warning," except officially authorized or installed by the City of Tualatin, State of Oregon or Washington or Clackamas County.
- (24) Signs with visible incandescent bulbs or fluorescent tubes or signs with a visible immediate source of illumination, except neon. The erection or placement on any exterior portion of a building or structure of incandescent or fluorescent illumination is

prohibited, except incandescent bulbs of less than 15 watts during the period November 1 through January 10.

(25) Signs which have lost their status as legal signs either due to alteration, modification, relocation or replacement without first obtaining a sign permit when a sign permit is required.

(26) Signs associated with illegal uses according to the provisions of the Tualatin Development Code or decisions on applications made pursuant to the Tualatin Development Code.

(27) Signs which constitute a public nuisance.

(28) Unsafe signs.

(29) Signs which incorporate flames or emit sounds or odors.

(30) Electrical signs whose electricity is provided by any means except underground wiring.

(31) Signs supported in whole or in part by cables or guy wires or which have cables or guy wires extending to or from them.

(32) Permanent signs on a property with no building.

(33) Permanent signs on a building with no occupants.

**SECTION 11. TDC Chapter 39 (Use Categories).** TDC 39 (Use Categories) is created to read as follows:

**Section 39.100 – Use Classifications – General Principles.**

(1) **Purpose.** Land uses are classified into use categories based on common functional, product or physical characteristics, including the type and intensity of activity typical of impact, type(s) of customers or residents, typical off-site impacts, and building type. The basis for allowing or prohibiting the use categories in the various zones is in the goals and policies of the Comprehensive Plan.

(2) **Organization and Guidelines.** Each use category is organized into the following sections:

(a) **Characteristics.** A description of the qualities and attributes, essential features, nature of operation, and impacts generally associated with a specific use.

(b) **Examples of Uses.** An illustrative, not exhaustive, list of activities or land uses that possess the characteristics of the use category.

(3) **Multiple Uses on a Site.** Uses may be regulated differently depending on the nature of the use on a site, in accordance with this section.

(a) **Multiple Primary Uses.** When all primary uses on a site fall within one use category, then the development falls within that use category. When the primary uses on a site fall within different use categories, each primary use is classified in the applicable use category and is subject to the regulations for that use category.

(b) **Limited Uses.** Limited uses are uses or activities that are allowed and may be subject to additional regulations beyond those required of the primary use.

(c) **Accessory Uses.** Accessory uses are uses or activities that are subordinate and incidental to a primary use on a site. Accessory uses are allowed in conjunction with the primary use and subject to the same regulations as the primary use, unless stated otherwise in this code.

(4) **Considerations in Classifying Uses.** The following items are used to determine the use category of a particular use or activity, and whether the activities constitute primary or accessory uses:

- (a) The description of the activity(ies) in relationship to the characteristics of each use category;
- (b) The relative amount of site or floor space and equipment devoted to the activity;
- (c) Relative amount or type of sales from each activity;
- (d) The customer type for each activity;
- (e) The relative number of employees in each activity;
- (f) Hours of operation;
- (g) Building and site arrangement;
- (h) Type of vehicle used with the activity;
- (i) The relative number of vehicle trips generated by the activity;
- (j) How the use advertises itself; and
- (k) Whether the activity would be likely to be found independent of the other activities on the site.

**Section 39.110 – Uses Not Specifically Addressed.** Uses not specifically addressed in this code may be classified into a use category through the process of a Code Interpretation application, pursuant to Section 39.070.

**Section 39.115 – Use Definitions.** The following words and phrases mean:

*Animal Hospital* (Including Veterinary Clinic). Any building or portion thereof designed or used for the care, observation or treatment of domestic animals.

*Assembly.* As used in the Manufacturing Planning districts, assembly means the putting together of a final product using parts and components that have been fabricated elsewhere and shipped in. See also Manufacturing.

*Automobile Service Station.* A fueling facility for passenger or commercial vehicles, including a card-lock facility, which may or may not include a retail mart and/or vehicle repair shop.

*Call Center or Customer Service Center.* An operation that serves as a location to initiate or receive communications for others – via telephone, email, or internet – for the purposes of:

- (1) Promoting clients products or services;
- (2) Taking orders for clients;
- (3) Soliciting contributions for a client, and;
- (4) Providing information or assistance regarding a client’s products or services.

*Drive-up Uses.* Any establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles. Drive up uses do not include automobile service stations.

*Family Recreation Center.* A business offering two or more forms of recreational activity such as boat rides, bowling, electronic games, go-cart tracks, miniature golf, skating, water slides, or similar commercial amusements. Restaurants, gift shops and other businesses may also be included if clearly incidental to the primary recreational activities.

*Health or Fitness Facility.* A facility designed to accommodate indoor or outdoor activities such as racquetball courts, tennis courts, gymnasiums, weight lifting rooms and other exercise areas, swimming pools and similar uses.

*Home Improvement Materials and Supplies Retail Sales.* Retail sale of home improvement materials and supplies including, but not limited to, electrical supplies; fencing materials; floor coverings such as hardwood, linoleum, vinyl, carpet and rugs; garden tractors and lawn mowers; hardware; building insulation; wall coverings, draperies, window shades, and blinds; lawn and garden supplies; lawn mowers; lighting fixtures; lumber; masonry supplies; painting supplies; plumbing supplies and fixtures; plywood and wood panel materials; siding; roofing; window materials; durable household goods (e.g. refrigerators, stoves and washing machines); and tools (handheld and table or stand mounted).

*Hospital.* An institution providing health services, primarily for inpatients, and medical, psychiatric or surgical diagnosis and care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient facilities, long-term care facilities, training facilities, central service facilities, retail facilities for the needs of patients, staff and doctors' offices, and residential facilities for staff and patients.

*Manufacturing.* As used in the Manufacturing Planning districts, manufacturing means the creation of basic parts of a manufactured product from raw materials. See also Assembly.

*Memorial Planning and Products Center.* A facility providing cremation and burial planning assistance and associated products and services, including a crematory, sale of memorial products such as caskets and urns, comfort rooms and witnessed placement cremation services serving the immediate family of the deceased, and similar death-care related products and services, but not including mortuaries, cemeteries, funeral homes or similar facilities that hold memorial or funeral services which are open to the general public.

*Nonretail Cardlock Fueling Station.* An unattended facility where gasoline and diesel fuels are dispensed through a card or key activated fuel dispensing device by nonretail customers.

*Outdoor Storage.* The storage of materials or merchandise outside of a building. Except as otherwise provided in these standards, outdoor storage includes only



materials or merchandise directly related to the primary permitted use on the site where the outdoor storage is proposed to be conducted.

*Pharmacy.* A place where the sole function is to dispense prescription and non-prescription drugs. The terms “dispense,” “dispensing,” “drugs,” “non-prescription drugs,” “prescription,” and “prescription drugs,” has the meanings indicated in ORS 689.005 which meanings are hereby adopted by reference.

*Pet Day Care.* A business providing pet care services for dogs and cats such as day care, sitting services, grooming, and retail sales of pet products. Pet Day Care is not allowed for animals other than dogs or cats including exotic animals or animals not considered ordinary household pets. Kennels for dog breeding and training are not allowed.

*Portable Construction Office.* An enclosed structure used for a business office or storage of construction or residential, commercial or industrial structures by the owner, subdivider, contractor, or their authorized agents and representatives.

*Recycling-Collection Center.* A permanent facility for the collection, storage, repair, processing or distribution of repairable or reusable household goods or materials, when housed in a fully enclosed building. In this context, "materials" is specifically intended to include empty bottles, jars, cans, boxes or similar containers, as well as newspaper, magazines and other printed matter.

*Restaurant, Drive-In.* A restaurant in which patrons order from and are served food in their automobiles and which is designed for consumption of food to occur in the automobiles on the premises. Little or no inside customer seating is provided.

*Restaurant, Take-Out.* An establishment where some of the meals are pre-prepared and served to the public for consumption on the premises; others are pre-prepared and packaged for customers to take off the premises for consumption. A take-out restaurant may or may not include a drive-up window where customers order through a speaker, drive around and pick up food, then leave premises for consumption.

*Shared Service Facility.* An operation that serves as a data center for the purposes of storing, managing, processing and exchanging digital data and information, and physically housing large amounts of computer equipment such as servers (e.g., web servers, application servers, database servers), switchers, routers, data storage devices, load balancers, wire cages or closets, vaults, racks, etc.

*Telecommuting.* The act of an employee working at home by the use of an electronic linkup with a central office.

## **RESIDENTIAL USE CATEGORIES**

### **Section 39.200 – Household Living.**

(1) **Characteristics.** Household Living is the residential occupancy of an owner-occupied or rented dwelling unit by a family or household. Dwelling units must be self-contained, with cooking, sleeping and bathroom facilities. Occupancy is long-term, 30 days or more, and non-transient.

(2) **Housing Types.** Household Living uses can be accommodated in the following housing types. Housing types are subject to the regulations specific to each planning district or overlay district.

- Single-Family Dwelling (detached) (as defined in TDC 31.060).
- Accessory Dwelling Unit (as defined in TDC 31.060).
- Manufactured Dwelling (as defined in TDC 31.060).
- Manufactured Dwelling Park (as defined in the TDC 31.060).
- Duplex (as defined in the TDC 31.060).
- Townhouse (as defined in the TDC 31.060).
- Multi-Family Structure (as defined in the TDC 31.060).
- Retirement Housing Facility (as defined in TDC 31.060).
- Residential Home (as defined in TDC 31.060).

(3) **Exceptions.**

- Bed and breakfast inns are classified as Commercial Lodging.
- Rentals of less than 30 days are classified as Commercial Lodging.

### **Section 39.210 – Residential Accessory Uses.**

(1) **Characteristics.** Residential Accessory Uses are small-scale commercial uses that can be operated within or on the same lot as a residential dwelling in a manner that is compatible with and minimizes impacts on other residential uses. Residential Accessory Uses are permitted only as accessory uses to a primary Household Living use and are limited to the examples of uses provided in TDC 39.210(2).

(2) **Examples of Uses.**

- Home Occupation (as defined in TDC 31.060).
- Family Child Care Home (as defined in TDC 31.060).

(3) **Exceptions.** None.

### **Section 39.220 – Group Living.**

(1) **Characteristics.** Group Living is the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group may be larger than the average size of a household. Persons in group living may, or may not, receive care, treatment, or training for which the State requires certification or licensure. Group Living uses may have common facilities for dining, socializing, recreation, laundry, or other activities.

(2) **Examples of Uses.**

- Residential Facility (as defined in TDC 31.060).
- Nursing Facility (as defined in TDC 31.060).
- Congregate Care Facility (as defined in TDC 31.060).
- Group living associated with a religious practice or religious affiliation per state law.
- Dormitories, fraternities, and sororities.

(3) **Exceptions.**

- Lodging where tenancy may be arranged for less than 30 days is classified as Commercial Lodging.

## **COMMERCIAL USE CATEGORIES**

### **Section 39.300 – Agriculture.**

(1) **Characteristics.** Agricultural uses are activities that raise, produce or keep plants or animals. The raising of animals in the City of Tualatin is limited to normal household pets and chickens, as otherwise allowed by the Tualatin Municipal Code.

(2) **Examples of Uses.**

- Production of agricultural crops.
- Horticulture.
- Forest harvesting.
- Orchards.

(3) **Exceptions.**

- Processing of animal or plant products are classified as either Light Manufacturing or Heavy Manufacturing, depending on the nature of the use.
- Plant nurseries that are oriented to retail sales are classified as Durable Goods Sales.

### **Section 39.305 – Commercial Lodging.**

(1) **Characteristics.** Commercial Lodging is the operation of overnight accommodations where tenancy is typically arranged on a daily, weekly, or monthly basis, and includes lodging amenities.

(2) **Examples of Uses.**

- Bed and breakfast inns.
- Hotels and motels.
- Extended stay hotels or suites.

(3) **Exceptions.** Landlord-tenant arrangements on a month-to-month basis are classified as Household Living or Group Living.

### **Section 39.310 – Commercial Recreation.**

(1) **Characteristics.** Commercial Recreation uses are facilities used for a variety of health, recreational, entertainment, or social activities, usually operated by a for-profit business or membership organization, but may be conducted by a non-profit or public entity. Activities are primarily by and for participants; spectators are incidental and present on a non-recurring basis. Activities may be conducted within an enclosed building or in open facilities.

(2) **Examples of Uses.**

- Amusement enterprise, including pool hall, bowling alley, dance hall or skating rink.
- Boat dock, marina, or boat rental.
- Family recreation center (as defined in TDC 39.115).
- Health or fitness facility (as defined in TDC 39.115).
- Private meeting hall, club or lodge hall, or fraternal organizations.
- Public or private camping grounds, including recreational vehicle parking.

**(3) Exceptions.**

- Uses which draw large numbers of people to periodic events are classified as Assembly Facilities.
- Golf courses and country clubs associated with golf courses are classified as Parks and Open Areas.

**Section 39.315 – Commercial Parking.**

(1) **Characteristics.** Commercial Parking are facilities, in structures or on surface lots, and which provide public, customer, or employee parking independent of and not associated with a particular use. A fee may or may not be charged.

(2) **Examples of Uses.**

- Fee parking garages and surface parking lots.
- Commercial district shared parking lots.
- Commercial shuttle parking.

(3) **Exceptions.**

- Surface lots or parking garages accessory to a particular use, used by the public during occasional nearby events are not classified as Commercial Parking.

**Section 39.320 – Durable Goods Sales.**

(1) **Characteristics.** Durable Goods Sales are the sale, rental, or lease of new and used goods having extended utility. Durable Goods Sales may require extensive indoor and/or outdoor display areas.

(2) **Examples of Uses.**

- Retail sale of home improvement materials and supplies, including but not limited to: interior/exterior building and construction materials, electrical supplies, plumbing supplies and fixtures, lawn and landscaping equipment, floor coverings, home décor, indoor/outdoor household appliances, paint and painting supplies, and tools and hardware.
- Retail sale of furniture and large appliances.
- New and used sales of motorcycles, boats, recreational vehicles, or trailers.
- Retail nurseries or greenhouses.
- Auto leasing office.

(3) **Exceptions.**

- Sales of building and landscaping materials primarily sold to contractors is classified as Wholesale Sales.
- Sales, leasing, or rental of industrial, farm, or construction equipment is classified as Wholesale Sales.
- Sales of bicycles are classified as Retail Sales and Service.
- Outdoor storage or sale of automobiles is not permitted in any zone.

**Section 39.325 – Eating and Drinking Establishments.**

(1) **Characteristics.** Eating and Drinking Establishments sell food and/or beverages to the general public for on-site consumption and/or take-away service.

(2) **Examples of Uses.**

- Cafes, coffee shops, and delicatessens.
- Restaurants with take-out facilities.

- Restaurants without take-out facilities.
- Taverns, cocktail lounges, brew pubs, bars, and night clubs.

**(3) Exceptions.**

- Food service that is accessory to another use, (e.g., hotel, major entertainment venue), is regulated as part of the primary use.
- Catering or food preparation without on-site consumption is classified as Retail Sales and Services.

**Section 39.330 – Other Educational and Vocational Services.**

**(1) Characteristics.** Other Educational and Vocational Services provide specialized training or instruction not regulated by the Higher Education Coordinating Commission (HECC) or state mandated. These services may be provided to children or adults. Training or instruction may be provided for fine arts, recreational or athletic activities, professional, or academic tutorial instruction.

**(2) Examples of Uses.**

- Martial arts or gymnastics instruction.
- Music or dance instruction.
- Arts and crafts schools.
- Tutoring services (free-standing, not provided within a residential dwelling).
- Vocational training.

**(3) Exceptions.**

- Trade schools where industrial vehicles and equipment are operated are classified as Light Manufacturing.
- Public and private elementary, middle and high schools, with or without kindergartens, are classified as Schools.
- College, Universities and Private Career Schools regulated under Oregon Higher Education Coordinating Commission (HECC) are classified under Colleges, Universities and Private Career Schools.

**Section 39.335 – Marijuana Facilities.**

**(1) Characteristics.** Marijuana Facilities are a commercial or public use or structure where marijuana is produced, processed, wholesaled, retailed, distributed, transferred, sold or consumed and registered with the Oregon Health Authority (OHA) or the Oregon Liquor Control Commission (OLCC).

**(2) Examples of Uses.**

- Marijuana retail sale facility.
- Medical marijuana dispensary.
- Marijuana production or processing facility.

**(3) Exceptions.**

- The production of marijuana extracts through the use of butane is prohibited.

**Section 39.340 – Medical Office.**

**(1) Characteristics.** Medical Offices are facilities operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. Medical Offices typically receive many patients and visitors throughout the day. Laboratories designed

for diagnostic testing and analysis for medical or dental purposes are also classified as Medical Office.

**(2) Examples of Uses.**

- Medical, dental and allied health clinics and offices, and blood collection facilities.
- Medical and dental laboratories.

**(3) Exceptions.**

- Offices used for non-medical industries are classified as Office.

**Section 39.345 – Office.**

**(1) Characteristics.** Office uses are characterized by activities conducted in an office setting that focus on the provision of goods and services, usually by professionals.

**(2) Examples of Uses.**

- Computer system design and programming.
- Construction contracting offices without on-site storage of equipment or materials.
- Data processing.
- Engineering, architectural, planning, and similar services.
- Graphic and industrial design.
- Government offices.
- Magazine or newspaper distribution agency.
- Movie production facilities and recording studios.
- Financial, legal, insurance, and real estate services.
- Scientific and technical services.
- Software and internet content development and publishing.
- Telecommunication service providers.
- Telemarketing or customer support center.
- Television, video, radio, and internet studios and broadcasters.

**(3) Exceptions.**

- Facilities operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons are classified as Medical Office.
- Laboratories designed for diagnostic testing and analysis for medical or dental purposes are classified as Medical Office.
- If construction equipment and materials are stored on site, contracting firms are classified as Light or Heavy Manufacturing.

**Section 39.350 – Quick Vehicle Servicing.**

**(1) Characteristics.** Quick Vehicle Servicing provides direct services for motor vehicles at a drive-through facility, which may include a mini-mart in certain zones, where the service is performed and where the driver generally waits for the service to be performed.

**(2) Examples of Uses.**

- Automobile Service Station (as defined in TDC 39.115).
- Non-Retail Cardlock Fueling Station (as defined in TDC 39.115).
- Car washes.

- Quick lubrication services.
- Department of Environmental Quality vehicle emission test sites.

**(3) Exceptions.**

- Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) which are on the site where the vehicles are kept are accessory to the primary use.
- Outdoor storage or sale of automobiles is not permitted in any zone.

**Section 39.355 – Retail Sales and Services.**

**(1) Characteristics.** Retail Sales and Services sell, lease, rent and/or repair new or used products or provide personal services. These products and services typically are provided directly to consumers, as opposed to wholesale products and services provided to industrial, institutional, or commercial customers.

**(2) Examples of Uses.**

- Sales, leasing or rental of products and equipment including art and crafts supplies, clothing electronic equipment, flowers, groceries, hardware, jewelry, pets, pet food, pharmaceuticals, plants and garden supplies, scientific or professional instruments, sporting goods, and printed media.
- Repair or servicing of consumer products or equipment generally performed on-site including communication and electronic devices, bicycles, clocks, watches, shoes, firearms, appliances and office equipment, locksmithing, or scientific or professional instruments.
- Processing of consumer products or equipment, including photo processing, dry cleaning and alterations, and photocopy and blueprint services.
- Personal services including Child Care Center (as defined in TDC 31.060), branch banks, laundromats, photographic studios, personal care services such as salons or barber shops, taxidermists, and animal-related services including Pet Day Care (as defined in TDC 31.060) and Animal Hospital or Veterinary Clinic (as defined in TDC 39.115).
- Memorial Planning and Products Center (as defined in TDC 39.115), mortuaries and crematoria.
- Catering or food preparation without on-site consumption.

**(3) Exceptions.**

- Furniture, large appliance, and home improvement stores are classified as Durable Goods Sales.
- Plant nurseries that are oriented to retail sales are classified as Durable Goods Sales.
- Sales, leasing and/or rental of motorcycles, boats, recreational vehicles, or trailers are classified as Durable Goods Sales.
- Sales, leasing and/or rental of industrial, farm or construction equipment are classified as Wholesale Sales.
- Repair and service of automobiles, motorcycles and boats is classified as Vehicle Repair.
- Service of industrial, construction, and farm vehicles and equipment is classified as Industrial Services.

- In-home family day care that is licensed by the State is classified as Household Living.
- Residential homes that are licensed and/or permitted by the State are classified as Group Living.
- Residential facilities that are licensed and/or permitted by the State which provide care, treatment, training or foster care for 6 or more persons are classified as Group Living.
- Medical clinics providing outpatient care and not located in a hospital, and medical or dental laboratories, are classified as Medical Office.

### **Section 39.360 – Self-Service Storage.**

(1) **Characteristics.** Self-Service Storage uses provide free-standing indoor storage facilities for rent to individuals and businesses. These uses are designed to allow private access at all hours by the tenant for storing or removing personal or business property.

(2) **Examples of Uses.**

- Mini-storages or mini-warehouses that are single-story or multi-story buildings with outside access to each unit or inside access from a common internal hallway.

(3) **Exceptions.** A transfer and storage business where there are no individual storage units or where business employees are the primary movers of the stored or transferred goods is classified as Warehouse and Freight Movement.

### **Section 39.365 – Vehicle Repair.**

(1) **Characteristics.** Vehicle Repair provides vehicle repair and servicing to passenger vehicles, light and medium trucks, motorcycles, boats, recreational vehicles, and other consumer motor vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.

(2) **Examples of Uses.**

- Alignment shop.
- Auto body and/or paint shop.
- Auto detailing.
- Auto upholstery shop.
- Tire sales and mounting.
- Transmission or muffler shop.
- Vehicle repair.

(3) **Exceptions.**

- Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage are classified as Light Manufacturing.
- Outdoor storage or sale of automobiles is not permitted in any zone.

## **INDUSTRIAL USE CATEGORIES**

All industrial uses must continually comply with the Environmental Regulations specified in TDC Chapter 63.



## **Section 39.400 – Light Manufacturing.**

(1) **Characteristics.** Light Manufacturing is the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such activity takes place, and where such processes are housed entirely within a building. Light Manufacturing also includes the repair and/or servicing of industrial, business, or consumer machinery, equipment, products or by-products, or in training or instruction of such repair or servicing. Products are generally not displayed or sold on site, but if so, sales and display are accessory to the primary use and subject to restrictions, such as size, set forth in the planning district in which the use will be located. All industrial uses must continually comply with the Environmental Regulations specified in TDC Chapter 63.

### **(2) Examples of Uses.**

- Building, heating, plumbing and electrical contractor's offices, with on-site storage of equipment or materials.
- Food, beverage, and related product processing and packaging.
- Laundry, dry cleaning, dyeing or rug cleaning plant (non-retail).
- Machine shop, including automotive machine shop.
- Manufacture, packaging, processing or assembly of small instruments, equipment, devices, and components, such as audio, video, and computer equipment; hand tools; hearing aids; musical instruments; office equipment; optical goods; scientific instruments or equipment; and sporting goods.
- Manufacture of cabinets, furniture, and mattresses.
- Printing and publishing shops (non-retail).
- Processing, assembly, packaging, and other treatment of small products manufactured from the following prepared or semi-finished materials: bone, hair, fur, leather, feathers, textiles, plastics, glass, wood, paper, cork, wire, rubber, and rubber compounds, precious or semi-precious stones, and similar small products composed of previously prepared or semi-finished materials.
- Production of artwork, toys, novelties, pottery and ceramics (using only previously pulverized clay).
- Production of textiles or apparel.
- Research and development laboratories.
- Trade or industrial schools where industrial vehicles and equipment are operated.

### **(3) Exceptions.**

- Certain manufacturing uses are classified exclusively as Heavy Manufacturing.
- Structural-mechanical testing laboratories are classified as Heavy Manufacturing.
- Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services.
- Compost production and rendering plants are classified as Solid Waste Treatment and Recycling.
- The following uses are prohibited in all zones:
  - Auto wrecking.

- Creosote treatment of products.
- Distillation of bones.
- Distillation of oil, coal, wood or tar compounds.
- Fat rendering.
- Forge plants.
- Handling, storage, processing or other activities dealing with hazardous or toxic materials or substances, explosives or radioactive waste
- Junk or salvage yard.
- Manufacturing of the following products: acid; ammonia; bleaching powder; celluloid pyroxylin; cement, lime, gypsum and plaster of paris; chlorine gas; creosote; disinfectant; dye stuffs; explosives; fertilizer; herbicides; insect poison; radioactive materials; soap; sodium compounds; tar roofing, water-proofing and other tar products.
- Rolling mills or saw mills.
- Rock crushing.
- Slaughter of livestock or poultry.
- Primary processing of organic materials such as tanning of leather.

### **Section 39.410 – Heavy Manufacturing.**

(1) **Characteristics.** Heavy Manufacturing is the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or manufacturing processes and not a Light Manufacturing use. The use may involve outdoor operations. Heavy Manufacturing also includes the repair and/or servicing of industrial, business, or consumer machinery, equipment, products or by-products, or in training or instruction of such repair or servicing. Products are generally not displayed or sold on site, but if so, sales and display are accessory to the primary use and subject to restrictions, such as size, set forth in the zone in which the use will be located. All industrial uses must continually comply with Environmental Regulations specified in TDC Chapter 63.

### **(2) Examples of Uses.**

- Casting or fabrication of metals, including electroplating.
- Concrete batching and asphalt mixing plants.
- Manufacture, assembly, processing, or packaging of the following types of products: batteries; bicycles; boilers; bottles; brick, tile or terra cotta; cans; chainsaws; dryers; electric generators; electric motors; electric transformers; engines, larger gasoline or diesel; freezers; heating and cooling equipment; industrial gases, excluding chlorine; ladders; lawnmowers; manufactured dwellings; marine pleasure craft; motor vehicles; paint; pet food; prefabricated building or structural members for buildings; sashes and doors; signs and display structures; refrigerators; rototillers; vending machines; washing machines; and windows.
- Planing mill.
- Sandblasting.
- Structural-mechanical testing laboratories.
- Welding shop.

### **(3) Exceptions.**

- Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services.
- Compost production and rendering plants are classified as Solid Waste Treatment and Recycling.
- **The following uses are prohibited in all zones:**
  - Auto wrecking.
  - Creosote treatment of products.
  - Distillation of bones.
  - Distillation of oil, coal, wood or tar compounds.
  - Fat rendering.
  - Forge plants.
  - Handling, storage, processing or other activities dealing with hazardous or toxic materials or substances, explosives or radioactive waste.
  - Junk or salvage yard.
  - Manufacturing of the following products: acid; ammonia; bleaching powder; celluloid pyroxylin; cement, lime, gypsum and plaster of paris; chlorine gas; creosote; disinfectant; dye stuffs; explosives; fertilizer; herbicides; insect poison; radioactive materials; soap; sodium compounds; tar roofing, water-proofing and other tar products.
  - Rolling mills or saw mills.
  - Rock crushing.
  - Slaughter of livestock or poultry.

### **Section 39.420 – Solid Waste Treatment and Recycling.**

(1) **Characteristics.** Solid Waste Treatment and Recycling uses receive, process and/or recycle solid waste materials.

(2) **Examples of Uses.**

- Energy recovery plants.
- Portable toilet collection, storage and pumping.
- Recycling-Collection Center (as defined in TDC 39.115).
- Commercial waste composting and/or compost production.

(3) **Exceptions.**

- The following related uses are prohibited in all zones: vehicle and heavy machinery salvage and wrecking; hazardous-waste collection and processing; rendering plants; and junk or salvage yards
- Uses listed above in the Examples of Uses are not allowed in the Special Commercial Setback 60.035 (1-3)
- Community recycling or composting facilities at a community garden are classified as Community Services.

### **Section 39.430 – Vehicle Storage.**

(1) **Characteristics.** Vehicle Storage are storage facilities for vehicles including automobiles, boats, buses, recreational vehicles, and trailers.

(2) **Examples of Uses.**

- Vehicle impoundment yards.
- Vehicle fleet storage and maintenance facilities.

- Towing and vehicle storage operations.
- School bus yards.
- Recreational vehicle storage.
- Transit vehicle storage and maintenance yards.

**(3) Exceptions.**

- Auto wrecking yards are not permitted in any zones.
- Automobile sales are not permitted in any zones.

**Section 39.440 – Warehouse and Freight Movement.**

**(1) Characteristics.** Warehouse and Freight Movement is the storage, repackaging, delivery and movement of products.

**(2) Examples of Uses.**

- Cold storage plants, including frozen food lockers.
- Wholesale distribution centers.
- Parcel or postal distribution facilities.
- Mail-order merchandise warehouses.

**(3) Exceptions.**

- Uses that involve the transfer or storage of solid or liquid wastes are classified as Solid Waste Treatment and Recycling.
- Storage facilities that provide individual units to the general public are classified as Self-Service Storage.
- Storage, handling, repackaging, delivery or movement of hazardous or toxic materials or substances, explosives or radioactive waste is not permitted in any zones.

**Section 39.450 – Wholesale Sales.**

**(1) Characteristics.** Wholesale Sales are the sale, lease, and/or rental of products primarily to businesses. On-site sales to the general public are limited.

**(2) Examples of Uses.**

- Wholesale sales of industrial hand tools and industrial supplies such as safety equipment and welding equipment.
- Wholesale sales, service and rental of construction and industrial equipment, such as tractors, loaders, hoes, lifts, cranes, and utility trucks, to contractors and industrial firms.
- Wholesale sales and service of machines and tools primarily for industrial and commercial firms including machine tools, fabrication, processing and packaging machinery, hoists, conveyors, racking systems and forklifts.
- Wholesale sales of building materials and supplies, including, but not limited to, electrical supplies; fencing materials; building insulation; lumber; prefabricated trusses and structural frames; structural metal materials; masonry supplies; ceramic & stone tile and pavers; painting supplies; plumbing supplies; plywood and wood panel materials; roofing; siding; flooring; window materials; door materials; and tools (handheld and table or stand mounted).

**(3) Exceptions.**

- Companies that engage primarily in sales to the general public are classified as Retail Sales and Services.

- Companies that engage in sales on a membership basis are classified as either Retail Sales and Services or Wholesale Sales, based on the characteristics of the use.
- Companies that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.
- Sales, storage, handling, repackaging, delivery or movement of hazardous or toxic materials or substances, explosives or radioactive waste is not permitted in any zones.

## **INSTITUTIONAL USE CATEGORIES**

### **Section 39.500 – Assembly Facilities.**

(1) **Characteristics.** Assembly Facilities are uses that attract a large number of people who participate as a group in a specific activity or event that may be religious, cultural, educational, social or recreational.

(2) **Examples of Uses.**

- Churches, synagogues, mosques, temples, or other places of worship.
- Auditoriums, exhibition halls, or rooms for public assembly.
- Theaters.

(3) **Exceptions.**

- An assembly area that is accessory to the primary use, such as a conference facility in a hotel or industrial campus or an auditorium in a school, is considered accessory to the primary use.

### **Section 39.510 – Colleges, Universities, and Private Career Schools.**

(1) **Characteristics.** Colleges, Universities, and Private Career Schools are public or private colleges, universities, or institutions that offer courses of study leading to an associate, bachelor, and/or advanced degree or trades certification. Such institutions are certified by the Oregon Higher Education Coordinating Commission (HECC), a regulatory, licensing and authorizing state office that approves degree-granting institutions, private career schools and distance education providers. Without approval or explicit exemption from regulation from HECC, a school cannot legally operate in Oregon or offer valid degrees or certificates to Oregonians.

(2) **Examples of Uses.**

- Community colleges.
- Liberal arts colleges.
- Religious colleges.
- Universities.
- Medical or nursing schools.
- Private career schools.
- Post-secondary and training establishments for veterans.

(3) **Exceptions.**

- Trade schools where industrial vehicles and equipment are operated are classified as Light Manufacturing.
- Educational and vocational services that do not offer a degree or trade certification and are not regulated by HECC are classified as Other Educational and Vocational Services.

- Public and private elementary, middle and high schools, with or without kindergartens, are classified as Schools.

**Section 39.520 – Community Services.**

(1) **Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing continuous, on-site social, cultural, or recreational services provided to residents of the community.

(2) **Examples of Uses.**

- Community centers, youth or senior centers, open to the general public.
- Community aquatic centers, open to the general public.
- Community recreation buildings or facilities.
- Cultural centers.
- Libraries, museums, and related cultural facilities.

(3) **Exceptions.** Private lodges, clubs, and private or commercial athletic or health clubs, are classified as Commercial Recreation.

**Section 39.550 – Medical Centers.**

(1) **Characteristics.** Medical Centers are a comprehensive, multi-disciplinary health care facility contained in several buildings providing a wide range of diagnostic, imaging and treatment services on an inpatient and outpatient basis to sick and injured persons; and providing training, administrative, maintenance and housing activities related to its health care mission; and providing limited supporting retail and service uses.

(2) **Examples of Uses.** Medical Centers may include any of the following uses as part of a campus facility:

- Hospital (as defined in TDC 39.115).
- Offices of physicians and dentists.
- Offices and clinics of allied health care providers, including but not limited to nurse practitioners; midwives; dietitians; psychologists; opticians; physical and occupational therapists; occupational health/safety specialists; substance abuse counselors; chiropractors; and wellness centers including physical fitness facilities, nutritional counseling, health maintenance and rehabilitation services.
- Durable medical goods sales and rentals.
- Nursing school and other medical training facilities.
- Medical and dental laboratories.
- Medical and dental related research laboratories and testing facilities.
- Medical and dental nonprofit educational, charitable and research organizations and facilities.
- Congregate care facilities and residential facilities.
- Nursing and convalescent homes.
- Community meeting facilities.
- Parking lot, parking structure, or underground parking.

(3) **Exceptions.**

- Free-standing Residential Homes that are licensed and/or required to be permitted by the State which provide residential care to five or fewer individuals are classified as Household Living.

- Free-standing Residential Facilities licensed and/or required to be permitted by the State which provide care, treatment, training or foster care for 6 or more persons are classified as Group Living.
- Free-standing medical clinics or medical office buildings providing outpatient care and not located in Medical Center campus are classified as Medical Office.

**Section 39.570 – Schools.**

(1) **Characteristics.** School uses are public and private educational facilities providing state mandated basic education. Schools may serve any ages of students from kindergarten through 12th grade.

(2) **Examples of Uses.**

- Public, private, and charter elementary, middle, and high schools, with or without kindergartens.
- Pre-schools which are incorporated into the education continuum of state-mandated basic education within a public or private educational facility.
- Boarding schools and military academies that have residential facilities for students.

(3) **Exceptions.**

- Pre-schools which are standalone schools not associated with the grade levels of state-mandated basic education are classified as child day care under Retail Sales and Services.
- Trade schools where industrial vehicles and equipment are operated are classified as Light Manufacturing.
- Educational and vocational services that do not offer a degree or trade certification and are not regulated by HECC are classified under as Other Educational and Vocational Services.
- Colleges, Universities and Private Career Schools regulated under Oregon Higher Education Coordinating Commission (HECC) are classified under Institutional Use Category: Colleges, Universities and Private Career Schools

**INFRASTRUCTURE AND UTILITIES CATEGORIES**

**Section 39.600 – Greenways and Natural Areas.**

(1) **Characteristics.** Greenways and Natural Areas are linear or naturally landscaped strip of land usually located adjacent to watercourses and roadways. Greenways and Natural Areas may include but not limited to bike and pedestrian paths and interpretive stations.

(2) **Examples of Uses.**

- Bicycle Path (as defined in TDC 31.060).
- Greenway (as defined in TDC 1.020).
- Outdoor Recreation Trail (as defined in TDC 31.060).
- Outdoor Recreational Access Route (as defined in TDC 31.060).
- Pedestrian Paths (as defined in TDC 31.060).

(3) **Exceptions.** None.

### **Section 39.610 – Parks and Open Areas.**

(1) **Characteristics.** Parks and Open Areas are generally publicly-owned or non-profit facilities featuring natural or cultivated landscaping; active and passive outdoor recreation. Lands tend to have few structures.

(2) **Examples of Uses.**

- Athletic practice facility.
- Botanical gardens.
- Cemeteries.
- Community gardens.
- Golf courses or country clubs associated with golf courses.
- Parks.
- Playing fields.
- Public squares and plazas.
- Sport courts such as basketball or tennis.
- Swimming pools.
- Trails.

(3) **Exceptions.** Linear or naturally landscaped strips of land usually located adjacent to watercourses and roadways are classified as Greenways and Natural Areas.

### **Section 39.620 – Basic Utilities.**

(1) **Characteristics.** Basic Utilities are local and regional infrastructure facilities that must be located in or near the area to which the infrastructure is provided. Utilities may be publicly or privately owned and operated. Most facilities have few or no on-site employees, although treatment plants may be staffed continuously.

(2) **Examples of Uses.**

- Electrical substations.
- High tension electrical power lines.
- Sewage disposal and conveyance systems.
- Telephone exchange equipment.
- Water or sewage pump stations.
- Water towers and reservoirs.
- Water quality and flow control facilities.
- Water or sewage treatment plants.

(3) **Exceptions.**

- Utility offices where employees or customers are generally present are classified as Offices.
- Public agency or private utility operations centers are classified as Public Safety Facilities.
- Commercial radio or television broadcasting antennas are prohibited in all zones.

### **Section 39.630 – Public Safety and Utility Facilities.**

(1) **Characteristics.** Public Safety Facilities provide police, fire, ambulance and emergency services and public utility services to the community. With the exception of ambulance services, these facilities are typically publicly owned and operated.



**(2) Examples of Uses.**

- Emergency communications centers.
- Police and fire stations.
- Publicly- and privately-operated ambulance facilities.
- Public agency or private utility operations centers.

**(3) Exceptions.** None.

**Section 39.640 – Transportation Facilities.**

**(1) Characteristics.** Transportation Facilities are any physical facility constructed for the movement of people or goods.

**(2) Examples of Uses.**

- The operation, maintenance, repair and preservation activities of existing facilities including but not limited to road, bicycle, pedestrian and rail facilities
- Bus stops, shelters and other elements of the transit system (as defined in TDC 39.060).
- The installation of improvements including but not limited to culverts, fencing, guardrails, landscaping, lighting, medians and pathways within the existing right-of-way.
- Emergency transportation measures necessary for the safety and protection of people and property.
- Acquisition of right-of-way for public roads, highways and other transportation improvements designated in the Transportation System Plan TDC Chapter 11.
- Construction of a street or road as part of an approved subdivision, land partition, architectural review or other land use decision consistent with the TDC.

**(3) Exceptions.**

- Electricity, sewage and water systems are classified as Basic Utilities.
- School bus yards are classified as Vehicle Storage.
- Transit vehicle storage and maintenance yards are classified as Vehicle Storage.

**Section 39.650 – Wireless Communication Facilities.**

**(1) Characteristics.** Wireless Communication Facilities are unstaffed facilities for the transmission or reception of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

**(2) Examples of Uses.**

- Wireless Communication Facility (as defined in TDC 31.060).
- Wireless Communication Facility Attached (as defined in TDC 31.060).

**(3) Exceptions.**

- Free-standing radio and television studios are classified as Offices.
- Commercial radio or television broadcasting antennas are prohibited in all zones.

**SECTION 12. TDC Chapter 40 (Low Density Residential (RL) Zone).** TDC 40 (Low Density Residential Planning District) is deleted in its entirety and replaced with TDC 40 (Low Density Residential (RL) Zone) to read as follows:

**Section 40.100 – Purpose.** The purpose of the Low Density Residential (RL) zone is to provide low density residential areas in the City that are appropriate for dwellings on individual lots, as well as other miscellaneous land uses compatible with a low density residential environment.

**Section 40.200 – Use Categories.**

(1) **Use Categories.** Table 40-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RL zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 40-1 and restrictions identified in TDC 40.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 40-1  
Use Categories in the RL Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C	Permitted housing types subject to TDC 40.220.
Residential Accessory Uses	P (L)	Home Occupations permitted subject to TDC 34.010 to 34.030. Family Child Care Home permitted. Subject to ORS 329A.440.
Group Living	P/C (L)	Permitted uses limited to Residential Facility. Conditional uses limited to Congregate Care Facility subject to TDC 34.400.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	P/C (L)	Subject to TDC 40.210(1).
Durable Goods Sales	C (L)	Conditional uses limited to nurseries.
Retail Sales and Service	C (L)	Conditional uses limited to Child Day Care Center.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C (L)	Conditional uses limited to places of religious worship. See TDC 34.800 Religious uses and

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		ORS 227.500 pertaining to activities customarily associated with practices of religious activity.
Community Services	C	
Medical Center	C (L)	Conditional uses limited to a hospital.
Schools	C	--
INFRASTRUCTURE AND UTILITIES USE CATEGORIES		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to water reservoirs, with a maximum height of 75 feet.
Greenways and Natural Areas	P	--
Parks and Open Areas	P/C (L)	Permitted uses limited to public park or playground. Conditional uses limited to golf course or country club with golf course.
Public Safety Facilities	C (L)	Conditional uses limited to fire stations.
Transportation Facilities	P	--
Wireless Communication Facilities	P (L)	Permitted uses limited to a Wireless Communication Facility Attached, provided it is not mounted to a single-family dwelling or its accessory structures. Maximum height and minimum setbacks subject to TDC Chapter 73F.

**Section 40.210 – Additional Limitations on Uses.**

(1) **Agricultural Uses.** Agricultural uses may be permitted uses or conditional uses depending on the nature of the use.

(a) **Permitted Uses.** The following uses are permitted outright:

- (i) Agricultural uses of land such as gardening and horticulture.
- (ii) Raising of chickens as allowed by the Tualatin Municipal Code.

(b) **Conditional Uses.** The following uses are conditional uses within areas designated on Map 9-6:

- (i) **Conditional Use of Agricultural Animals.** Raising of agricultural animals, limited to cattle, horses and sheep. The City Council may limit the number of animals to be allowed on a specific parcel of property.
- (ii) Agricultural structures such as barns, stables, sheds, but excluding feed lots. Feed lots are prohibited.

**Section 40.220 – Housing Types.** Table 40-2 lists housing types permitted in the RL zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N).

**Table 40-2  
Housing Types in the RL Zone**

<b>HOUSING TYPE</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Single-Family Dwelling	P/C	Single-family dwellings in a small lot subdivision permitted with conditional use permit, subject to TDC 36.410 All other single-family dwellings permitted outright.
Accessory Dwelling Unit	P	Subject to TDC 34.600.
Duplex Townhouse	C	See TDC definition in 31.060.
Multi-Family Structure	C	See TDC definition in 31.060.
Manufactured Dwelling	P	Subject to TDC 40.300(4)
Manufactured Dwelling Park	N	
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060

**Section 40.300 – Development Standards.** Development standards in the RL zone are listed in Table 40-3. Additional standards may apply to some uses and situations, see TDC 40.310. The standards in Table 40-3 may be modified for small lot subdivision as provided in TDC 36.410 and for greenway and natural area dedications as provided in TDC 36.420.

**Table 40-3  
Development Standards in the RL Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MAXIMUM DENSITY</b>		
Single-Family Dwelling	6.4 units per acre	
Retirement Housing or Congregate Care Facility	10 units per acre	
<b>MINIMUM LOT SIZE</b>		
Single-Family Dwelling	Average of	May be reduced for Small Lot

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
	6,500 square feet	Subdivisions, subject to TDC 36.410, or Greenway and Natural Area dedications, subject to TDC 36.420.
Conditional Uses	6,000 square feet	
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
<b>MINIMUM LOT WIDTH</b>		
Single-Family Dwelling	50 feet	May be reduced to 30 feet if on a cul-de-sac. Average minimum lot width is 30 feet.
Conditional Uses	50 feet	May be reduced to 30 feet if on a cul-de-sac. Average minimum lot width is 30 feet.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	15 feet	May be reduced to 12 feet if to an unenclosed porch.
Secondary Frontage on Corner Lot	10 feet	The secondary frontage is determined by the orientation of the structure, based on the location of the front door.
Garage Door	20 feet	
Side	5 feet	
Rear	15 feet	
Conditional Uses	--	As determined through Architectural Review process. No minimum setback must be greater than 50 feet. Parking and vehicular circulation areas must be set back a minimum of 10 feet from any public right-of-way or property line.
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	35 feet	May be increased to a maximum of 50 feet with a conditional use permit, if all

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		setbacks are not less than 1 1/2 times the height of the building.
<b>MAXIMUM LOT COVERAGE</b>		
Single Family Dwelling	45%	
Conditional Uses	40%	

**Section 40.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 40.320 – Additional Development Standards.**

(1) **Small Lot Subdivisions.** The minimum lot size and other development standards for single-family dwellings in the RL zone may be reduced or modified for lots included as part of a small lot subdivision. See TDC 36.410.

(2) **Greenway and Natural Area Dedications.** The minimum lot size and other development standards for single-family dwellings in the RL zone may be reduced or modified if land is dedicated for a Greenway or Natural Area. See TDC 36.420.

(3) **Manufactured Homes.** Except for manufactured homes placed in manufactured dwelling parks, manufactured homes must meet the following standards:

(a) **Minimum Size.** The manufactured home must be multi-sectional and enclose a space of not less than 1,000 square feet. A manufactured home is not considered multi-sectional by having a tip-out section.

(b) **Foundation Requirements.** The manufactured home must be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not less than 1 foot above grade. However, a structural concrete foundation (such as that for a single-family dwelling) is not required.

(c) **Roof Form and Materials.** The manufactured home must have a pitched roof with a minimum slope of one foot in height for each four feet of width. The roof must be comprised of shingles, wood shakes, tiles, or other materials which create a similar appearance. Exposed flat, corrugated or ribbed sheet metal, fiberglass, or other materials similar in form or appearance cannot be used as roofing material but may be used for corner and edge flashing.

(d) **Insulation Requirements.** The manufactured home must be certified by the manufacturer to have exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the State Building Code.

(e) **Garage Requirement.** The manufactured home must have an attached or detached two-car garage constructed of materials similar to the manufactured home.

**SECTION 13. TDC Chapter 41 (Medium Low Density Residential (RML) Zone).** TDC 41 (Medium Low Density Residential Planning District (RML)) is deleted in its entirety and replaced with TDC 41 (Medium Low Density Residential (RML) Zone) to read as follows:

**Section 41.100 – Purpose.** The purpose of this zone is to provide areas of the City suitable for townhouses, condominiums, duplexes, triplexes and other multi-family dwellings, as well as areas for small-lot, small home subdivisions, and manufactured dwelling parks in designated areas.

**Section 41.200 – Use Categories.**

(1) **Use Categories.** Table 41-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RML zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 41-1 and restrictions identified in TDC 41.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 41-1  
Use Categories in the RML Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C	Permitted housing types subject to TDC 41.220.
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home subject to ORS 329A.440.
Group Living	P/C (L)	Permitted uses limited to <ul style="list-style-type: none"> <li>○ Residential Facility; and</li> <li>○ Nursing Facility.</li> </ul> Conditional uses limited to Congregate Care Facility subject to TDC 34.020 and TDC 34.030.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	C (L)	Subject to TDC 41.210(1).
Durable Goods Sales	C (L)	Conditional uses limited to nurseries.
Retail Sales and Service	C (L)	Conditional uses limited to Child Day Care Center.
<b>INSTITUTIONAL USE CATEGORIES</b>		

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Assembly Facilities	C (L)	Conditional uses limited to places of religious worship. See TDC 34.800 Religious uses and ORS 227.500 pertaining to activities customarily associated with the practices of religious activity.
Community Services	C	
Medical Center	C (L)	Conditional uses limited to a hospital.
Schools	C	--
INFRASTRUCTURE AND UTILITIES USE CATEGORIES		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to water reservoirs, with a maximum height of 75 feet.
Greenways and Natural Areas	P	--
Parks and Open Areas	P/C (L)	Permitted uses limited to public park or playground. Conditional uses limited to golf course or country club with golf course.
Public Safety Facilities	C (L)	Conditional uses limited to fire stations
Transportation Facilities	P	--
Wireless Communication Facilities	P/C (L)	Subject to TDC 41.210(2). Maximum height and minimum setbacks subject to TDC Chapter 73F.

**Section 41.210 – Additional Limitations on Uses.**

(1) **Agricultural Uses.** The following agricultural uses are allowed with a conditional use permit within areas designated on Map 9-6:

(a) **Conditional Use of Agricultural Animals.** Raising of agricultural animals, limited to cattle, horses and sheep. The City Council may limit the number of animals to be allowed on a specific parcel of property; and

(b) Agricultural structures such as barns, stables, sheds, but excluding feed lots. Feed lots are prohibited.

(2) **Wireless Communication Facilities.** Wireless Communication Facilities may be permitted uses or conditional uses, depending on the nature of the use.

(a) **Permitted Uses.** The following uses are permitted outright:

(i) Wireless Communication Facility Attached, provided the facility is not mounted on a single-family dwelling or its accessory structures; and



(ii) Wireless Communication Facility, provided the facility is located within 300 feet of the centerline of Interstate 5.

(b) **Conditional Uses.** All other detached wireless communication facilities may be allowed with a conditional use permit. The facility must not be located within an approved small lot subdivision.

**Section 41.220 – Housing Types.** Table 41-2 lists Housing Types permitted in the RML zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N) in the RML zone.

**Table 41-2  
Housing Types in the RML Zone**

<b>HOUSING TYPE</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Single-Family Dwelling	C	Limited to single-family dwellings in a small lot subdivision, with conditional use permit, subject to TDC 36.410.
Accessory Dwelling Unit	P	Subject to TDC 34.600.
Duplex Townhouse (or Rowhouse)	P	See TDC definition in 31.060.
Multi-Family Structure	P	See TDC definition in 31.060.
Manufacturing Dwelling	N	See TDC definition in 31.060.
Manufactured Dwelling Park	P	Limited to locations designated by the Tualatin Community Plan Map and subject to TDC 34.190.
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060

**Section 41.300 – Development Standards.**

Development standards in the RML zone are listed in Table 41-3. Additional standards may apply to some uses and situations, see TDC 41.310. The standards in Table 41-3 may be modified for greenway and natural area dedications as provided in TDC 36.420. The standards for lot size, lot width, building coverage, and setbacks that apply to single-family dwellings in small lot subdivisions are provided in TDC 36.410(2)(b).

**Table 41-3  
Development Standards in the RML Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MAXIMUM DENSITY</b>		

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Household Living Uses	10 units per acre	
Manufactured Dwelling Parks	12 units per acre	Limited to single-wide dwelling parks or any part of a single-wide dwelling park.
Retirement Housing Facility, or Congregate Care Facility	15 units per acre	
Nursing Facility	15 units per acre	
Group Living Uses	15 units per acre	
<b>MINIMUM LOT SIZE</b>		
Townhouse (or Rowhouse)	1,400 square feet	
Multi-Family Structure and Duplex		
○ Development on Less than One Acre	10,000 square feet	For up to two units, plus an additional 4,195 square feet for each unit exceeding two.
○ Development on More than One Acre	4,356 square feet per unit	
Multi-Family Structure under Condominium Ownership	20,000 square feet	Limited to the primary condominium lot.
All Other Permitted Uses	10,000 square feet	
Conditional Uses	20,000 square feet	
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
<b>MINIMUM AVERAGE LOT WIDTH</b>		
Townhouse(or Rowhouse)	14 feet	
Multi-Family Structure	75 feet	May be 40 feet on a cul-de-sac street.
Multi-Family Structure under Condominium Ownership	100 feet	Limited to the primary condominium lot. Minimum lot width at street is 40 feet.

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
All Other Permitted Uses	75 feet	
Conditional Uses	100 feet	Minimum lot width at street is 40 feet.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front Setback		Minimum setback to a garage door must be 20 feet.
○ 1 story structure	20 feet	
○ 1.5 story structure	25 feet	
○ 2 story structure	30 feet	
○ 2.5 story structure	35 feet	
○ Townhouse (or Rowhouse)	0-20 feet	As determined through Architectural Review process.
Side and Rear Setback		Where living spaces face a side yard, the minimum setback must be 10 feet
○ 1 story structure	5 feet	
○ 1.5 story structure	7 feet	
○ 2 story structure	10 feet	
○ 2.5 story structure	12 feet	
Corner Lots	--	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.
Minimum Distance Between Buildings within One Development	10 feet	For Townhouses, determined through the Architectural Review process
Parking and Vehicle Circulation Areas	10 feet	For Townhouses, determined through the Architectural Review process
Conditional Uses	--	As determined through Architectural Review process. No minimum setback must be greater than 50 feet.
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	35 feet	May be increased to a maximum of 50 feet with a conditional use permit, if all setbacks are not less than 1 1/2 times the

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		height of the building.
<b>MAXIMUM LOT COVERAGE</b>		
Townhouse (or Rowhouse)	90%	
All Other Permitted Uses	40%	
Conditional Uses	45%	

**Section 41.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 41.320 – Density Bonus or Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a density bonus or setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

(1) **Density Bonus.** The lot(s) may be developed to the same number of dwelling units that would be permitted in the RML zone if none of the land area in the Greenway or Natural Area lots were in a conservation or protection area.

(2) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas. Single-Family Dwellings in Small Lot Subdivisions and setback areas that abut property lines in the RL zone are not eligible for the setback reduction.

(3) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

(a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);

(b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or

(c) Clean Water Services Vegetated Corridor.

(4) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

(a) Dedicated to the City at the City's option;

(b) Dedicated in a manner approved by the City to a non-profit conservation organization; or

(c) Retained in private ownership.

(5) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the lot connect publicly owned or publicly accessible properties;
- (e) Does the lot abut an existing park, greenway, natural area or other public facility;
- (f) Does the lot provide a public benefit or serve a public need;
- (g) Does the lot contain environmental hazards;
- (h) Geologic stability of the lot; and
- (i) Future maintenance costs for the lot.

**SECTION 14. TDC Chapter 42 (Medium High Density Residential (RMH) Zone).** TDC 42 (Medium High Density Residential Planning District (RMH)) is deleted in its entirety and replaced with TDC 42 (Medium High Density Residential (RMH) Zone) to read as follows:

**Section 42.100 – Purpose.** The purpose of this zone is to provide areas of the City suitable for townhouses, garden apartments and condominiums.

**Section 42.200 – Use Categories.**

(1) **Use Categories.** Table 42-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RMH zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 42-1 and restrictions identified in TDC 42.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 42-1  
Use Categories in the RMH Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C	Permitted housing types subject to TDC 42.220.
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home subject to ORS 329A.440.
Group Living	P/C (L)	Permitted uses limited to:

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		<ul style="list-style-type: none"> <li>○ Residential Facility.</li> <li>○ Nursing Facility.</li> </ul> Conditional uses limited to Congregate Care Facilities subject to TDC 34.400.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	C (L)	Subject to TDC 42.210(1).
Durable Goods Sales	C (L)	Conditional uses limited to nurseries.
Retail Sales and Service	C (L)	Conditional uses limited to Child Day Care Center.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C (L)	Conditional uses limited to places of religious worship. See TDC 34.800 Religious uses and ORS 227.500 pertaining to activities customarily associated with the practices of religious activity.
Community Services	C	--
Medical Center	C (L)	Conditional uses limited to a hospital.
Schools	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to water reservoirs, with a maximum height of 75 feet.
Greenways and Natural Areas	P	--
Parks and Open Areas	P/C (L)	Permitted uses limited to public park or playground. Conditional uses limited to golf course or country club with golf course.
Public Safety Facilities	C (L)	Conditional uses limited to fire stations.
Transportation Facilities	P	--
Wireless Communication Facilities	P/C (L)	Subject to TDC 42.210(2). Maximum height and minimum setbacks subject to TDC Chapter 73F.

**Section 42.210 – Additional Limitations on Uses.**

(1) **Agricultural Uses.** The following agricultural uses are allowed with a conditional use permit within areas designated on Map 9-6:

- (a) **Conditional Use of Agricultural Animals.** Raising of agricultural animals, limited to cattle, horses and sheep. The City Council may limit the number of animals to be allowed on a specific parcel of property; and
- (b) Agricultural structures such as barns, stables, sheds, but excluding feed lots. Feed lots are prohibited.

(2) **Wireless Communication Facilities.** Wireless Communication Facilities may be permitted uses or conditional uses, depending on the nature of the use.

- (a) **Permitted Uses.** The following uses are permitted outright:
  - (i) Wireless Communication Facility Attached, provided the facility is not mounted on a single-family dwelling or its accessory structures; and
  - (ii) Wireless Communication Facility, provided the facility is located within 300 feet of the centerline of Interstate 5.
- (b) **Conditional Uses.** All other detached wireless communication facilities may be allowed with a conditional use permit.

**Section 42.220 – Housing Types.** Table 42-2 lists Housing Types permitted in the RMH zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N) in the RMH zone.

**Table 42-2  
Housing Types in the RMH Zone**

<b>HOUSING TYPE</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Single-Family Dwelling	N	
Accessory Dwelling Unit	N	
Duplex Townhouse (or Rowhouse)	P	See TDC definition in 31.060.
Multi-Family Structure	P	See TDC definition in 31.060.
Manufactured Dwelling	N	
Manufactured Dwelling Park	N	
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060.

**Section 42.300 – Development Standards.** Development standards in the RMH zone

are listed in Table 42-3. Additional standards may apply to some uses and situations, see TDC 42.310.

**Table 42-3  
Development Standards in the RMH Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MAXIMUM DENSITY</b>		
Household Living Uses	15 units per acre	
Retirement Housing Facility, Congregate Care Facility, or Nursing Facility	22.5 units per acre	
Group Living Uses	15 units per acre	Does not apply to Congregate Care Facility.
<b>MINIMUM LOT SIZE</b>		
Townhouse (or Rowhouse)	1,400 square feet	
Multi-Family Structure and Duplex		
○ Development on Less than One Acre	10,000 square feet	For up to two units, plus an additional 2,581 square feet for each unit exceeding two.
○ Development on More than One Acre	2,904 square feet per unit	
Multi-Family Structure under Condominium Ownership	20,000 square feet	Limited to the primary condominium lot.
All Other Permitted Uses	10,000 square feet	
Conditional Uses	20,000 square feet	
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
<b>MINIMUM AVERAGE LOT WIDTH</b>		
Townhouse (or Rowhouse)	14 feet	
Multi-Family Structure	75 feet	May be 40 feet on a cul-de-sac street.



Multi-Family Structure under Condominium Ownership	75 feet	Limited to the primary condominium lot. Minimum lot width at street is 40 feet.
All Other Permitted Uses	75 feet	
Conditional Uses	100 feet	Minimum lot width at street is 40 feet.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front Setback		Minimum setback to a garage door must be 20 feet.
○ 1 story structure	20 feet	
○ 1.5 story structure	25 feet	
○ 2 story structure	30 feet	
○ 2.5 story structure	35 feet	
○ Townhouse (or Rowhouse)	0-20 feet	
Side and Rear Setback		Where living spaces face a side yard, the minimum setback must be 20 feet
○ 1 story structure	5 feet	
○ 1.5 story structure	7 feet	
○ 2 story structure	10 feet	
○ 2.5 story structure	12 feet	
Corner Lots	--	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.
Minimum Distance Between Buildings within One Development	10 feet	For Townhouses (or Rowhouse), determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	10 feet	For Townhouses (or Rowhouse), determined through the Architectural Review process.
Conditional Uses	--	As determined through Architectural Review process. A minimum setback must not be greater than 50 feet.

Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	35 feet	May be increased to a maximum of 50 feet with a conditional use permit, if all setbacks are not less than 1 1/2 times the height of the building.
<b>MAXIMUM LOT COVERAGE</b>		
Townhouse (or Rowhouse)	90%	
All Other Permitted Uses	40%	
Conditional Uses	45%	

**Section 42.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 42.320 –Density Bonus or Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a density bonus or setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

(1) **Density Bonus.** The lot(s) may be developed to the same number of dwelling units that would be permitted in the RMH zone if none of the land area in the Greenway or Natural Area lots were in a conservation or protection area.

(2) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas. Setback areas that abut property lines in the RL zone are not eligible for the setback reduction.

(3) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located wholly in one of the following conservation or protection areas:

- (a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (c) Clean Water Services Vegetated Corridor.

(4) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following.

- (a) Dedicated to the City at the City's option;

- (b) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (c) Retained in private ownership.

(5) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the lot connect publicly owned or publicly accessible properties;
- (e) Does the lot abut an existing park, greenway, natural area or other public facility;
- (f) Does the lot provide a public benefit or serve a public need;
- (g) Does the lot contain environmental hazards;
- (h) Geologic stability of the lot; and
- (i) Future maintenance costs for the lot.

**SECTION 15. TDC Chapter 43 (High Density Residential (RH) Zone).** TDC 43 (High Density Residential Planning District (RH)) is deleted in its entirety and replaced with TDC 43 (High Density Residential (RH) Zone) to read as follows:

**Section 43.100 – Purpose.** The purpose of this zone is to provide areas of the City suitable for townhouses, high density garden apartment and condominium developments.

**Section 43.200 – Use Categories.**

(1) **Uses Categories.** Table 43-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RH zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 43-1 and restrictions identified in TDC 43.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 43-1  
Use Categories in the RH Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C	Permitted housing types subject to TDC 43.220.

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Residential Accessory Uses	P (L)	Permitted uses limited to Family Day Care subject to ORS 329A.440.
Group Living	P/C (L)	Permitted uses limited to <ul style="list-style-type: none"> <li>○ Residential Facility;</li> <li>○ Nursing Facility.</li> </ul> Conditional uses limited to Congregate Care Facilities subject to TDC 34.400.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	C (L)	Subject to TDC 43.210(1).
Durable Goods Sales	C (L)	Conditional uses limited to retail nurseries.
Retail Sales and Service	C (L)	Conditional uses limited to Child Day Care Center.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C (L)	Conditional uses limited to places of religious worship. See TDC 34.800 Religious uses and ORS 227.500 pertaining to activities customarily associated with the practices of religious activity.
Community Services	C	
Medical Center	C (L)	Conditional uses limited to a hospital.
Schools	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to water reservoirs, with a maximum height of 75 feet.
Greenways and Natural Areas	P	--
Parks and Open Areas	P/C (L)	Permitted uses limited to public park or playground. Conditional uses limited to golf course or country club with golf course.
Public Safety Facilities	C (L)	Conditional uses limited to fire stations.
Transportation Facilities	P	--
Wireless Communication Facilities	P/C (L)	Subject to TDC 43.210(2). Maximum height and minimum setbacks

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		subject to TDC Chapter 73F.

**Section 43.210 – Additional Limitations on Uses.**

(1) **Agricultural Uses.** The following agricultural uses are allowed with a conditional use permit within areas designated on Map 9-6:

- (a) **Conditional Use of Agricultural Animals.** Raising of agricultural animals, limited to cattle, horses and sheep. The City Council may limit the number of animals to be allowed on a specific parcel of property; and
- (b) Agricultural structures such as barns, stables, sheds, but excluding feed lots. Feed lots are prohibited.

(2) **Wireless Communication Facilities.** Wireless Communication Facilities may be permitted uses or conditional uses, depending on the nature of the use.

- (a) **Permitted Uses.** The following uses are permitted outright:
  - (i) Wireless Communication Facility Attached, provided the facility is not mounted on a single-family dwelling or its accessory structures; and
  - (ii) Wireless Communication Facility, provided the facility is located within 300 feet of the centerline of Interstate 5.
- (b) **Conditional Uses.** All other detached wireless communication facilities may be allowed with a conditional use permit.

**Section 43.220 – Housing Types.** Table 43-2 lists Housing Types permitted in the RH zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N) in the RH zone.

**Table 43-2  
Housing Types in the RH Zone**

HOUSING TYPE	STATUS	LIMITATIONS AND CODE REFERENCES
Single-Family Dwelling	N	
Accessory Dwelling Unit	N	
Duplex Townhouse (or Rowhouse)	P	See TDC definition in 31.060.
Multi-Family Structure	P	See TDC definition in 31.060.
Manufacturing Dwelling	N	
Manufactured Dwelling Park	N	
Retirement Housing Facility	C	Subject to TDC 34.400.
Residential Home	P	See TDC definition in 31.060.

**Section 43.300 – Development Standards.** Development standards in the RH zone are listed in Table 43-3. Additional standards may apply to some uses and situations, see TDC 43.310.

**Table 43-3  
Development Standards in the RH Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MAXIMUM DENSITY</b>		
Household Living Uses	25 units per acre	
Retirement Housing or Congregate Care Facility	45 units per acre	
Nursing Facility	45 units per acre	
Group Living Uses	25 units per acre	Does not apply to Nursing Facility or Congregate Care Facility.
<b>MINIMUM LOT SIZE</b>		
Townhouse, or Rowhouse	1,400 square feet	
Multi-Family Structure		
○ Development on Less than One Acre	10,000 square feet	For up to two units, plus an additional 1,459 square feet for each unit exceeding two.
○ Development on More than One Acre	1,742 square feet per unit	
Multi-Family Structure under Condominium Ownership	20,000 square feet	Limited to the primary condominium lot.
All Other Permitted Uses	10,000 square feet	
Conditional Uses	20,000 square feet	
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
<b>MINIMUM AVERAGE LOT WIDTH</b>		
Townhouses (or Rowhouses)	14 feet	
Multi-Family Structure	75 feet	May be 40 feet on a cul-de-sac street.

Multi-Family Structure under Condominium Ownership	75 feet	Limited to the primary condominium lot. Minimum lot width at street is 40 feet.
All Other Permitted Uses	75 feet	
Conditional Uses	100 feet	Minimum lot width at street is 40 feet.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front Setback		Minimum setback to a garage door must be 20 feet.
○ 1 story structure	20 feet	
○ 1.5 story structure	25 feet	
○ 2 story structure	30 feet	
○ 2.5 story structure	35 feet	
○ Townhouse (or Rowhouses)	0-20 feet	As determined through Architectural Review process.
Side and Rear Setback		Where living spaces face a side yard, the minimum setback must be 10 feet
○ 1 story structure	5 feet	
○ 1.5 story structure	7 feet	
○ 2 story structure	10 feet	
○ 2.5 story structure	12 feet	
Corner Lots	--	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.
Minimum Distance Between Buildings within One Development	10 feet	For Townhouses, determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	10 feet	For Townhouses, determined through the Architectural Review process.
Conditional Uses	--	As determined through Architectural Review process. No minimum setback must be greater than 50 feet.
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	35 feet	May be increased to a maximum of 50 feet

		with a conditional use permit, if all setbacks are not less than 1 1/2 times the height of the building.
<b>MAXIMUM LOT COVERAGE</b>		
Townhouse (or Rowhouse)	90%	
All Other Permitted Uses	45%	
Conditional Uses	45%	

**Section 43.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 43.320 – Density Bonus or Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a density bonus or setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

(1) **Density Bonus.** The lot(s) may be developed to the same number of dwelling units that would be permitted in the RH zone if none of the land area in the Greenway or Natural Area lots were in a conservation or protection area.

(2) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas. Setback areas that abut property lines in the RL zone are not eligible for the setback reduction.

(3) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located wholly in one of the following conservation or protection areas:

- (a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (c) Clean Water Services Vegetated Corridor.

(4) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following.

- (a) Dedicated to the City at the City's option;
- (b) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (c) Retained in private ownership.

(5) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:



- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the lot connect publicly owned or publicly accessible properties;
- (e) Does the lot abut an existing park, greenway, natural area or other public facility;
- (f) Does the lot provide a public benefit or serve a public need;
- (g) Does the lot contain environmental hazards;
- (h) Geologic stability of the lot; and
- (i) Future maintenance costs for the lot.

**SECTION 16. TDC Chapter 44 (High Density High Rise Residential (RH-HR) Zone).** TDC 44 (High Density High Rise Planning District (RH-HR)) is deleted in its entirety and replaced with TDC 44 (High Density High Rise Residential (RH-HR) Zone) to read as follows:

**Section 44.100 – Purpose.** The purpose of the High Density High Rise (RH-HR) zone is to provide areas of the City within the City's Central Urban Renewal area, an area west of the Central Urban Renewal area, north of the wetlands, and south of the Tualatin Country Club that are suitable for high density apartment or condominium towers.

**Section 44.200 – Use Categories.**

(1) **Use Categories.** Table 44-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the RH-HR zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 44-1 and restrictions identified in TDC 44.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 44-1  
Use Categories in the RH-HR Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C	Permitted housing types subject to TDC 44.220.

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Residential Accessory Uses	P (L)	Permitted uses limited to Family Day Care subject to ORS 329A.440.
Group Living	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Residential Home;</li> <li>○ Residential Facility; and</li> <li>○ Nursing Facility</li> </ul> Conditional uses limited to Congregate Care Facility subject to TDC 34.400.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	C (L)	Subject to TDC 44.210(1).
Durable Goods Sales	C (L)	Conditional uses limited to retail nurseries.
Retail Sales and Service	C (L)	Conditional uses limited to Child Day Care Center.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C (L)	Conditional uses limited to places of religious worship. See TDC 34.800 Religious uses and ORS 227.500 pertaining to activities customarily associated with the practices of religious activity.
Community Services	C	
Medical Center	C (L)	Conditional uses limited to a hospital.
Schools	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to water reservoirs, with a maximum height of 75 feet.
Greenways and Natural Areas	P	--
Parks and Open Areas	P/C (L)	Permitted uses limited to public park or playground. Conditional uses limited to golf course or country club with golf course.
Public Safety Facilities	C (L)	Conditional uses limited to fire stations.
Transportation Facilities	P	--

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Wireless Communication Facilities	P/C (L)	Subject to TDC 44.210(2). Maximum height and minimum setbacks subject to TDC Chapter 73F.

**Section 44.210 – Additional Limitations on Uses.**

(1) **Agricultural Uses.** The following agricultural uses are allowed with a conditional use permit within areas designated on Map 9-6:

- (a) **Conditional Use of Agricultural Animals.** Raising of agricultural animals, limited to cattle, horses and sheep. The City Council may limit the number of animals to be allowed on a specific parcel of property; and
- (b) Agricultural structures such as barns, stables, sheds, but excluding feed lots. Feed lots are prohibited.

(2) **Wireless Communication Facilities.** Wireless Communication Facilities may be permitted uses or conditional uses, depending on the nature of the use.

- (a) **Permitted Uses.** The following uses are permitted outright:
  - (i) Wireless Communication Facility Attached, provided the facility is not mounted on a single-family dwelling or its accessory structures; and
  - (ii) Wireless Communication Facility, provided the facility is located within 300 feet of the centerline of Interstate 5.
- (b) **Conditional Uses.** All other detached wireless communication facilities may be allowed with a conditional use permit.

**Section 44.220 – Housing Types.** Table 44-2 lists Housing Types permitted in the RH-HR zone. Housing types may be Permitted Outright (P), Conditionally Permitted (C), or Not Permitted (N) in the RH-HR zone.

**Table 44-2  
Housing Types in the RH-HR Zone**

HOUSING TYPE	STATUS	LIMITATIONS AND CODE REFERENCES
Single-Family Dwelling	N	
Accessory Dwelling Unit	N	
Duplex Townhouse (or Rowhouse)	P	See definition in TDC 31.060.
Multi-Family Structure	P	See definition in TDC 31.060.
Manufacturing Dwelling	N	
Manufactured Dwelling Park	N	
Retirement Housing Facility	C	Subject to TDC 34.400.

HOUSING TYPE	STATUS	LIMITATIONS AND CODE REFERENCES
Residential Home	P	See definition in TDC 31.060.

**Section 44.300 – Development Standards.** Development standards in the RH-HR zone are listed in Table 44-3. Additional standards may apply to some uses and situations, see TDC 44.310.

**Table 44-3  
Development Standards in the RH-HR Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>MAXIMUM DENSITY</b>		
Household Living Uses	30 units per acre	
Retirement Housing or Congregate Care Facility	45 units per acre	
Nursing Facility	45 units per acre	
Group Living Uses	30 units per acre	Does not apply to Nursing Facility or Congregate Care Facility.
<b>MINIMUM LOT SIZE</b>		
Multi-Family Structure		
○ Development on Less than One Acre	10,000 square feet	For up to two units, plus an additional 1,198 square feet for each unit exceeding two.
○ Development on More than One Acre	1,452 square feet per unit	
Multi-Family Structure under Condominium Ownership	20,000 square feet	Limited to the primary condominium lot.
All Other Permitted Uses	10,000 square feet	
Conditional Uses	20,000 square feet	
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
<b>MINIMUM AVERAGE LOT WIDTH</b>		
Townhouses (Rowhouses)	14 feet	

Multi-Family Structure	75 feet	May be 40 feet on a cul-de-sac street.
Multi-Family Structure under Condominium Ownership	75 feet	Limited to the primary condominium lot. Minimum lot width at street is 40 feet.
All Other Permitted Uses	75 feet	
Conditional Uses	100 feet	Minimum lot width at street is 40 feet.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front Setback		Minimum setback to a garage door must be 20 feet.
○ 1 story structure	20 feet	
○ 1.5 story structure	25 feet	
○ 2 story structure	30 feet	
○ 2.5 story structure	35 feet	
○ Over 2.5 story structure	--	
Side and Rear Setback		Where living spaces face a side yard, the minimum setback must be 10 feet.
○ 1 story structure	5 feet	
○ 1.5 story structure	7 feet	
○ 2 story structure	10 feet	
○ 2.5 story structure	12 feet	
○ Over 2.5 story structure	--	
Corner Lots	--	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.
Minimum Distance Between Buildings within One Development	10 feet	
Parking and Vehicle Circulation Areas	10 feet	
Conditional Uses	--	As determined through Architectural Review process. No minimum setback must be greater than 50 feet.

Any Yard Adjacent to a Wetland Protected Area	100 feet	As defined in TDC Chapter 71.
Any Yard Area Adjacent to Basalt Creek Parkway	50 feet	
<b>STRUCTURE HEIGHT</b>		
Minimum Height, Multi-Family and Condominium Developments	4 stories	
Maximum Height	64 feet	If structure does not include underground parking, maximum height is 5 stories. If the first story includes underground parking, maximum height is 6 stories. Regardless of the number of stories, structure height must not exceed 64 feet.
<b>MAXIMUM LOT COVERAGE</b>		
All Uses	45%	

**Section 44.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 44.320 – Density Bonus or Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a density bonus or setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

- (1) **Density Bonus.** The lot(s) may be developed to the same number of dwelling units that would be permitted in the RH-HR zone if none of the land area in the Greenway or Natural Area lots were in a conservation or protection area.
- (2) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas. Setback areas that abut property lines in the RL zone are not eligible for the setback reduction.
- (3) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located wholly in one of the following conservation or protection areas:
  - (a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
  - (b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
  - (c) Clean Water Services Vegetated Corridor.

(4) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following.

- (a) Dedicated to the City at the City's option;
- (b) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (c) Retained in private ownership.

(5) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the lot connect publicly owned or publicly accessible properties;
- (e) Does the lot abut an existing park, greenway, natural area or other public facility;
- (f) Does the lot provide a public benefit or serve a public need;
- (g) Does the lot contain environmental hazards;
- (h) Geologic stability of the lot; and
- (i) Future maintenance costs for the lot.

**SECTION 17. TDC Chapter 49 (Institutional (IN) Zone).** TDC 49 (institutional Planning District (IN)) is deleted in its entirety and replaced with TDC 36 (Institutional (IN) Zone) to read as follows:

**Section 49.100 – Purpose.** The purpose of the Institutional (IN) Zone is to provide areas of the City that are suitable for educational, religious, recreational, and incidental support facilities to serve the community. The Zone is intended to:

- (1) Be consistent with the Institutional land use designation in the Tualatin Community Plan;
- (2) Support lands and facilities that are owned and operated by governmental or nonprofit entities and that serve and benefit the community; and
- (3) Provide for location and development of permitted and conditionally permitted uses in a manner that is harmonious with adjacent and nearby residential, commercial, or manufacturing planning zones and uses; and protects the health, safety, and general welfare of adjacent residential, commercial, and manufacturing uses.

**Section 49.200 – Use Categories.**

(1) **Use Categories.** Table 49-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the IN zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 49-1 and restrictions identified in TDC 49.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited

within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.  
 (2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 49-1  
 Use Categories in the IN Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	P (L)	Permitted uses limited to places of religious worship.
Community Services	P/C (L)	Permitted uses limited to public recreation buildings and facilities: <ul style="list-style-type: none"> <li>○ Community recreation building;</li> <li>○ Indoor community aquatic centers.</li> </ul> Conditional uses limited to outdoor public community aquatic centers
Schools	P	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to water or sewage pump stations and pressure reading stations. Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Water reservoirs;</li> <li>○ Electrical substation; and</li> <li>○ Natural gas pumping station.</li> </ul>
Greenways and Natural Areas	P	--
Parks and Open Space	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Government-owned parks; and</li> <li>○ Sports fields and tennis courts.</li> </ul>
Transportation Facilities	P	--
Wireless Communication Facility	P (L)	Must be located within 300 feet of the centerline of Interstate 5 and subject to TDC Chapter 73F.

**Section 49.210 – Additional Limitations on Uses.**

(1) **Accessory Uses Conditionally Permitted.** The following uses may be permitted as conditional use when incidental and subordinate to a permitted or conditionally permitted primary use:

- (a) Child day care center;



- (b) Exterior lighting, if the height of the fixture or standard is greater than the tallest permitted building on the site;
- (c) Outdoor public address or audio amplification system; and
- (d) Wireless Communication Facility.

**Section 49.300 – Development Standards.** Development standards in the IN zone are listed in Table 49-2. Additional standards may apply to some uses and situations, see TDC 49.310.

**Table 49-2  
Development Standards in the IN Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MINIMUM LOT SIZE</b>		
All Uses	1.5 acres	
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	100 feet	When lot has frontage on public street, minimum lot width is 40 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	25 feet	No fence must be constructed within 5 feet of a public right-of-way.
Side	10 feet	
Rear	25 feet	
Corner Lots	--	On corner lots, the setback is the same as the front yard setback on any side facing a street other than an alley.
<b>Parking and Vehicle Circulation Areas</b>		
○ From any property line	10 feet	
○ From public right-of-way	30 feet	
Conditional Uses	--	As determined through Conditional Use Permit and Architectural Review process. No minimum setback must be greater than 50 feet.
<b>MAXIMUM STRUCTURE HEIGHT</b>		

All Uses	50 feet	
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**Section 49.310. Projections Into Required Yards.** The following architectural features may project into a required front or rear yard setback area not more than three feet, and into a required side yard not more than two feet: cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features.

**Section 49.320 –Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

(1) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas. Setback areas that abut property lines in the RL zone are not eligible for the setback reduction.

(2) **Location of Greenway or Natural Area Lot.** Each lot must be located wholly in one of the following conservation or protection areas:

- (a) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (b) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (c) Clean Water Services Vegetated Corridor.

(3) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (a) Dedicated to the City at the City's option;
- (b) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (c) Retained in private ownership.

(4) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (a) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (b) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (c) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (d) Does the lot connect publicly owned or publicly accessible properties;
- (e) Does the lot abut an existing park, greenway, natural area or other public facility;
- (f) Does the lot provide a public benefit or serve a public need;
- (g) Does the lot contain environmental hazards;
- (h) Geologic stability of the lot; and

(i) Future maintenance costs for the lot.

**SECTION 18. TDC Chapter 50 (Office Commercial (CO) Zone).** TDC 50 (Office Commercial Planning District (CO)) is deleted in its entirety and replaced with TDC 50 (Office Commercial (CO) Zone) to read as follows:

**Section 50.100 – Purpose.** The purpose of this zone is to provide areas for professional offices in locations adjacent to or across the street from residential areas. The zone is intended to provide for office development ranging in size from small buildings with one or two tenants to large complexes housing business headquarters. Development design in this zone is intended to be sensitive to the preservation of significant natural resources and to provide extensive perimeter landscaping, especially adjacent to residential areas and streets.

**Section 50.200 – Use Categories.**

(1) **Use Categories.** Table 50-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CO zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 50-1 and restrictions identified in TDC 50.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 50-1  
Use Categories in the CO Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home subject to ORS 329A.440.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Parking	P	--
Commercial Recreation	P (L)	Permitted uses limited to health or fitness facilities as defined by TDC 39.115, with indoor operation only.
Eating and Drinking Establishments	C (L)	Conditional uses limited to restaurants as a limited use, subject to TDC 50.210(1).
Medical Office	P	--
Office	P	--
Retail Sales and Services	P/C (L)	Permitted uses limited to child day care centers.

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		Conditional uses limited to pharmacies, subject to TDC 50.210(3).
<b>INDUSTRIAL USE CATEGORIES</b>		
Light Manufacturing	C (L)	Conditional uses limited to product assembly, subject to TDC 50.210(4).
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations and pressure reading stations. Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Electrical substation;</li> <li>○ Natural gas pumping station; and</li> <li>○ Water reservoir.</li> </ul>
Greenways and Natural Areas	P	--
Parks and Open Space	P (L)	Permitted uses limited to an athletic practice facility.
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility, if located within 300 feet of the centerline of Interstate 5; and</li> <li>○ Wireless Communication Facility Attached.</li> </ul> Conditional uses limited to Wireless Communication Facility. Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 50.210 – Additional Limitations on Uses.**

(1) **Size Limitation on Retail Uses.** If located on land designated Employment Area, Corridor or Industrial Area on Map 9-4, the following uses must not be greater than 60,000 square feet of gross floor area per building or business:

- (a) Eating and Drinking Establishment; and
- (b) Retail Sales and Services.

(2) **Restaurants.** Restaurants are allowed with a conditional use permit when designed as an integral part of a major office complex exceeding 250,000 square feet of gross floor area.

(3) **Pharmacies.** Pharmacies (as defined by TDC 31.060) are allowed with a conditional use permit when designed as an integral part of a medical office building, clinic or

complex containing at least 30,000 square feet of gross floor area and meeting the following criteria:

(a) **Maximum Floor Area.** The pharmacy contains no more than 600 square feet of floor area. Additional floor area may be allowed for other, non-dispensing uses if approved as part of the conditional use request. In no event must the total floor area of the pharmacy and any related uses exceed 1200 square feet.

(b) **Operations.** The sole function of the pharmacy must be oriented toward dispensing activities associated with prescription drugs and the sale of non-prescription drugs.

(c) **Oriented to Patient Traffic.** The pharmacy is designed so as to be oriented toward patient traffic within the building, clinic, or complex, rather than toward passing vehicular traffic.

(d) **No Drive-In Windows.** Pharmacies allowed in this zone must not include drive-in window service.

(4) **Product Assembly.** Assembly of products is allowed with conditional use permit, in conjunction with office and/or research and development activities, meeting the following criteria:

(a) **Review of Operations.** All phases of the assembly process are subject to review and approval by the City Manager or designee prior to issuance of a building permit, in the case of a business locating in a new building, or prior to issuance of an occupancy certificate, in the case of a business moving into an existing building.

(b) **Associated with Research and Development.** The assembled products are the result of the research and product development of the firm engaged in the assembly process.

(c) **Size of Products.** The products are characteristically light and small, such as electronic components, cosmetics, or pharmaceuticals.

(d) **Traffic Impacts.** The assembly operation does not require rail service, nor does it generate truck traffic that, through volume and/or turning movements, hamper the efficient flow of traffic on adjacent streets, as determined by the City Engineer in measuring levels of service.

(e) **Office Environment.** The assembly process is accomplished in an office type environment rather than an industrial or manufacturing type environment.

(f) **Visual Appearance.** The site development and architectural design required for the activity has the visual appearance of an office campus including low buildings, wood or masonry facades, and extensive landscaping, as opposed to an industrial or warehouse development.

(h) **Size of Site.** The site being considered is at least 30 acres in size, however, a 30 or more acre site can be subdivided into lots of no less than one acre, with assembly operations allowed on each lot, if prior to any division of the property an overall master site development plan is reviewed and approved by the City Council as part of the conditional use process. Each lot created will include deed restrictions requiring the owner and users of the lots to abide by all provisions of the approved plan. Such deed restrictions will be approved as to form and content by the City Attorney prior to recording the subdivision.

**Section 50.300 – Development Standards.** Development standards in the CO zone are listed in Table 50-2. Additional standards may apply to some uses and situations, see TDC 50.310.

**Table 50-2  
Development Standards in the CO Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MINIMUM LOT SIZE</b>		
All Uses	10,000 square feet.	
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	80 feet	When lot has frontage on public street, minimum lot width is 40 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process.
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	20 feet	
Side and Rear	0 – 15 feet	As determined through Architectural Review Process, except for structures greater than 35 feet in height, which have the following minimum side and rear setbacks: <ul style="list-style-type: none"> <li>○ 30 feet when the yard abuts a lot in the RL Zone; or</li> <li>○ Zero to 15 feet, as determined through the Architectural Review process, when the yard abuts a lot in a multifamily zone.</li> </ul>
Corner Lots	0 – 20 feet along each frontage	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
<b>MAXIMUM STRUCTURE HEIGHT</b>		

All Uses	45 feet	Flagpoles may extend up to 100 feet.
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**Section 50.310 – Additional Development Standards.**

(1) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (i) Dedicated to the City at the City's option;
- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (iv) Does the lot connect publicly owned or publicly accessible properties;
- (v) Does the lot abut an existing park, greenway, natural area or other public facility;
- (vi) Does the lot provide a public benefit or serve a public need;
- (vii) Does the lot contain environmental hazards;
- (viii) Geologic stability of the lot; and
- (ix) Future maintenance costs for the lot.

**SECTION 19. TDC Chapter 51 (Neighborhood Commercial (CN) Zone).** TDC 51 (Neighborhood Commercial Planning District (CN)) is deleted in its entirety and replaced with TDC 51 (Neighborhood Commercial (CN) Zone) to read as follows:

**Section 51.100 – Purpose.** The purpose of this district is to provide locations for commercial uses within close proximity to residential areas, to provide opportunities to serve the needs of residents for convenience shopping and services. The primary uses are intended to include professional offices, services, and retail oriented to the day-to-day needs of adjacent neighborhoods. Neighborhood commercial uses are intended to be pedestrian oriented and should serve to reduce automobile trips and energy consumption. The purpose is also to assure that development is of a scale and design that is compatible with the residential environment and is an enhancement to neighborhood areas. It is not the purpose of this district to allow for large scale commercial facilities, such as large grocery or department stores, which are more appropriately located within the downtown area.

**Section 51.110 – District Size and Location Standards.**

- (1) **District Size.** The aggregate area of a CN district, consisting of one or more lots or a portion of a single lot, must not exceed 2 acres.
- (2) **District Location.** The boundaries of a CN district must be separated from middle school property by not less than 300 feet. The boundaries of a CN District must be separated from high school property and all other CN, CC, and CG districts by at least 1,320 feet.
- (3) **Street Frontage.** At least one-fourth of the total street frontage of the CN District area must be on an Arterial or Major Collector street.

**Section 51.200 – Use Categories.**

- (1) **Use Categories.** Table 51-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CN zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 51-1 and restrictions identified in TDC 51.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.
- (2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 51-1  
Use Categories in the CN Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P (L)	Permitted uses limited to one (1) dwelling unit for each business located on the lot.



COMMERCIAL USE CATEGORIES		
Retail Sales and Services	P (L)	Permitted uses limited to: General merchandise or variety stores; ○ Food stores, subject to TDC 51.210(1); Drug store and pharmacy; Laundry and dry cleaning, subject to TDC 51.210(2); Beauty and barber shops; Shoe repair; and Child day care center, subject to TDC 34.100. All commercial uses subject to floor area limitation, see TDC 51.210(3).
INSTITUTIONAL USE CATEGORIES		
Community Services	P(L)	Permitted uses limited to a community center, community recreation facility, or community aquatic center, when open to the general public and operated by a non-profit community organization.
INFRASTRUCTURE AND UTILITIES USE CATEGORIES		
Greenways and Natural Areas	P	--
Transportation Facilities	P	--

**Section 51.210 – Additional Limitations on Uses.**

- (1) **Food Stores.** Food stores must not exceed 4,000 square feet of gross floor area.
- (2) **Laundry and dry cleaning.** Laundry and dry cleaning establishments must be exclusively for the cleaning of clothing and materials of the resident population and must not involve laundry or cleaning of commercial, industrial, or institutional clothing and materials.
- (3) **Commercial Floor Area Limit.** A nonresidential occupant must not occupy more than 10,000 square feet of any building or combination of buildings within a single CN District area.

**Section 51.300 – Development Standards.** Development standards in the CN zone are listed in Table 51-2. Additional standards may apply to some uses and situations, see TDC 51.310.

**Table 51-2  
Development Standards in the CN Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>MINIMUM LOT SIZE</b>		

All Uses	20,000 square feet	--
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	100 feet	When lot has frontage on public street, minimum lot width is 100 feet.
Minimum Lot Width at the Building Line	100 feet	--
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
<b>MINIMUM SETBACKS</b>		
Front	20 feet	
Side and Rear	0 – 15 feet	As determined through Architectural Review Process.
Corner Lots	0 – 10 feet along each frontage	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
<b>MAXIMUM LOT COVERAGE</b>		
All Uses	75%	Includes both building and parking areas. All land not covered by buildings or parking must be landscaped.
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	25 feet	In addition to meeting the maximum height limit, where a property line or alley separates CN land from land in a residential district, a building must not be greater than 20 feet in height at the setback line; and a building or structure must not extend above a plane beginning at 20 feet in height above that setback line and extending inward and upward at a slope of 45 degrees.

**Section 51.310 – Additional Development Standards.**

(1) **Building and Driveway Orientation.** All commercial uses in CN District must be oriented and have primary driveway access to an Arterial or Major Collector street. No

more than one driveway may access Minor Collector, Local Residential, or Cul-De-Sac street.

(2) **Building Design.** All commercial buildings must be of a general residential character, including the following design elements:

(a) **Façade Design.** All building facades must be of wood or brick and, if painted, must be in muted, earth tone colors.

(b) **Roof Forms.** All roofs must be compatible with the surrounding residential area as determined through the Architectural Review process.

(3) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.**

To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

(i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);

(ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or

(iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

(i) Dedicated to the City at the City's option;

(ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or

(iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

(i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;

(ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;

(iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;

(iv) Does the lot connect publicly owned or publicly accessible properties;

(v) Does the lot abut an existing park, greenway, natural area or other public facility;

(vi) Does the lot provide a public benefit or serve a public need;

(vii) Does the lot contain environmental hazards;

(viii) Geologic stability of the lot; and

(ix) Future maintenance costs for the lot.

**SECTION 20. TDC Chapter 52 (Recreational Commercial (CR) Zone).** TDC 52 (Recreational Commercial Planning District (CR)) is deleted in its entirety and replaced with TDC 52 (Recreational Commercial (CR) Zone) to read as follows:

**Section 52.100 – Purpose.** The purpose of this district is to recognize the unique and valuable physical, scenic, cultural, and historic character of the Roamer's Rest area located between the Tualatin River and Pacific Highway (99-W) north of the highway's intersection with Tualatin Road. It is intended to preserve that area by allowing and encouraging commercial and related uses that are oriented to the traveler on the highway or that are oriented toward and relate well with the river.

**Section 52.200 – Use Categories.**

(1) **Use Categories.** Table 52-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CR zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 52-1 and restrictions identified in TDC 52.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 52-1  
Use Categories in the CR Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Multi-Family Structures;</li> <li>○ Manufactured Dwelling Parks.</li> </ul>
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home, subject to ORS 329A.440.
Group Living	C (L)	Conditional uses limited to residential facilities.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Lodging	P (L)	Permitted uses limited to motels.
Commercial Recreation	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Boat dock, marina and boat rental;</li> <li>○ Public or private camping or picnic grounds, including recreational vehicle parking;</li> <li>○ Private meeting, club or lodge hall; and</li> <li>○ Dance hall.</li> </ul> Conditional uses limited to family recreation

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		center.
Durable Goods Sales	P (L)	Permitted uses limited to nursery or greenhouse with retail sales, subject to TDC 52.120(3)
Eating and Drinking Establishments	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Restaurant, without drive-in service;</li> <li>○ Restaurant, take-out;</li> <li>○ Tavern or cocktail lounge.</li> </ul> Conditional uses limited to restaurant with drive-in service.
Quick Vehicle Servicing	P (L)	Permitted uses limited to Automobile Service Station, subject to TDC 52.210(1).
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Bakery, for retail sale on the premises only;</li> <li>○ Marine supply store; and</li> <li>○ Food stores, subject to TDC 52.210(2).</li> </ul> All uses are subject to TDC 52.120(3).
<b>INSTITUTIONAL USE CATEGORIES</b>		
Community Services	P (L)	Permitted uses limited to community centers, youth or senior centers, open to the general public.
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations and pressure reading stations.           Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Electrical substation;</li> <li>○ Natural gas pumping station; and</li> <li>○ Water reservoir.</li> </ul>
Greenways and Natural Areas	P	--
Parks and Open Areas	P	--
Transportation Facilities	P	--
Wireless Communications Facilities	P/C (L)	Permitted uses limited to Wireless Communication Facility Attached.           Conditional uses limited to Wireless Communication Facility.

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 52.210 – Additional Limitations on Uses.**

(1) **Automobile Service Stations.** The following development standards apply to all automobile service stations in the CR planning district:

- (a) The minimum street frontage on each street on a corner lot is 120 feet.
- (b) The minimum street frontage on an interior lot is 150 feet;
- (c) The minimum building setback from any street right-of-way is 40 feet;
- (d) The minimum pump island setback from any lot line is 15 feet;
- (e) Only two access points are allowed for an interior lot. A corner lot and a through lot are allowed only one access per street frontage;
- (f) The storage and display of merchandise such as tires and batteries offered for sale must be conducted in the station building. However, small items such as oil and windshield wiper blades may be displayed outside the building;
- (g) Outside storage or sale of any vehicles is not permitted;
- (h) All exterior walls and pump islands must be a minimum distance of 400 feet from the exterior walls and outdoor play areas of any child day care center or family day care provider, irrespective of any structures in between; and
- (i) There must be no major repair or service activity, other than the dispensing of fuel products, outside the building.

(2) **Food Stores.** Food stores must not exceed 4,000 square feet of gross floor area.

(3) **Size Limitation on Retail Uses.** If located on land designated Employment Area, Corridor or Industrial Area on Map 9-4, uses in the following categories must not be greater than 60,000 square feet of gross floor area per building or business:

- (a) Retail Sales and Services; and
- (b) Durable Goods Sales.

**Section 52.300 – Development Standards.** Development standards in the CR zone are listed in Table 52-2. Additional standards may apply to some uses and situations, see TDC 52.310.

**Table 52-2  
Development Standards in the CR Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>MAXIMUM DENSITY</b>		
Multi-Family Structures and Manufactured Dwelling Parks	10 units per acre	--
<b>MINIMUM LOT SIZE</b>		
All Uses	10,000 square	

	feet	
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	75 feet	When lot has frontage on public street, minimum lot width is 40 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	20 feet	
Side and Rear	0 – 15 feet	As determined through Architectural Review Process.
Corner Lots	0 – 20 feet along each frontage	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	From public right-of-way or property line, except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	35 feet	Flagpoles may extend up to 100 feet.

**Section 52.310 – Additional Development Standards.**

(1) **Access Management.** Wherever possible, as determined by the City Manager or designee, driveway access will be shared by adjacent properties so that there is no more than one driveway for every two properties. In any event, no more than one two-way driveway or two one-way driveways may serve each lot.

(2) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
  - (ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
  - (iii) Clean Water Services Vegetated Corridor.
- (b) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:
- (i) Dedicated to the City at the City's option;
  - (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
  - (iii) Retained in private ownership.
- (c) **Ownership Considerations.** The decision-making authority must consider, but not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:
- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
  - (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
  - (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
  - (iv) Does the lot connect publicly owned or publicly accessible properties;
  - (v) Does the lot abut an existing park, greenway, natural area or other public facility;
  - (vi) Does the lot provide a public benefit or serve a public need;
  - (vii) Does the lot contain environmental hazards;
  - (viii) Geologic stability of the lot; and
  - (ix) Future maintenance costs for the lot.

**SECTION 21. TDC Chapter 53 (Central Commercial (CC) Zone).** TDC 36 (Central Commercial Planning District (CC)) is deleted in its entirety and replaced with TDC 53 (Central Commercial (CC) Zone) to read as follows:

**Section 53.100 – Purpose.** The purpose of this district is to provide areas of the City that are suitable for a full range of retail, professional and service uses of the kind usually found in downtown areas patronized by pedestrians. The district also provides areas suitable for civic, social and cultural functions serving the general community.

**Section 53.200 – Use Categories.**

(1) **Use Categories.** Table 53-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CC zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 53-1 and restrictions identified in TDC 53.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.



(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 53-1  
Use Categories in the CC Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home subject to ORS 329A.440.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Lodging	P	--
Commercial Recreation	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Amusement enterprise, including pool hall, bowling alley, dance hall or skating rink;</li> <li>○ Private meeting hall, club or lodge hall, or fraternal organizations; and</li> <li>○ Health studio.</li> </ul>
Commercial Parking	P	--
Durable Goods Sales	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Furniture store, including antiques and second-hand furniture; and</li> <li>○ Appliance store, subject to TDC 53.210(2).</li> </ul>
Eating and Drinking Establishments	P	Some restrictions in the Central Tualatin Overlay Zone see TDC Chapter 58.
Medical Office	P	--
Office	P	--
Retail Sales and Services	P/C	Conditional use permit required for veterinary clinic. Memorial Planning and Products Center (as defined in TDC 39.115) not permitted. All other uses permitted outright. All uses subject to TDC 53.210(4).
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C	--
Colleges, Universities and Private Career Schools	P/C (L)	Permitted uses limited to business college. All other use are conditional uses.

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Community Services	P	--
Schools	C	--
INFRASTRUCTURE AND UTILITIES USE CATEGORIES		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations and pressure reading stations. Conditional uses limited to utility substations.
Greenways and Natural Areas	P	--
Parks and Open Space	P	--
Public Safety Facilities	P/C (L)	Conditional uses limited to publicly- and privately-operated ambulance facilities. All other uses permitted outright.
Transportation Facilities	P	--
Wireless Communication Facilities	P(L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility Attached; and</li> <li>○ Wireless Communication Facility, located within 300 feet of the centerline of I-5.</li> </ul>

**Section 53.210 – Additional Limitations on Uses.**

- (1) **Appliance Stores.** Incidental repair of appliances is permitted as an accessory use.
- (2) **Veterinary Clinic.** Veterinary clinics may be permitted as a conditional use if treatment is limited to small animals.
- (3) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities, outdoor play areas of child day care centers, as required by state day care certification standards, and as provided in (a)-(c), below.
  - (a) Outside storage or sales requires a conditional use permit.
  - (b) Outdoor sales, as defined in TDC 31.060 and as provided for in TDC 34.011, are permitted as a temporary use.
  - (c) Portable collection facilities as an accessory use require a conditional use permit, and are subject to the following standards:
    - (i) The facility must be sited such that it is either adjacent to existing vegetation or in a location where vegetation can be installed to enhance the appearance of the facility;
    - (ii) If vegetation is not already in place, landscaping, as approved through the Architectural Review process, must be installed adjacent to the location of the portable collection facility;
    - (iii) Items must not be stored outside the facility, except for temporary storage of oversized goods;
    - (iv) Oversized goods stored outside must be collected daily and removed from the premises or stored inside the portable collection facility; and

(v) Adequate receptacle must be provided for items dropped off during times the facility is not attended.

**Section 53.300 – Development Standards.** Development standards in the CC zone are listed in Table 53-2. Additional standards may apply to some uses and situations, see TDC 53.310.

**Table 53-2  
Development Standards in the CC Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MINIMUM LOT SIZE</b>		
All Uses	10,000 square feet	
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	75 feet	When lot has frontage on public street or is located on a cul-de-sac street, minimum lot width at the street must be 40 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	0 - 20 feet	Determined through Architectural Review Process. Buildings over 45 feet in height are subject to TDC 53.410(1). Residential garage doors facing public street must be set back 20 feet from public right-of-way.
Side and Rear	0 – 20 feet	Determined through Architectural Review Process.
Rear	0 – 15 feet	Determined through Architectural Review Process.
Corner Lots	0 – 20 feet along each frontage	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
Fences	5 feet	From public right-of-way.
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	45 feet	Flagpoles may extend up to 100 feet. Height bonus available in limited locations, see TDC 53.410(1).

**Section 53.310 – Additional Development Standards.**

(1) **Height Bonus.** In the CC zone, north of SW Boones Ferry Road and south of the Tualatin River, the maximum height for a structure is 125 feet, when approved with a conditional use permit and subject to the following setback requirements:

- (a) **Front yard.** Any structure south of Hedges Creek must comply with the CC District setbacks and any structure north of Hedges Creek must comply with the TDC Chapter 72 setbacks for Hedges Creek.
- (b) **Side yard.** The minimum side yard setback is:
  - (i) For structures 45 feet or less in height, zero to 15 feet as determined through the Architectural Review process;
  - (ii) For structures greater than 45 feet, but less than 84 feet, the side yard setback must be 30 feet for that portion of the structure greater than 45 feet and less than 84 feet in height; and
  - (iii) For structures greater than 84 feet but less than or equal to 125 feet in height, the side yard setback must be 45 feet for that portion of the building greater than 84 feet in height.

**SECTION 22. TDC Chapter 54 (General Commercial (CG) Zone).** TDC 54 (General Commercial Planning District (CG)) is deleted in its entirety and replaced with TDC 54 (General Commercial (CG) Zone) to read as follows:

**Section 54.100 – Purpose.** The purpose of this district is to provide areas in the City that are suitable for the widest range of commercial uses and retail businesses. This district is particularly suitable for automobile-related businesses and businesses needing direct freeway access. This zone is also suitable for the Mixed Use Commercial Overlay District to be applied in a specific area in accordance with TDC Chapter 57.

**Section 54.200 – Use Categories.**

(1) **Use Categories.** Table 54-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CG zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 54-1 and restrictions identified in TDC 54.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 54-1  
Use Categories in the CG District**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Residential Accessory Uses	P (L)	Permitted uses limited to Family Child Care Home, subject to ORS 329A.440.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Lodging	P	--
Commercial Recreation	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Amusement enterprise, including pool hall, bowling alley, dance hall or skating rink; and</li> <li>○ Health studio.</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Family recreation center, as defined in TDC 31.060; and</li> <li>○ Private meeting hall, club or lodge hall, or fraternal organizations.</li> </ul>
Commercial Parking	P	--
Durable Goods Sales	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Furniture store, including antiques and second-hand furniture;</li> <li>○ Appliance store, subject to TDC 54.210(2);</li> <li>○ Home improvement store, subject to TDC 53.210(3) and TDC 54.220(3);</li> <li>○ Auto leasing office, subject to TDC 54.210(4) and TDC 54.220(3); and</li> <li>○ Boat, boat motor and boat trailer sales subject to TDC 54.210(5) and TDC 54.220(3).</li> </ul> All uses subject to TDC 54.210(1).
Eating and Drinking Establishments	P	--
Medical Office	P	--
Office	P	--
Other Educational and Vocational Services	P	--

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
Quick Vehicle Servicing	P (L)	Permitted uses limited to Automobile Service Stations subject to TDC 54.210(6).
Retail Sales and Services	P/C (L)	Conditional use permit required for outdoor pet activity area associated with Pet Day Care, subject to subject to TDC 54.220(3). Pet Day Care without outdoor activity area is permitted outright. Mortuary not permitted. All other retail sales and service uses permitted outright. All uses subject to TDC 54.210(1).
Vehicle Repair	P	--
<b>INDUSTRIAL USE CATEGORIES</b>		
Light Manufacturing	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Optical lens grinder; and</li> <li>○ Testing laboratory.</li> </ul>
Vehicle Storage	P (L)	Permitted uses limited to automobile towing company office and dispatch office, subject to TDC 54.220(3).
Warehouse and Freight Movement	P (L)	Permitted uses limited to frozen food locker.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Assembly Facilities	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Auditoriums, exhibition halls, or rooms for public assembly;</li> <li>○ Churches, synagogues, mosques, temples or other places of worship; and</li> <li>○ Theaters.</li> </ul>
Colleges, Universities, and Private Career Schools	P/C	Permitted uses limited to a private career school. All other uses require conditional use permit.
Community Services	P	--
Schools	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations, pressure reading stations. Conditional uses limited to utility substations.

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Greenways and Natural Areas	P	--
Parks and Open Space	P (L)	Golf courses and country clubs prohibited. All other uses permitted outright.
Public Safety Facilities	P/C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>o Fire stations; and</li> <li>o Publicly- and privately-operated ambulance facilities.</li> </ul> All other uses permitted outright.
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>o Wireless Communication Facility, if located within 300 feet of the centerline of Interstate 5; and</li> <li>o Wireless Communication Facility Attached.</li> </ul> Conditional uses limited to Wireless Communication Facility. Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 54.210 – Additional Limitations on Uses.**

(1) **Size Limitation on Retail Uses.** If located on land designated Employment Area, Corridor or Industrial Area on Map 9-4, uses in the following categories must not be greater than 60,000 square feet of gross floor area per building or business:

- (a) Eating and Drinking Establishments;
- (b) Retail Sales and Services; and
- (c) Durable Goods Sales.

(2) **Appliance Stores.** Incidental repair of appliances is permitted as an accessory use.

(3) **Home Improvement Stores.**

- (a) Garden tractors sold on-site must not exceed 25 horsepower.
- (b) Outdoor storage, display, and sale areas require a conditional use permit and are subject to additional standards, see TDC 54.220.

(4) **Auto Leasing Office.** No more than five (5) vehicles may be stored on site.

(5) **Boat, Boat Motor and Boat Trailer Sales.**

- (a) Maintenance, service and repair of boats, motors and trailers is not permitted.
- (b) The scale of products sold on-site is limited as follows:
  - (i) Boats must not exceed 18 feet in length;
  - (ii) Boat motors must not exceed 40 horsepower; and
  - (iii) Boat trailers are limited to single axle.
- (c) Outdoor storage, display, and sale areas require a conditional use permit and are subject to additional standards, see TDC 54.220.

**(6) Automobile Service Station.**

- (a) The minimum street frontage on each street on a corner lot is 120 feet.
- (b) The minimum street frontage on an interior lot is 150 feet.
- (c) The minimum building setback from any street right-of-way is 40 feet.
- (d) The minimum pump island set-back from any lot line is 15 feet.
- (e) Only two access points are allowed for an interior lot. A corner lot and a through lot are allowed only one access per street frontage.
- (f) The storage and display of merchandise such as tires and batteries offered for sale must be conducted in the station building. However, small items such as oil and windshield wiper blades may be displayed outside the building.
- (g) Outside storage or sale of any vehicles is not permitted.
- (h) Must comply with TDC Chapter 34.200.

**Section 54.220 – Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except as provided by this section.

(1) **Permitted Uses.** Off-street parking and loading, outdoor play areas of child day care centers as required by state day care certification standards, Basic Utilities, Wireless Communication Facilities, and nursery or greenhouse uses are permitted outright as outdoor uses.

(2) **Temporary Uses.** Temporary outdoor sales, as defined in TDC 31.060, are permitted as a temporary use subject to TDC 33.090.

(3) **Conditional Uses.** Any outdoor storage, display, and sales use requires a conditional use permit. The following specific outdoor uses are subject to additional standards.

**(a) Home Improvement Stores.**

- (i) The store's gross floor area must be 50,000 square feet or more.
- (ii) The outdoor area must not exceed 10 percent of the store's gross floor area or 15,000 square feet, whichever is less.
- (iii) Not less than 50 percent of the outdoor area must be covered by a permanent roof.
- (iv) The outdoor area must abut a wall of the store.
- (v) All sides of the outdoor area not abutting a wall of the store must be screened with a sight obscuring fence, wall, berm, or dense evergreen landscaping not less than 6 feet in height.
- (vi) Stored materials must not exceed the height of the sight obscuring barrier when viewed from street level.

**(b) Boat, Motor Boat, and Boat Trailer Sales.**

- (i) Boats, motors, and trailers are allowed, but only if boats, motors, and trailers are not the primary products sold by the store.
- (ii) The outdoor area must abut a wall of the store.
- (iii) The outdoor area must not exceed 10 percent of the store's gross floor area or 5,000 square feet, whichever is less.
- (iv) Not less than 25 percent of the outdoor area must be covered by a permanent roof.



(v) All sides of the outdoor area not abutting a wall of the store must be screened with a sight obscuring fence, wall, berm, or dense evergreen landscaping not less than six feet in height.

(vi) Stored materials must not exceed the height of the sight obscuring barrier when viewed from street level.

(c) **Portable Collection Facilities.** Portable collection facilities that are an accessory use are subject to the following standards:

(i) The facility must be sited such that it is either adjacent to existing vegetation or in a location where vegetation can be installed to enhance the appearance of the facility;

(ii) If vegetation is not already in place, landscaping, as approved through the Architectural Review process, must be installed adjacent to the location of the portable collection facility;

(iii) Items must not be stored outside the facility, except for temporary storage of oversized goods;

(iv) Oversized goods stored outside must be collected daily and removed from the premises or stored inside the portable collection facility; and

(v) Adequate receptacle must be provided for items dropped off during times the facility is not attended.

(d) **Automobile Towing Company Office and Dispatch Office.** Outdoor storage of towed vehicles requires a conditional use permit and is subject to the following standards:

(i) Vehicle storage must be screened with a solid sight-obscuring wall or fence not less than 6 feet in height;

(ii) A perimeter landscaped area at least 5 feet in width must be provided on the outside of the storage area wall or fence as approved through the Architectural Review process. The perimeter landscaped area must be planted with evergreen plant materials which will reach the height of the wall or fence within three years from the time of planting; and

(iii) The storage area must be paved with asphalt or concrete.

(d) **Outdoor Pet Activity Area Associated with Pet Day Care.** Use of an outdoor pet activity area requires a conditional use permit, which must include a noise, odor and animal waste material mitigation plan for the design and management of the outdoor pet day care facility, showing how impacts on neighboring properties and businesses will be eliminated or minimized. Outdoor pet activity areas are subject to the following standards:

(i) The subject lot is not within 500 feet of a residential planning district and is not in Blocks 11, 28, and 29 of the Central Urban Renewal District (CURD).

(ii) The outdoor pet activity area must:

(A) Be completely enclosed with a minimum 8-foot-tall sight-obscuring fence. Slatted chain link fencing is not an appropriate screening measure;

(B) Be a continuously paved impervious surface; and

(C) Have a drainage system that contains all animal waste material for discharge to the sanitary sewer system;

(iii) Outdoor pet day care activities including exercise and training must not occur between the hours of 8:00 pm and 7:00 am.

**Section 54.300 – Development Standards.** Development standards in the CG zone are listed in Table 54-2. Additional standards may apply to some uses and situations, see TDC 54.310.

**Table 54-2  
Development Standards in the CG District**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MINIMUM LOT SIZE</b>		
All Uses	10,000 square feet	
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	75 feet	When lot has frontage on public street or is located on a cul-de-sac street, minimum lot width at the street must be 40 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	5 - 20 feet	Determined through Architectural Review Process.
Side and Rear	0 – 15 feet	Determined through Architectural Review Process.
Rear	0 – 15 feet	Determined through Architectural Review Process.
Corner Lots	0 – 20 feet along each frontage	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	45 feet	Flagpoles may extend up to 100 feet. Gateway tower elements are subject to TDC 54.310(1).

		Maximum height within the Leveton Tax Increment District is 60 feet.
--	--	--

**Section 54.310 – Additional Development Standards.**

(1) **Gateway Tower Elements.** Gateway Tower Elements are permitted in the CG Planning District, subject to the following restrictions. A Gateway Tower Element must not be located within a Mixed Use Commercial Overlay District (MUCOD).

(a) **Location.** The Gateway Tower element must be located within a 3.0 acre or larger commercial center development that is in a CG Planning District and within a 1,000 foot radius of:

- (i) The intersection of the centerline of SW Nyberg Street with the centerline of Interstate I-5; and
- (ii) The intersection of the centerline of SW Lower Boones Ferry Road with the centerline of Interstate I-5.

(b) **Number.** A maximum of two (2) Gateway Tower Elements are permitted within a commercial center development, with a minimum separation of 200 feet.

(c) **Height.** Gateway Tower Element feature must not exceed a structure height of 60 feet.

(d) **Width and Depth.** Gateway Tower Element must not have exterior width, depth, or diameter dimensions greater than 20 feet nor less than 6 feet.

(e) **Design.**

(i) Gateway Tower Elements must incorporate architectural details including—but not limited to—fenestrations; eaves; window openings; and variations in roofline, volume, massing, and exterior materials. Architectural materials and details must be of a high quality and must relate to the design elements used on other structures in the development site.

(ii) Gateway Tower Elements must include a gable, hip, dome or pitched roof form without a spire or pinnacle above. The roof material must be opaque and not transparent or translucent.

(iii) Clocks, bells and similar features are prohibited.

(f) **Lighting.** A Gateway Tower Element may be illuminated by indirect illumination. Direct illumination or internal illumination other than light emitted from approved windows or fenestrations is prohibited.

(g) **Signage.** Signs are prohibited on a Gateway Tower Element structure.

**SECTION 23. TDC Chapter 55 (Mid-Rise Office Commercial (CO/MR) Zone).**

TDC 55 (Mid-Rise/Office Commercial Planning District (CO/MR)) is deleted in its entirety and replaced with TDC 55 (Mid-Rise Office Commercial (CO/MR) Zone) to read as follows:

**Section 55.100 – Purpose.** The purpose of this district is to provide areas for professional, Class A, mid-rise offices.

**Section 55.200 – Use Categories.**

(1) **Use Categories.** Table 55-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CO/MR zone. Use categories may also be designated

as Limited (L) and subject to the limitations listed in Table 55-1 and restrictions identified in TDC 55.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 55-1  
Use Categories in the CO/MR Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Parking	P	--
Commercial Recreation	P (L)	Permitted uses limited to health or fitness facilities as defined by TDC 31.060 and subject to TDC 55.210(2). All uses are subject to TDC 55.210(1).
Eating and Drinking Establishments	C (L)	Conditional uses limited to restaurants, subject to TDC 55.210(3). All uses are subject to TDC 55.210(1).
Medical Office	P	--
Office	P	--
Retail Sales and Services	P/C (L)	Permitted uses limited to child day care centers. Conditional uses limited to pharmacies, subject to TDC 55.210(4). All uses are subject to TDC 55.210(1).
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations and pressure reading stations. Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Electrical substation;</li> <li>○ Natural gas pumping station; and</li> <li>○ Water reservoir.</li> </ul>
Greenways and Natural Areas	P	--
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility, if</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		<p>located within 300 feet of the centerline of Interstate 5; and</p> <ul style="list-style-type: none"> <li>○ Wireless Communication Facility Attached.</li> </ul> <p>Conditional uses limited to Wireless Communication Facility.  Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.  Subject to TDC 55.310(3).</p>

**Section 55.210 – Additional Limitations on Uses.**

(1) **Size Limitation on Retail Uses.** If located on land designated Employment Area, Corridor or Industrial Area on Map 9-4, uses in the following categories must not be greater than 60,000 square feet of gross floor area per building or business:

- (a) Commercial Recreation;
- (b) Eating and Drinking Establishments; or
- (c) Retail Sales and Services.

(2) **Health and Fitness Facilities.** Health and fitness facilities must not exceed 25,000 square feet of gross floor area and must be limited to indoor operation.

(3) **Restaurants.** Restaurants are allowed with a conditional use permit when designed as an integral part of a major office complex exceeding 250,000 square feet of gross floor area.

(4) **Pharmacies.** Pharmacies (as defined by TDC 31.060) are allowed with a conditional use permit when designed as an integral part of a medical office building, clinic or complex containing at least 30,000 square feet of gross floor area and meeting the following criteria:

- (a) **Maximum Floor Area.** The pharmacy contains no more than 600 square feet of floor area. Additional floor area may be allowed for other, non-dispensing uses if approved as part of the conditional use request. The total floor area of the pharmacy and any related uses must not exceed 1200 square feet.
- (b) **Operations.** The sole function of the pharmacy must be oriented toward dispensing activities associated with prescription drugs and the sale of non-prescription drugs.
- (c) **Oriented to Patient Traffic.** The pharmacy is designed so as to be oriented toward patient traffic within the building, clinic, or complex, rather than toward passing vehicular traffic.
- (d) **No Drive-In Windows.** Drive-in window service is not allowed for pharmacies in this zone.

**Section 55.300 – Development Standards.** Development standards in the CO/MR zone are listed in Table 55-2. Additional standards may apply to some uses and situations, see TDC 55.310.

**Table 55-2  
Development Standards in the CO/MR Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>MINIMUM LOT SIZE</b>		
All Uses	3 acres	--
<b>MINIMUM LOT WIDTH</b>		
Minimum Average Lot Width	200 feet	When lot has frontage on public street, minimum lot width at the street is 100 feet. When lot has frontage on a cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	30 feet	--
Side and Rear	30 feet	--
Corner Lots	30 feet	Must be a sufficient distance to provide adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
<b>MAXIMUM STRUCTURE HEIGHT</b>		
All Uses	75 feet	Flagpoles may extend up to 100 feet.

**Section 55.310 – Additional Development Standards.**

(1) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front, side, or rear yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side, or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** Each lot must be located wholly in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (i) Dedicated to the City at the City's option;
- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (iv) Does the lot connect publicly owned or publicly accessible properties;
- (v) Does the lot abut an existing park, greenway, natural area or other public facility;
- (vi) Does the lot provide a public benefit or serve a public need;
- (vii) Does the lot contain environmental hazards;
- (viii) Geologic stability of the lot; and
- (ix) Future maintenance costs for the lot.

(3) **Wireless Communication Facilities.** The maximum structure height for a wire-less communication support structure and antennas located within 300 feet of the centerline of I-5 is 120 feet.

**SECTION 24. TDC Chapter 56 (Medical Center (MC) Zone).** TDC 56 (Medical Center Planning District (MC)) is deleted in its entirety and replaced with TDC 56 (Medical Center (MC) Zone) to read as follows:

**Section 56.100 – Purpose.** The purpose of this Medical Center (MC) Zone is to provide care facilities, allied health care uses and limited supporting retail and service uses for the convenience of patients, patient visitors and staff.

**Section 56.200 – Use Categories.**

(1) **Use Categories.** Table 56-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MC zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 56-1 and restrictions identified in TDC 56.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 56-1  
Use Categories in the MC Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Group Living	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Congregate Care Facilities, subject to TDC 56.210(3);</li> <li>○ Residential Facilities, subject to TDC 56.210(3); and</li> <li>○ Nursing Facilities.</li> </ul>
<b>COMMERCIAL USE CATEGORIES</b>		
Eating and Drinking Establishments	P (L)	Subject to TDC 56.210(2).
Medical Office	P	--
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Branch bank / automatic teller;</li> <li>○ Barber/beauty shop;</li> <li>○ Child day care center;</li> <li>○ Durable medical goods sales and rentals;</li> <li>○ Fitness center; and</li> <li>○ Pharmacy.</li> </ul> All uses subject to TDC 56.210(2):
<b>INSTITUTIONAL USE CATEGORIES</b>		
Medical Centers	P/C	Establishment of a helipad as an accessory use requires a conditional use permit.
Colleges, Universities and Private Career Schools	P (L)	Permitted uses limited to nursing schools and other medical training facilities.



USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P/C (L)	Permitted uses limited to sewer and water pump stations and pressure reading stations. Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Electrical substation;</li> <li>○ Natural gas pumping station; and</li> <li>○ Water reservoir.</li> </ul>
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility Attached.</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility.</li> </ul> Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 56.210 – Additional Limitations on Uses.**

(1) **Size Limitation on Retail Uses.** If located on land designated Employment Area, Corridor or Industrial Area on Map 9-4, Retail Sales and Service uses must not be greater than 60,000 square feet of gross floor area per building or business.

(2) **Additional Limitations on Retail Sales and Service and Eating and Drinking Establishments.** Supporting retail and services and eating and drinking establishments are limited uses for the convenience of patients, patient visitors, and on-site employees, and are subject to the following standards and limitations:

(a) **Maximum Size.** Retail and service uses and eating and drinking establishments uses are subject to the following limitations on gross floor area:

- (i) Bank branch/automatic teller machine must not be greater than 1,000 square feet of gross floor area;
- (ii) Barber/beauty shop must not be greater than 750 square feet of gross floor area;
- (iii) Child day care center must not be greater than 4,000 square feet of gross floor area;
- (iv) Credit union must not be greater than 1,000 square feet of gross floor area;
- (v) Fitness center must not be greater than 15,000 square feet of gross floor area;
- (vi) Florist/gift shop must not be greater than 750 square feet of gross floor area;
- (vii) Pharmacy must not be greater than 2,000 square feet of gross floor area;
- (viii) Restaurant/delicatessen/coffee shop must not be greater than 1500 square feet of gross floor area; and
- (ix) The floor area of one use, or a combination of uses, listed above in any one building must not exceed ten (10) percent of the gross floor area of the building.

(b) **Outdoor Eating Areas.** A restaurant, delicatessen, or coffee shop may include an outdoor eating area, provided the outdoor area consists on an all-weather surface not greater than 900 square feet in gross floor area and screened from public rights-of-way and residential planning districts by a completely sight-obscuring evergreen hedge and/or fence as determined through the Architectural Review process.

(c) **Drive-up and Drive-Through Service.** Drive-up windows and drive-through services are not be permitted. Loading and unloading at the vehicle entrance to the emergency room is not a drive-through service.

(d) **Interior Building Access Only.** The use must have interior building access through an interior hall or lobby of the building only. Emergency access required by the Oregon Uniform Building Code and secondary access to outdoor eating areas are allowed.

(3) **Congregate Care, Assisted Living, and Residential Facilities.**

(a) **Building Design.** The building must be designed or renovated specifically for use as a congregate care, assisted living or residential facility. All State required licenses must be obtained.

(b) **Living Quarters.** The facilities must consist of living units with shared areas in accordance with State requirements.

(c) **Pedestrian Walkways.** Outdoor walkways must be paved and lighted and must comply with the Americans with Disabilities Act ADAAG requirements.

(d) **Noise and Lighting.** Noise and lighting must be buffered and screened.

(e) **Residential Density.** The residential density in the development area must be no less than 16 and no more than 25 living units per acre.

**Section 56.300 – Development Standards.** Development standards in the MC zone are listed in Table 56-2. Additional standards may apply to some uses and situations, see TDC 56.310.

**Table 56-2  
Development Standards in the MC Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>MINIMUM SETBACKS</b>		
Front	--	Determined through the Architectural Review process,
Side	50 feet	Abutting an MC District Boundary: no less than 50 feet. This standard also applies to flagpoles. Not abutting an MC District Boundary: determined through the Architectural Review process
Rear		
Parking and Circulation Areas	5-10 feet	Abutting an MC District Boundary or public right-of-way: 10 feet Not abutting an MC District Boundary: 5 feet, except as determined through the

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		Architectural Review process
Fences	5 feet	From public right-of-way.
STRUCTURE HEIGHT		
Maximum Height	25-95 feet	<p>Maximum height limits are based on distance from a property line abutting a MC District Boundary:</p> <ul style="list-style-type: none"> <li>○ 50.01 to 100 feet from a property line abutting a MC District Boundary: 25 feet</li> <li>○ 100.01 to 300 feet from a property line abutting a MC District Boundary: 45 feet</li> <li>○ Greater than 300 feet from a property line abutting a MC District Boundary: 95 feet</li> </ul> <p>Flagpoles may extend 100 feet above-grade, except they are prohibited within 50 feet of a property line abutting a MC District Boundary.</p>

**Section 56.310 – Additional Development Standards.**

(1) **Outdoor Uses.** Except outdoor eating, all uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) **Lot Size and Width Standards.** Lot sizes for all uses are determined through the Architectural Review process.

**SECTION 25. TDC Chapter 58 (Central Tualatin Overlay Zone).** TDC 58 (Central Tualatin Overlay Zone) is created to read as follows:

**Section 58.100 – Purpose.** The purpose of this district is to implement the goals and objectives for Central Urban Renewal Plan. The overall goal of the Central Urban Renewal Plan is to strengthen the social and economic development of central Tualatin by stabilizing and improving property values, eliminating existing blight, and preventing future blight; and to encourage and facilitate land uses, private and public, that result in activity during all business hours, evenings, nights, and weekends; and to encourage indoor and outdoor uses. The overlay zone regulations are intended to ensure development contributes towards these goals. The Central Urban Renewal District is no longer an active Urban Renewal Area; however, the regulations of this chapter remain important to the future development of the Central Tualatin area.

**Section 58.110 – Zone Boundaries.** The boundaries of the Central Tualatin Overlay Zone are identical to the Central Urban Renewal Area. The zone boundaries are depicted in Map 9-3 and delineated in a legal description that is incorporated to this chapter as Exhibit 58-1.

**Section 58.200 – Use Categories in the CC Zone.**

(1) **Modifications to Base Zone Use Regulations.** Some of the uses permitted in the CC zone are modified in the Central Tualatin Overlay zone. Table 58-1 lists use categories that are modified in the overlay zone as Permitted Outright (P), Conditionally Permitted (C), or Prohibited (N). Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 58-1 and restrictions identified in TDC 58.210. Use categories not listed in Table 58-1 are regulated as specified in the CC zone see TDC Chapter 53.

(2) **Sub-Districts.** Modifications to use regulations may vary by the sub-district within the overlay zone. There are three sub-districts within the CC zone in the Central Tualatin Overlay Zone. These sub-districts are defined by the block numbers listed below, except as otherwise noted. Block numbers are shown on Map 9-3.

(a) **Residential Sub-District.** Blocks 2, 3, 15, 16, 17, 18, 19, 20, 22 and 23.

(b) **Commercial Sub-District.** Block 30.

(c) **Central Design District.** Central Design District shown on Figure 73-4 and Map 8 of the Central Urban Renewal Plan.

**Table 58-1  
Modifications to Use Regulations in the CC Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P (L)	Residential Sub-District: Permitted housing types limited to: <ul style="list-style-type: none"> <li>○ Townhouse;</li> <li>○ Multi-Family Structure and duplex;</li> <li>○ Retirement Housing Facility, subject to Subject to TDC 58.210(1); and</li> <li>○ Residential Homes.</li> </ul>
Group Living	P (L)	Residential Sub-District: Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Residential Facilities; and</li> <li>○ Congregate Care Facility, subject to 58.210(1)</li> </ul>
<b>COMMERCIAL USE CATEGORIES</b>		
All uses permitted in the CG zone	P (L)	Commercial Sub-District: All uses permitted in the CG zone, pursuant to TDC 54.200, are permitted.
Eating and Drinking Establishments	N	Central Design District: Take-out restaurant drive-up uses are prohibited.
Retail Sales and Service	C/N	Central Design District: <ul style="list-style-type: none"> <li>○ Photo service drive-up uses are</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		prohibited. ○ Bank drive-up uses and other drive-up uses are permitted as a conditional use.

**Section 58.210 – Additional Standards in the CC Zone.**

(1) **Retirement Housing.** Retirement housing permitted in the Residential Sub-District is subject to the following additional standards:

- (a) The building, or dwelling units in a mixed-use building, must be designed or renovated specifically for retirement housing;
- (b) A retirement housing building, or retirement housing areas of a mixed-use building, must not be occupied without first obtaining a valid State license. A valid State license must be maintained at all times as a condition of occupancy;
- (c) Public facilities must have capacity to serve the proposed development;
- (d) The housing may be provided as congregate care or as separate units in a retirement housing facility or any combination thereof; and
- (e) Occupancy of retirement housing is limited to persons 55 years of age and older. In the case of couples, one member of the couple must be 55 years of age or older. This restrictive condition must be recorded in the County deed records.

(2) **Architectural Focal Elements.** Architectural focal elements are permitted on Blocks 14, 17, 18 and 20 of the Central Tualatin Overlay Zone.

**Section 58.300 – Use Categories in the CG Zone.**

(1) **Modifications to Base Zone Use Regulations.** Some of the uses permitted in the CG zone are modified in the Central Tualatin Overlay zone. Table 58-3 lists use categories that are modified in the overlay zone as Permitted Outright (P), Conditionally Permitted (C), or Prohibited (N). Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 58-3. Use categories not listed in Table 58-3 are regulated as specified in the CG zone see TDC Chapter 54.

(2) **Sub-Districts.** Block 11 is the only sub-district in the overlay zone. The modifications to use regulations in Table 58-3 apply exclusively Block 11. Block numbers are shown on Map 9-3.

**Table 58-3  
Modifications to Use Regulations in the CG Zone (Block 11)**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>COMMERCIAL USE CATEGORIES</b>		
Retail Sales and Service	N	Pet Day Care prohibited.
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Wireless Communication Facilities	N	All wireless communication facilities prohibited.

**Section 58.400 – Use Categories in the CO Zone.**

(1) **Modifications to Base Zone Use Regulations.** Some of the uses permitted in the CO zone are modified in the Central Tualatin Overlay zone. Table 58-4 lists use categories that are modified in the overlay zone as Permitted Outright (P), Conditionally Permitted (C), or Prohibited (N). Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 58-4. Use categories not listed in Table 58-4 are regulated as specified in the CO zone see TDC Chapter 50.

(2) **Sub-Districts.** Block 1 is the only sub-district in the overlay zone. The modifications to use regulations in Table 58-4 apply exclusively Block 1. Block numbers are shown on Map 9-3.

**Table 58-4  
Modifications to Use Regulations in the CO Zone (Block 1)**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P (L)	Permitted housing types limited to: <ul style="list-style-type: none"> <li>○ Townhouse; and</li> <li>○ Multi-Family Structure and duplex Residential Home.</li> </ul>
Residential Accessory Uses	P (L)	Permitted uses limited to Family Day Care subject to ORS 329A.440.
Group Living	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Residential Facility.</li> </ul>
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Lodging	C	--
Commercial Recreation	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Amusement enterprise, including pool hall, bowling alley, dance hall or skating rink; and</li> <li>○ Private meeting hall, club or lodge hall, or fraternal organizations.</li> </ul>
Durable Goods Sales	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Furniture store, including antiques and second-hand furniture;</li> <li>○ Appliance store, subject to TDC 53.210(2).</li> </ul>
Eating and Drinking Establishments	C	--
Retail Sales and Services	C/N	Memorial Planning and Products Center (as defined in TDC 39.115) not permitted. All other uses permitted as conditional uses.
<b>INSTITUTIONAL USE CATEGORIES</b>		
Colleges, Universities and	C (L)	Conditional uses limited to business college.

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Private Career Schools		
Community Services	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Parks and Open Areas	C (L)	Conditional uses limited to public park or playground.
Public Safety Facilities	C	--
Wireless Communication Facilities	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility Attached; and</li> <li>○ Wireless Communication Facility, located within 300 feet of the centerline of I-5. Maximum height and minimum setbacks subject to TDC Chapter 73F.</li> </ul>

**Section 58.500 – Use Categories in the ML Zone.**

(1) **Modifications to Base Zone Use Regulations.** Some of the uses permitted in the ML zone are modified in the Central Tualatin Overlay zone. Table 58-6 lists use categories that are modified in the overlay zone as Permitted Outright (P), Conditionally Permitted (C), or Prohibited (N). Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 58-6. Use categories not listed in Table 58-6 are regulated as specified in the ML zone see TDC Chapter 60.

(2) **Sub-Districts.** Blocks 28 and 29 are the only sub-districts in the overlay zone. The modifications to use regulations in Table 58-6 apply exclusively Blocks 28 and 29. Block numbers are shown on Map 9-3.

**Table 58-6  
Modifications to Use Regulations in the ML Zone (Blocks 28 and 29)**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Recreation	P (L)	Permitted uses limited to health or fitness facility.
Durable Goods Sales	P (L)	Some uses subject to limitations, see TDC 58.510(1).
Eating and Drinking Establishments	P (L)	All uses subject to TDC 58.510(2).
Medical Office	P	--
Office	P	--
Other Educational and Vocational Services	P	--

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Quick Vehicle Servicing	N	Retail automobile service stations (gas stations) and nonretail cardlock stations (cardlock gas stations) are prohibited.
Retail Sales and Services	P	--
Vehicle Repair	P	--
Vehicle Storage	P (L)	Permitted uses limited to automobile towing company office and dispatch office with no outdoor storage of towed vehicles.
<b>INDUSTRIAL USE CATEGORIES</b>		
Light Manufacturing	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Assembly, packaging, and treatment of beer and other alcohol products, with or without a tasting or tap room;</li> <li>○ Optical lens grinder; and</li> <li>○ Testing laboratory.</li> </ul>
<b>INSTITUTIONAL USE CATEGORIES</b>		
Colleges, Universities and Private Career Schools	P (L)	Permitted uses limited to business college.

**Section 58.510 – Additional Standards in the ML Zone.**

(1) **Durable Goods Sales.** Additional limitations apply to Durable Goods Sales uses, as specified by this section:

- (a) **Home Improvement Stores.** Garden tractors sold on-site must not exceed 25 horsepower.
- (b) **Auto Leasing Office.** No more than five (5) vehicles may be stored on site.
- (c) **Boat, Boat Motor and Boat Trailer Sales.**
  - (i) Maintenance, service and repair of boats, motors and trailers is not permitted.
  - (ii) The scale of products sold on-site is limited as follows:
    - (A) Boats must not exceed 18 feet in length; and
    - (B) Boat motors must not exceed 40 horsepower.

(2) **Eating and Drinking Establishments.** Eating and Drinking Establishments are subject to the following provisions:

- (a) Drive-throughs are prohibited; and
- (b) Take-out restaurants must be smaller than 1,500 square feet, seat no more than 50 people, and be located at least 200 feet away from a public street right-of-way, unless the right-of-way is separated from the restaurant by railroad right-of-way, in which case the restaurant must be at least 100 feet away from a public street right-of-way.

(3) **Outdoor Uses.** All additional uses permitted in the ML Plan District pursuant to this section must be conducted wholly within an enclosed building, except the following:

- (a) **Home Improvement Stores.** Building and home improvement materials and supplies retail sales store's that have a gross floor exceeding 50,000 square feet



may have an outdoor storage, display, and sales area subject to the following provisions:

- (i) The outdoor area must abut a wall of the store;
- (ii) The outdoor area must not exceed 15,000 square feet;
- (iii) No less than 50 percent of the outdoor area must be covered by a permanent roof;
- (iv) All sides of the outdoor area not abutting a wall of the store must be screened with a sight obscuring fence, wall, berm, or dense evergreen landscaping not less than 6 feet in height as approved through the Architectural Review process; and
- (v) Stored materials must not exceed the height of the sight obscuring barrier when viewed from street level.

(b) **Boat, Boat Motor and Boat Trailer Sales.** Retail sales of boats, motors, and trailers may have an outdoor storage, display, and sales area subject to the following provisions:

- (i) The sales of boats, motors, and trailers must not be the primary products sold by the store;
- (ii) The outdoor area must abut a wall of the store;
- (iii) The outdoor area must not exceed 5,000 square feet;
- (iv) No less than 25 percent of the outdoor area must be covered by a permanent roof;
- (v) All sides of the outdoor area not abutting a wall of the store must be screened with a sight obscuring fence, wall, berm, or dense evergreen landscaping not less than six feet in height as approved through the Architectural Review process; and
- (vi) Stored materials must not exceed the height of the sight obscuring barrier when viewed from street level;

(4) **Size Limitation.** All additional uses, or combination of additional uses, permitted in the ML Plan District pursuant to this section cannot exceed 60,000 square foot per parcel.

#### **Section 58.600 – Use Categories in the RH Zone.**

(1) **Modifications to Base Zone Use Regulations.** Within the Central Tualatin Overlay Zone, the uses permitted in the RH zone may be mixed with the uses permitted in the CC zone. Development standards for sites within the RH zone in the Central Tualatin Overlay are subject to TDC 58.800.

(2) **Sub-Districts.** Blocks 25 and 4 are the only sub-districts in the overlay zone. Block numbers are shown on Map 9-3.

**Section 58.700 – Use Categories in the RH-HR Zone.** Within the Central Tualatin Overlay Zone, the uses permitted in the RH-HR zone are not modified. The RH-HR zone allows for high-density development in the Central Tualatin Overlay Zone. Some development standards, including density and minimum lot size, for sites within the RH-HR zone in the Central Tualatin Overlay are subject to TDC 58.800.

#### **Section 58.800 – Central Tualatin Overlay Development Standards.**

Development standards in the Central Tualatin Overlay zone are listed in Table 58-7 by zone and by block (as shown on Map 9-3). Where no standard is listed, the standards of the base zone apply.

**Table 58-7  
Development Standards in the Central Tualatin Overlay District**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>CENTRAL COMMERCIAL (CC)</b>		
Density within the Residential Sub-District	16-25 dwelling units per acre	
Minimum Lot Size within Core Area Parking District	5,000 square feet	For mixed use developments, and common-wall dwellings on separate lots, lot areas, widths and frontages are determined through the Architectural Review Process.
Minimum Lot Size outside Core Area Parking District	25,000 square feet	
Minimum Lot Width	40 feet	
Minimum Lot Width at the Street	40 feet	
Minimum Lot Width at the Street on a Cul-De-Sac Street	35 feet	
<b>GENERAL COMMERCIAL (CG)</b>		
Minimum Lot Size	25,000 square feet	--
Minimum Lot Width	100 feet	--
Minimum Lot Width at the Street	40 feet	--
Minimum Lot Width at the Street on a Cul-De-Sac Street	40 feet	--
<b>COMMERCIAL OFFICE (CO)</b>		
Density	16-25 dwelling unit per acre	
Minimum Lot Size	25,000 square feet	Lot sizes for townhouses must conform to the lot size standards of the RH District.
<b>LIGHT MANUFACTURING (ML)</b>		
Minimum Lot Size, Block 28	20,000 square feet	--
Minimum Lot Size, Block 29	25,000 square feet	--

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>GENERAL MANUFACTURING (MG)</b>		
Minimum Lot Size, Block 24	25,000 square feet	
<b>RESIDENTIAL HIGH DENSITY (RH)</b>		
Density	16 – 25 dwelling units per acre	
Minimum Lot Size, Block 25	40,000 square feet	When permitted uses are mixed with the uses permitted in the CC zone, lot sizes are determined through the Architectural Review Process.
Minimum Setbacks, Block 25	--	When permitted uses are mixed with the uses permitted in the CC zone, setbacks are determined through the Architectural Review Process.
Maximum Structure Height	45 feet	When permitted uses are mixed with the uses permitted in the CC zone.
<b>RESIDENTIAL HIGH DENSITY HIGH RISE (RH/HR)</b>		
Density	26-30 dwelling units per acre	
Minimum Lot Size, Blocks 31 and 33	40,000 square feet	--
Minimum Lot Size, Block 26	25,000 square feet	--

**Section 58.810 – Additional Development Standards.**

(1) **Lot Size for Infrastructure and Utilities Uses.** Lot Size for Infrastructure and Utilities Uses must be established through the Subdivision, Partition or Lot Line Adjustment process.

(2) **Minimum Lot Width for Flag Lots.** For flag lots, the minimum lot width at the street must be sufficient to comply with at least the minimum access requirements in TDC 73C.

**SECTION 26. TDC Chapter 60 (Light Manufacturing (ML) Zone).** TDC 60 (Light Manufacturing Planning District (ML)) is deleted in its entirety and replaced with TDC 60 (Light Manufacturing (ML) Zone) to read as follows:

**Section 60.100 – Purpose.** The purpose of this zone is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The zone serves to buffer heavy manufacturing uses from commercial and

residential areas. Industrial uses that are environmentally adverse or pose a hazard to life and safety are prohibited. The zone is suitable for warehousing, wholesaling, and light manufacturing processes that are not hazardous and do not create undue amounts of noise, dust, odor, vibration, or smoke. The purpose is also to allow a limited amount of commercial uses and services and other support uses, including office uses in limited locations in close proximity to the Commercial Office (CO) district. Commercial uses are not permitted in the Limited Commercial Setback.

**Section 60.200 – Use Categories.**

(1) **Use Categories.** Table 60-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the ML zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 60-1 and restrictions identified in TDC 60.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Use Categories in the Limited Commercial Setback.** Commercial uses may be further restricted within the Limited Commercial Setback, see TDC 60.210(4).

(3) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 60-1  
Use Categories in the ML Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	C (L)	Conditional uses limited to caretaker residence, accessory to a permitted industrial use.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Parking	P (L)	Must be located within 60 feet of the CO zone and subject to TDC 60.210(5).
Commercial Recreation	P (L)	Permitted uses limited to health or fitness facility if within 60 feet of the CO district and subject to TDC 60.210(5), or as a limited use in all other locations, subject to TDC 60.210(2).
Durable Goods Sales and Service	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC 60.210(1); and</li> <li>○ Retail sale of landscape materials subject to TDC 60.210(3);</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Sale or service of manufactured dwellings;</li> <li>○ Boat sales or rental; rental or leasing of autos and light trucks with incidental sale of</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		vehicles; and <ul style="list-style-type: none"> <li>○ Sale of home improvement materials and supplies.</li> </ul>
Eating and Drinking Establishments	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC60.210(1); and</li> <li>○ Restaurant or deli as a secondary use subject to TDC 60.210(2).</li> </ul>
Marijuana Facilities	P (L)	Subject to TDC Chapter 80.
Office	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Offices for executive, administrative, and professional uses related to the sale or service of industrial products;</li> <li>○ Office uses if within 60 feet of the CO zone and subject to TDC 60.210(5); and</li> <li>○ Office uses including business and commercial offices, general offices, and real estate offices, but not governmental offices, are a limited use in all other locations, subject to TDC 60.210(2).</li> </ul>
Other Educational and Vocational Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Correspondence, trade, or vocational school as a secondary use subject to TDC 60.210(2); and</li> <li>○ Trade or industrial school and subject to TDC 60.210(3).</li> </ul>
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC 60.210(1);</li> <li>○ Food or convenience store, mailing operations, reproduction or photocopying services, bank, and medical services as secondary uses subject to TDC 60.210(2); and</li> <li>○ Child day care center if within 60 feet of the CO zone and subject to TDC 60.210(5) or if located within a building that is a permitted industrial use.</li> </ul>
Quick Vehicle Service	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Automobile Service Stations, subject to TDC 60.210(6); and</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		<ul style="list-style-type: none"> <li>○ Non-Retail Cardlock Fueling Station, subject to TDC 60.210(6).</li> </ul> No outside storage or sale of any vehicles is permitted.
Vehicle Repair	C (L)	Subject to TDC 60.210(3).
<b>INDUSTRIAL USE CATEGORIES</b>		
Heavy Manufacturing	P/C (L)	Permitted uses limited to electroplating. Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Manufacture of the following types of products: bicycles; small electric generators; small electric motors; motorized boats; sashes and doors; vending machines.</li> <li>○ Production or fabrication of metals or metal products including enameling and galvanizing</li> </ul>
Light Manufacturing	P/C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Machine shop over 7,500 square feet;</li> <li>○ Building, heating, plumbing and electrical contractor's offices, with on-site storage of equipment or materials;</li> <li>○ Casting or fabrication of metals.</li> </ul> All other uses permitted outright.
Solid Waste Treatment and Recycling	C (L)	Conditional uses limited to recycling collection center.
Vehicle Storage	P (L)	Vehicle storage not permitted within the Limited Commercial Setback. Vehicles sales not permitted. All other uses permitted outright in other locations.
Warehouse and Freight Movement	P/C	Conditional use permit required for cold storage plants. All other uses permitted outright.
Wholesale Sales	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, that are products primarily sold wholesale to other industrial firms or industrial workers; and</li> <li>○ Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		Conditional use required for wholesale sales of building materials and supplies
<b>INSTITUTIONAL USE CATEGORIES</b>		
Schools	C	--
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas	P	--
Public Safety Facilities	C (L)	Conditional uses limited to fire station.
Transportation Facilities	P	--
Wireless Communication Facility	P (L)	Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 60.210 – Additional Limitations on Uses.**

(1) **Sale of Goods Produced On-Site.** The retail sale of goods produced on-site is permitted, provided that the retail sale area, including the showroom area, is no greater than 5 percent of the gross floor area of the building and does not exceed 1,500 square feet.

(2) **Limited Commercial Uses.** Commercial uses permitted as limited uses, as specified in Table 60-1, must be located on the same site as a permitted industrial use. The site must be used substantially for industrial purposes and the commercial use is subject to the following limitations. The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

(a) **Offices.** Office uses must not exceed 25 percent of the total gross floor area of all buildings on the site.

(b) **Retail Sales and Services, Eating and Drinking Establishments, or Other Educational and Vocational Services.** Permitted uses in these categories, as specified in Table 60-1, are subject to the following additional standards.

(i) **Maximum Size.** The use must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all retail or service uses on the site.

(ii) **Spacing Standard.** Uses must not be located within 80 feet from any Residential Planning District and from the right-of-way of SW Tualatin-Sherwood Road.

(iii) **Access Standard.** If located in a standalone building, the uses must not have direct access onto any arterial or collector street.

(3) **Size Limitation on Commercial Uses.** Commercial uses permitted outright or as a Conditional Use as the primary use of a site, as specified in Table 60-1, are subject to the following size limitations.

(a) **Employment Areas or Corridors.** Commercial uses on land designated as an Employment Area (EA) or Corridor (CO) Design Type on Map 9-4 must not exceed 60,000 square feet of gross floor area per building or business.

(b) **Industrial Areas.** Commercial uses on land designated as an Industrial Area Design Type on Map 9-4 must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all commercial uses on the site. Commercial uses permitted in the Limited Commercial Setback are exempt from this requirement.

(4) **Limited Commercial Setback.** The purpose of the Limited Commercial Setback is to restrict commercial uses from locating within 300 feet from the centerline of SW Tualatin Sherwood Road and SW 124th Avenue and 350 feet from the centerline of SW Pacific Highway 99W west of Cipole Road, as depicted in Map 9-5.

(a) **Restriction on Commercial Uses.** No commercial uses, including parking or outdoor storage and display areas, are permitted outright in the Limited Commercial Setback.

(b) **Conditional Uses.** Quick Vehicle Service uses and the sale and service of manufactured dwellings are permitted as Conditional Uses in the Limited Commercial Setback.

(5) **Additional Commercial Office Uses.** As specified in Table 60-1, uses permitted in the CO district are permitted in ML if any portion of the lot is within 60 feet of the CO district boundary, subject to the following:

(a) **Development Standards.** Uses must comply with the CO district development standards.

(b) **Trip Generation Limit.** The gross floor area of the use is limited based on vehicle trip generation. The limitation is determined through the Architectural Review process using the following formula:  $(A \times 24) / ITE = MTGSF$ , where:

(i) A = Developable area (in acres);

(ii) 24 = Vehicle trip generation cap for P.M. peak hour trips per acre of land (constant determined by city);

(iii) ITE = Average vehicle trips per 1000 square feet gross floor area on a weekday P.M. peak hour of the adjacent street as determined using the latest edition of the ITE Trip Generation Manual, or actual trip rate figures based on a traffic analysis approved by the City Engineer; and

(iv) MTGSF = Maximum thousand gross square feet of floor area allowed on the developable area.

(c) **Continuity Requirement.** If CO use is located on a parcel in the ML district it must abut the CO district.

(6) **Automobile Service Stations.** Automobile Service Station uses are subject to the following additional standards.

(a) **Spacing Requirements.** Automobile Service Station uses must not be located within the specified distance of the following uses:

(i) **Existing Automobile Service Stations.** No closer than 3,000 feet to another operating Quick Vehicle Service use, measured from the closest lot line of the two lots;

(ii) **Arterial Streets.** No closer than 300 feet from centerline of SW 124th Avenue and 350 feet from the centerline of SW Pacific Highway (99W); and

(iii) **Day Care Centers.** All exterior walls and pump islands must be a minimum distance of 400 feet from the exterior walls and outdoor play areas of any day care center or family day care provider, irrespective of any structures in between.



(b) **Development Standards.** Quick Vehicle Service Uses are subject to the following additional development standards.

- (i) The minimum street frontage is 120 feet on corner lot and 150 feet on interior lot;
- (ii) The minimum building setback from any street right-of-way is 40 feet; and
- (iii) The minimum pump island setback from any lot line is 15 feet.

(c) **Access Standards.** In addition to access standards of TDC Chapter 75, only two access points are allowed for an interior lot and one access point per street frontage for a corner lot or through lot.

(d) **Accessory Uses.** A minimart is permitted as an accessory use, except for at a cardlock station, provided the minimart does not exceed 3,500 square feet of gross floor area and no seating is provided.

(e) **Outdoor Storage and Display.** The outdoor storage and display of merchandise or vehicles is not permitted.

(f) **Non-Conforming Uses or Structures.** Those uses in operation or with a conditional use permit as of March 25, 2002 that do not meet the spacing or setback standards do not become non-conforming uses solely because of failure to meet spacing or setback standards.

(7) **Spacing Requirement for Conditional Uses.** A conditional use must not be located closer than 300 feet to any residential planning district boundary. This requirement does not apply to schools or transportation facilities and improvements.

(a) **Measurement.** The spacing standard is measured from the closest point on the building to the residential planning district boundary and does not include setbacks, parking areas, circulation areas and landscaping.

(b) **Modification of Existing Uses.** New buildings, expansions, or additions to existing buildings, except for office uses related to on-site operations, must be sited in the following locations, in order of priority, as site conditions permit:

- (i) Must be greater than 300 feet from any residential district;
- (ii) Must be the opposite side of existing buildings from any residential district; and
- (iii) Must not be closer than existing buildings to any residential district.

(c) **Definition of Existing Uses.** For purposes of this section, buildings approved through the Architectural Review process as of September 24, 1990, in accordance with Ordinance 812-90, are considered existing buildings.

**Section 60.300 – Development Standards.** Development standards in the ML zone are listed in Table 60-2. Additional standards may apply to some uses and situations, see TDC 60.310.

**Table 60-2  
Development Standards in the ML Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>LOT SIZE</b>		
Minimum Lot Size	20,000 square feet	--

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>LOT DIMENSIONS</b>		
Minimum Lot Width	100 feet	When lot has frontage on public street, minimum lot width at the street is 100 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	30 feet	
Front Setback Adjacent to Residential or Manufacturing Park District	50 feet	
Side	0-50 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad right-of-way or spur track.
Side Setback Adjacent to Residential or Manufacturing Park district	50 feet	
Rear	0-50 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad right-of-way or spur track.
Rear Setback Adjacent to Residential or Manufacturing Park district	50 feet	
Parking and Circulation Areas	5 feet	No minimum setback required adjacent to joint access approach in accordance with TDC 73C.
Parking and Circulation Areas Adjacent to Residential or Manufacturing Park (MP) District	10 feet	
Fences	10 feet	From public right-of-way.
<b>STRUCTURE HEIGHT</b>		
Maximum Height	50 feet	May be increased to 85 feet if yards adjacent

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
Maximum Height Adjacent to Residential District	28 feet	to structure are not less than a distance equal to one and one-half times the height of the structure. Measured at the 50-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane beginning at the 50-foot setback line at a slope of 45 degrees extending away from the 50-foot setback line. Flagpoles may extend to 100 feet.

**Section 60.310 – Additional Development Standards.**

(1) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) **Spur Rail Tracks.** Spur rail tracks are not permitted within 200 feet of an adjacent residential district.

(3) **Sound Barrier Construction.** Sound barrier construction is required to mitigate the impact of noise associated with overhead doors and building mechanical equipment, including but not limited to heating, cooling and ventilation equipment, compressors, waste evacuation systems, electrical transformers, and other motorized or powered machinery located on the exterior of a building. Sound barrier construction must conform to the following standards:

(a) **Applicability.** New construction, including additions or changes to existing facilities, must comply with the provisions of this section. When additions or changes to existing facilities are proposed, existing structures on the property may be required to comply with the provisions of this section, as determined through the Architectural Review process. Where buildings or outdoor use areas located on more than one parcel are all part of a single use as determined through the Architectural Review process, all of the parcels may be required to comply with the provisions of this section.

(b) **Distance from Residential Use.** Sound barriers must be used to intercept all straight-line (a direct line between two points) lateral paths of 450 feet or less between a residential property within a residential planning district and:

(i) Any side edge of an overhead door or other doorway larger than 64 square feet, at a minimum height of eight feet above the floor elevation of the doorway;  
or

(ii) Any building mechanical device at a minimum height equal to the height of the mechanical object to be screened.

(c) **Exemption for Existing Structures.** Where existing structures (on or off site) are located such that they will reflect sound away from residential areas and will function as a sound barrier, on-site sound barrier construction is not required, except that at the time such structures are removed, sound barrier construction is required.

(d) **Design.** Sound barriers must consist of masonry walls or earth berms located so as to reflect sound away from, rather than toward, noise sensitive properties. This may include masonry "wing walls" attached to a building, detached masonry walls (such as at the perimeter of the site), earth berms, or combinations of the three. Wing walls must be at least as tall as the tallest overhead door they are designed to screen at the point where they meet the building. The height of the wall may be reduced along a maximum incline formed by a horizontal distance twice the vertical change in height, or 26.5 degrees from horizontal.

(e) **Definitions.** "Wing wall" mean a wall that is attached to a building on one side and meets the screening requirements of (1) and (2) of this section.

(4) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front, side, or rear yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards:

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side, or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (i) Dedicated to the City at the City's option;
- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (iv) Does the lot connect publicly owned or publicly accessible properties;
- (v) Does the lot abut an existing park, greenway, natural area or other public facility;
- (vi) Does the lot provide a public benefit or serve a public need;
- (vii) Does the lot contain environmental hazards;

- (viii) Geologic stability of the lot; and
- (ix) Future maintenance costs for the lot.

**SECTION 27. TDC Chapter 61 (Subdivisions General Manufacturing (MG) Zone).** TDC 61 (General Manufacturing Planning District (MG)) is deleted in its entirety and replaced with TDC 61 (General Manufacturing (MG) Zone) to read as follows:

**Section 61.100 – Purpose.** The purpose of this zone is to provide areas of the City that are suitable for a wide range of heavier manufacturing and processing activities, including those of a more intense nature and impact than the uses allowed in the Light Manufacturing (ML) Planning Zone. Industrial uses that are environmentally adverse or pose a hazard to life and safety are prohibited. A limited amount of commercial service and other support uses are permitted as regulated by the Commercial Services Overlay zone and the Limited Commercial Setback.

**Section 61.200 – Use Categories.**

- (1) **Use Categories.** Table 61-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MG zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 61-1 and restrictions identified in TDC 61.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.
- (2) **Use Categories in the Limited Commercial Setback.** Commercial uses may be further restricted within the Limited Commercial Setback, see TDC 60.210(4).
- (3) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 61-1  
Use Categories in the MG Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	C (L)	Conditional uses limited to one (1) caretaker residence per site.
<b>COMMERCIAL USE CATEGORIES</b>		
Agriculture	P (L)	Permitted uses limited to production of agricultural crops.
Commercial Recreation	P (L)	Limited use in all locations, subject to TDC 61.210 (2).
Durable Goods Sales and Service	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>o Sale of goods produced on-site subject to TDC 61.210(1);</li> <li>o Retail sale of landscape materials subject to TDC 61.210(3); and</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		<ul style="list-style-type: none"> <li>○ Additional uses permitted within the Commercial Services Overlay, subject to TDC 61.210(5).</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Sale or service of manufactured dwellings;</li> <li>○ Boat sales or rental; rental or leasing of autos and light trucks with incidental sale of vehicles; and</li> <li>○ Sale of home improvement materials and supplies.</li> </ul>
Eating and Drinking Establishments	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC 61.210(1); and</li> <li>○ Restaurant or deli as a limited use subject to TDC 61.210(2).</li> </ul>
Marijuana Facilities	P (L)	Subject to TDC Chapter 80.
Office	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Offices for executive, administrative, and professional uses related to the sale or service of industrial products; and</li> <li>○ Office uses including business and commercial offices, general offices, real estate offices, but not governmental offices, and are a limited use subject to TDC 61.210(2).</li> </ul>
Other Educational and Vocational Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Correspondence, trade, or vocational school as a limited use subject to TDC 61.210(2); and</li> <li>○ Trade or industrial school and subject to TDC 61.210(3).</li> </ul>
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC 61.210(1);</li> <li>○ Food or convenience store, health or fitness facility, mailing operations, reproduction or photocopying services, bank, and medical services as limited uses subject to TDC 61.210(2); and</li> <li>○ Within the Commercial Services Overlay, additional uses subject to TDC 61.210(5).</li> </ul>
Quick Vehicle Service	C (L)	Permitted uses limited to Automobile Service

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		Stations subject to TDC 61.210(6); No outside storage or sale of any vehicles is permitted.
Vehicle Repair	P/C (L)	Permitted outright within the Commercial Services Overlay. Conditional use required in other locations subject to TDC 61.210(3).
<b>INDUSTRIAL USE CATEGORIES</b>		
Heavy Manufacturing	P (L)	Concrete batch plants are not permitted in the Leveton Tax Increment District. All other uses permitted outright.
Light Manufacturing	P	--
Solid Waste Treatment and Recycling	C (L)	Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Recycling collection center;</li> <li>○ Waste transfer station; and</li> <li>○ Resource recovery facility.</li> </ul> Recycling collection center or waste transfer station are not permitted within the Limited Commercial Setback.
Vehicle Storage	P/C (L)	Conditional use required for bus maintenance and storage facility. Vehicle storage not permitted within the Limited Commercial Setback. Vehicles sales are not permitted. All other uses permitted outright in other locations.
Warehouse and Freight Movement	P/C	Conditional use required for warehousing of building materials and supplies. All other uses permitted outright.
Wholesale Sales	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sales of industrial hand tools, industrial supplies such as safety equipment and welding equipment, that are products primarily sold wholesale to other industrial firms or industrial workers; and</li> <li>○ Sale, service and rental of construction and industrial equipment to contractors and industrial firms only.</li> </ul> Conditional use permit required for wholesale sales of building materials and supplies.
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
Greenways and Natural Areas	P	--
Public Safety Facilities	C (L)	Conditional uses limited to fire station.
Wireless Communication Facility	P (L)	Commercial radio or TV broadcasting antennas not permitted. All other uses permitted outright. Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 61.210 – Additional Limitations on Uses.**

(1) **Sale of Goods Produced On-Site.** The retail sale of goods produced on-site is permitted, provided that the retail sale area, including the showroom area, is no greater than 5 percent of the gross floor area of the building and does not exceed 1,500 square feet.

(2) **Limited Commercial Uses.** Commercial uses permitted as limited uses, as specified in Table 61-1, must be located on the same lot or parcel as a permitted industrial use. The lot or parcel must be used substantially for industrial purposes and the commercial use is subject to the following standards:

(a) **Office Uses.** Office uses must not exceed 25 percent of the total gross floor area of all buildings on the lot or parcel.

(b) **Retail Sales and Services, Eating and Drinking Establishments, or Other Educational and Vocational Services.** Permitted uses in these categories, as specified in Table 61-1, are subject to the following additional standards:

(i) **Maximum Size.** The use must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all retail or service uses on the lot or parcel.

(ii) **Spacing Standard.** Uses must not be located within 80 feet of a Residential Zone. Uses must not be located within 80 feet of SW Tualatin-Sherwood Road right-of-way.

(iii) **Access Standard.** If located in a stand-alone building, the uses must not have direct access onto any arterial or collector street.

(3) **Size Limitation for Commercial Uses.** Commercial uses permitted outright or as a conditional use, as specified in Table 61-1, are subject to the following size limitations:

(a) **Employment Areas or Corridors.** Commercial uses must not exceed 60,000 square feet of gross floor area per building or business on land designated Employment Area (EA) or Corridor (CO) Design Type on Map 9-4.

(b) **Industrial Areas.** Commercial uses on land designated Industrial Area Design Type on Map 9-4 must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all commercial uses on the site. Commercial uses permitted in the Limited Commercial Setback are exempt from this requirement.

(4) **Limited Commercial Setback.** The purpose of the Limited Commercial Setback is to restrict commercial uses from locating within 300 feet from the centerline of SW Tualatin-Sherwood Road and SW 124th Avenue and 350 feet from the centerline of SW Pacific Highway (99W) west of Cipole Road, as depicted in Map 9-5.



(a) **Restriction on Commercial Uses.** No commercial uses, including parking or outdoor storage and display areas, are permitted outright in the Limited Commercial Setback.

(b) **Conditional Uses.** Automobile Service Stations uses and the sale and service of manufactured dwellings are permitted as Conditional Uses in the Limited Commercial Setback.

(5) **Commercial Services Overlay.** The purpose of the Commercial Services Overlay is to provide for specific commercial services for area businesses and employees. The area of the overlay is depicted in Map 9-5. Permitted uses are specified in Table 61-1. If a property is within the Commercial Services Overlay and the Limited Commercial Setback, the regulations of the Commercial Services Overlay apply.

(a) **Permitted Uses.** The following additional uses are permitted in the Commercial Services Overlay on properties shown in the specific areas illustrated on Map 9-5 and only when conducted within an enclosed building:

(i) Vehicle Repair;

(ii) Retail Sales and Service are permitted uses limited to automobile accessory sales and auto parts retailing and wholesaling; tool and equipment rental; and

(iii) Durable Goods Sales are permitted uses are limited to truck-mounted camper sales with all sales and storage conducted entirely within an enclosed building and not to exceed 10,000 square feet of building floor area.

(6) **Automobile Service Stations.** Automobile Service Stations are subject to the following additional standards:

(a) **Spacing Requirements.** Automobile Service Stations must not be located within the specified distance of the following uses:

(i) **Existing Automobile Service Stations Uses.** No closer than 3,000 feet to another operating Automobile Service Stations use, measured from the closest lot line of the two lots;

(ii) **124th Avenue.** No closer than 300 feet from centerline of SW 124th Avenue;

(iii) **SW Pacific Highway (99W).** No closer than 350 feet from the centerline of SW Pacific Highway (99W); and

(iv) **Day Care Centers.** All exterior walls and pump islands must be no closer than 400 feet from the exterior walls and outdoor play areas of any day care center or family day care provider, irrespective of any intermediate structures.

(b) **Development Standards.** Automobile Service Stations are subject to the following additional development standards:

(i) The minimum street frontage is 120 feet on corner lot, 150 feet on interior lot;

(ii) The minimum building setback from any street right-of-way is 40 feet; and

(iii) The minimum pump island setback from any lot line is 15 feet.

(c) **Access Standards.** In addition to access standards of TDC Chapter 75, only two access points are allowed for an interior lot and one access point per street frontage for a corner lot or through lot.

(d) **Minimart as Accessory Uses.** A minimart is permitted as an accessory use, provided:

(i) The minimart is not located at a cardlock station;

(ii) The minimart does not exceed 3,500 square feet of gross floor area; and

(iii) No seating is provided.

(e) **Outdoor Storage and Display.** The outdoor storage and display of merchandise or vehicles is not permitted.

(f) **Non-Conforming Uses or Structures.** Those uses in operation or with a conditional use permit as of March 25, 2002 that do not meet the spacing or setback standards do not become non-conforming uses solely because of failure to meet spacing or setback standards.

**Section 61.300 – Development Standards.** Development standards in the MG zone are listed in Table 61-2. Additional standards may apply to some uses and situations, see TDC 61.310.

**Table 61-2  
Development Standards in the MG Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>LOT SIZE</b>		
Minimum Lot Size	20,000 square feet	--
<b>LOT DIMENSIONS</b>		
Minimum Lot Width	100 feet	When lot has frontage on public street, minimum lot width at the street is 100 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	30 feet	
Front Setback Adjacent to Residential or Manufacturing Park Zone	50 feet	
Side	0-50 feet	Determined through Architectural Review process. No minimum setback if adjacent to railroad right-of-way or spur track.
Side Setback Adjacent to Residential or Manufacturing Park Zone	50 feet	
Rear	0-50 feet	Determined through Architectural Review process. No minimum setback if adjacent to railroad right-of-way or spur track.

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
Rear setback adjacent to Residential or Manufacturing Park Zone	50 feet	
Parking and Circulation Areas	5 feet	No minimum setback required adjacent to joint access approach in accordance with TDC 73C.
Parking and Circulation Areas Adjacent to Residential or Manufacturing Park Zone	10 feet	
Fences	10 feet	From public right-of-way.
<b>STRUCTURE HEIGHT</b>		
Maximum Height	60 feet	May be increased to 100 feet if yards adjacent to structure are not less than a distance equal to the height of the structure. Measured at the 50-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane beginning at the 50-foot setback line at a slope of 45 degrees extending away from the 50-foot setback line. Flagpoles may extend to 100 feet.
Maximum Height Adjacent to Residential Zone	28 feet	

**Section 61.310 – Additional Development Standards.**

(1) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) **Sound Barrier Construction.** Sound barrier construction is required to mitigate the impact of noise associated with overhead doors and building mechanical equipment, including but not limited to heating, cooling and ventilation equipment, compressors, waste evacuation systems, electrical transformers, and other motorized or powered machinery located on the exterior of a building. Sound barrier construction must conform to the following standards:

(a) **Applicability.** New construction, including additions or changes to existing facilities, must comply with the provisions of this section. When additions or changes to existing facilities are proposed, existing structures on the property may be

required to comply with the provisions of this section, as determined through the Architectural Review process. Where buildings or outdoor use areas located on more than one parcel are all part of a single use as determined through the Architectural Review process, all of the parcels may be required to comply with the provisions of this section.

(b) **Distance from Residential Use.** Sound barriers must be used to intercept all straight-line lateral (direct line between two points) paths of 450 feet or less between a residential property within a residential planning district and:

(i) Any side edge of an overhead door or other doorway larger than 64 square feet, at a minimum height of eight feet above the floor elevation of the doorway;

or

(ii) Any building mechanical device at a minimum height equal to the height of the mechanical object to be screened.

(c) **Exemption for Existing Structures.** Where existing structures (on or off site) are located such that they will reflect sound away from residential areas and will function as a sound barrier, on-site sound barrier construction is not required, except that at the time such structures are removed, sound barrier construction is required.

(d) **Design.** Sound barriers must consist of masonry walls or earth berms located so as to reflect sound away from, rather than toward, noise sensitive properties. This may include masonry "wing walls" attached to a building, detached masonry walls (such as at the perimeter of the site), earth berms, or combinations of the three. Wing walls must be at least as tall as the tallest overhead door they are designed to screen at the point where they meet the building. The height of the wall may be reduced along a maximum incline formed by a horizontal distance twice the vertical change in height, or 26.5 degrees from horizontal.

(i) "Wing wall" means a wall that is attached to a building on one side and meets the screening requirements of (1) and (2) of this section."

(3) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front, side, or rear yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side, or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

(i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);

(ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or

(iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

(i) Dedicated to the City at the City's option;

- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
  - (iii) Retained in private ownership.
- (d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:
- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
  - (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
  - (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
  - (iv) Does the lot connect publicly owned or publicly accessible properties;
  - (v) Does the lot abut an existing park, greenway, natural area or other public facility;
  - (vi) Does the lot provide a public benefit or serve a public need;
  - (vii) Does the lot contain environmental hazards;
  - (viii) Geologic stability of the lot; and
  - (ix) Future maintenance costs for the lot.

**SECTION 28. TDC Chapter 62 (Manufacturing Park (MP) Zone).** TDC 62 (Manufacturing Park Planning District (MP)) is deleted in its entirety and replaced with TDC 62 (Manufacturing Park (MP) Zone) to read as follows:

**Section 62.100 – Purpose.** The purpose of this district is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The district is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. The purpose is also to protect existing and future sites for such uses by maintaining large lot configurations or a cohesive planned development design and limiting uses to those that are of a nature so as to not conflict with other industrial uses or surrounding residential areas. The purpose is also to allow a limited amount of commercial uses and services and other support uses.

**Section 62.200 – Use Categories.**

(1) **Use Categories.** Table 62-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MP zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 62-1 and restrictions identified in TDC 62.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 62-1  
Use Categories in the MP Zone**

<b>USE CATEGORY</b>	<b>STATUS</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	C (L)	Conditional uses limited to a caretaker residence when necessary for security purposes.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Parking	P	--
Commercial Recreation	P (L)	Permitted uses limited to a health or fitness facility as a limited use subject to TDC 62.210(4).
Eating and Drinking Establishments	P (L)	Permitted uses limited to a restaurant or deli as a limited use and subject to TDC 62.210(4).
Marijuana Facilities	P (L)	Subject to TDC Chapter 80.
Office	P (L)	Permitted uses limited, see TDC 62.210(2).
Other Educational and Vocational Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Correspondence, trade, or vocational school as a limited use subject to TDC 62.210(4);</li> <li>○ Job training or related services as a limited use subject to TDC 62.210(4).</li> </ul>
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Sale of goods produced on-site subject to TDC 62.210(1);</li> <li>○ Child day care center, subject to TDC 34.200;</li> <li>○ Food or convenience store, mailing operations, reproduction or photocopying services, bank, and medical services as limited uses subject to TDC 62.210(2).</li> </ul>
<b>INDUSTRIAL USE CATEGORIES</b>		
Light Manufacturing	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Manufacture or assembly of electronic or optical instruments, equipment, devices; musical instruments; toys; and sporting goods.</li> <li>○ Production of textiles or apparel;</li> <li>○ Printing, publishing, and lithography shops; and</li> <li>○ Research and development laboratories.</li> </ul> Primary processing of organic materials, such as

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		tanning of leather, is prohibited.
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas	P	--
Public Safety Facilities	C (L)	Conditional uses limited to a fire station.
Transportation Facilities	P	--
Wireless Communication Facility	P (L)	Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 62.210 – Additional Limitations on Uses.**

(1) **Sale of Goods Produced On-Site.** The retail sale of goods produced on-site is permitted, provided that the retail sale area, including the showroom area, is no greater than 5 percent of the gross floor area of the building and does not exceed 1,500 square feet.

(2) **Offices.** Office uses are a permitted as specified below.

(a) **Permitted Uses.** The following are permitted uses:

(i) Offices for chemical and physical sciences, engineering, cartography, or other research functions;

(ii) Shared service facilities (as defined by TDC 31.060); and

(iii) Corporate, regional, or district headquarter offices if:

(A) the headquarters is for a permitted use in this Code;

(B) the offices occupy at least 20,000 square feet; and

(C) manufacturing is not conducted, unless the manufacturing is a permitted use in the MP zone.

(b) **Accessory Uses to an Industrial Use.** Office uses accessory to a permitted industrial use are permitted.

(c) **Limited Uses.** Offices located on the same site as a permitted industrial use may be permitted, subject to TDC 62.210(4).

(3) **Size Limitation on Commercial Uses.** Permitted or conditional commercial uses, as specified in Table 62-1, are subject to the following size limitations:

(a) **Employment Areas or Corridors.** Commercial uses on land designated Employment Area (EA) or Corridor (CO) Design Type on Map 9-4 must not exceed 60,000 square feet of gross floor area per building or business.

(b) **Industrial Areas.** Commercial uses on land designated as an Industrial Area Design Type on Map 9-4 must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all commercial uses on the site. Commercial uses permitted in the Limited Commercial Setback are exempt from this requirement.

(4) **Limited Commercial Uses.** Commercial uses permitted as limited uses, as specified in Table 62-1, must be located on the same site as a permitted industrial use. The site must be used primarily for industrial purposes and the commercial use is subject to the following limitations. The office, retail, and service uses may be located in a stand-alone building or combined in a building with other permitted uses.

(a) **Offices.** Office uses must not exceed 25 percent of the total gross floor area of all buildings on the site.

(b) **Retail Sales and Services, Eating and Drinking Establishments, or Educational Services.** Permitted uses in these categories, as specified in Table 61-1, are subject to the following additional standards:

(i) **Maximum Size.** The use must not exceed 5,000 square feet for any individual use or a total of 20,000 square feet of all retail or service uses on the site.

(ii) **Spacing Standard.** Uses must not be located within 80 feet from any Residential Planning District and from the right-of-way of SW Tualatin-Sherwood Road.

(iii) **Access Standard.** If located in a standalone building, the uses must not have direct access onto any arterial or collector street.

(5) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except as provided by this section.

(a) **Permitted Uses.** Off-street parking and loading, utility facilities, wireless communication facilities, and outdoor storage occupying less than ten (10) percent of the total site area, are permitted outright as outdoor uses.

(b) **Conditional Uses.** A conditional use permit is required for outdoor storage activity or mechanical equipment when proposed to occupy more than ten (10) percent of the total lot area when part of and necessary for the operation of any permitted use.

**Section 62.300 – Development Standards.** Development standards in the MP zone are listed in Table 62-2. Additional standards may apply to some uses and situations, see TDC 62.310.

**Table 62-2  
Development Standards in the MP Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
<b>LOT SIZE</b>		
Minimum Lot Size North of SW Leveton Drive	40 acres	Minimum lot size and dimensions for conditional uses are set by City Council to accommodate the proposed use. Lots or remnant areas created by the location of public streets may be less than 40 acres if necessary to create a logical,
Minimum Lot Size South of SW Leveton Drive	5 acres	



STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		safe network of streets in the district.
<b>LOT DIMENSIONS</b>		
Minimum Lot Width	250 feet	Measured at the building line. When lot has frontage on public street, minimum lot width at the street is 250 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Minimum Building Setback for Yards Adjacent to Streets or Alleys, North of SW Leveton Drive	100 feet	
Minimum Building Setback for Yards Adjacent to Streets or Alleys, south of SW Leveton Drive	60 feet	
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys, north of SW Leveton Drive	50 feet	No minimum setback if adjacent to railroad right-of-way or spur track.
Minimum Setback for Side and Rear Yards not Adjacent to Streets or Alleys, South of SW Leveton Drive	0-50 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad right-of-way or spur track.
Parking and Circulation Areas Adjacent to Public Right-of-Way	50 feet	No minimum setback required adjacent to joint access approach in accordance with TDC 73C.
Parking and Circulation Areas Adjacent to Private Property Line	5-25 feet	Determined through Architectural Review Process. No minimum setback required adjacent to joint access approach in accordance with TDC 73C.

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
Fences	50 feet	From public right-of-way.
<b>STRUCTURE HEIGHT</b>		
Maximum Height	70 feet	May be increased to 85 feet if yards adjacent to structure are not less than a distance equal to one and one-half times the height of the structure. Flagpoles may extend to 100 feet.
Maximum Height Adjacent to Residential District	28 feet	Measured at the required 50-foot or 100-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane beginning at the 50-foot or 100-foot setback line at a slope of 45 degrees extending away from the setback line.

**Section 62.310 – Additional Development Standards.**

- (1) **Industrial Master Plan.** Minimum lot size, setbacks, maximum height, and other development standards may be modified by submittal of an Industrial Master Plan application. See TDC 33.050.
- (2) **Spur Rail Tracks.** Spur rail tracks are not permitted within 200 feet of an adjacent residential district.
- (3) **Wetland Conservation Lots.** Minimum lot size, width, or frontage requirement do not apply to wetland conservation lots.

**SECTION 29. TDC Chapter 63 (Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations).** TDC 63 (Manufacturing Planning Districts - Environmental Regulations) is deleted in its entirety and replaced with TDC 63 (Industrial Uses and Utilities and Manufacturing Zones - Environmental Regulations) to read as follows:

**Section 63.010 – Purpose.** The purpose of this section is to protect the public health, safety and general welfare by applying environmental regulations to all industrial uses and utilities, and manufacturing planning districts in the City. These environmental regulations are also intended to protect natural areas from the adverse effects of industrial development. It is intended that the following standards provide statutory authority for the enforcement of regulations relating to noise, vibration, air quality, odors, heat, glare and lighting, storage and stored materials, liquid and solid waste materials, and dangerous substances.

**Section 63.020 – Applicability.** The regulations of this Chapter apply to:

- (1) All industrial uses and utilities, regardless of the Planning District in which they are located, and
- (2) All Manufacturing Planning Districts, regardless of the use category.

**Section 63.051 – Noise.** All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in, TMC 6-14.

**Section 63.052 – Vibration.**

(1) **Restrictions.** All uses and development must not cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this section.

(a) Ground vibration as measured at the boundary of a residential planning district and an industrial planning district must not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.

(b) Ground vibration as measured at a common property boundary of any two properties within any industrial planning district must not exceed 0.1 inches per second (0.0025 meters per second) RMS velocity.

(2) **Method of Measurement.** Vibration measurement procedures must conform to the methods described in this section and to procedures approved by the Oregon Department of Environmental Quality.

(a) Instrumentation must be capable of measuring RMS value of the vibration velocity over the frequency range of 10 to 1,000 hertz.

(b) Measurement values must be recorded for a sufficient period of observation to provide a representative sample.

(c) Attachment of the vibration transducer to the ground must be by magnetic or screw attachment to a steel bar of a minimum of 9 inches (22.9 cm.) in length, driven flush with the ground surface.

(3) **Exemptions.** The requirements of TDC 63.052(1) do not apply to:

(a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;

(b) Vibration resulting from the operation of any road vehicle;

(c) Vibration resulting from construction activities and use of construction equipment; and

(d) Vibration resulting from roadway maintenance and repair equipment.

**Section 63.053 – Air Quality.**

(1) **Restrictions.** All uses and development must comply with the most recent air quality standards adopted by the Oregon Department of Environmental Quality. Plans of construction and operations must comply with the recommendations and regulations of the State Department of Environmental Quality.

(2) **Method of Measurement.** All measurements of air pollution must be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods or measurement approved by the City. Upon request of the City, persons responsible for a suspected source of air pollution must provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.

**Section 63.054 – Odors.** All uses and development must not emit odors in such

quantities as to create a nuisance condition at any point beyond the subject property line of the emitting use.

**Section 63.055 – Heat and Glare.**

- (1) All uses and development must conduct all operations producing heat or glare entirely within an enclosed building.
- (2) All uses and development may utilize exterior lighting, but the exterior lighting must be screened, baffled or directed away from residential planning districts.

**Section 63.056 – Storage and Stored Materials.**

- (1) All uses and development must store all materials, including wastes, in a manner that will not attract or aid the propagation of insects or rodents, or in any other way create a health or safety hazard.
- (2) All uses and development that utilize open storage that would otherwise be visible at the property line must conceal it from view at the abutting property line by a sight obscuring fence not less than 6 feet high and not accessible to the general public to protect public safety.

**Section 63.057 – Liquid or Solid Waste Materials.** All uses and development are prohibited from disposing waste onto the site or into adjacent drainage ditches, creeks or other natural waterways in violation of State of Oregon DEQ standards, Clean Water Services Standards, City Standards, or in a manner that causes harm to wildlife.

**Section 63.058 – Dangerous Substances.** All uses and development are prohibited from storing or handling any explosive, nuclear waste product, or any other substance which would cause a health or safety hazard for any adjacent land use or site.

**SECTION 30. TDC Chapter 64 (Manufacturing Business Park (MBP) Zone).**

TDC 64 (MBP Planning District) is deleted in its entirety and replaced with TDC 64 (Manufacturing Business Park (MBP) Zone) to read as follows:

**Section 64.100 – Purpose.**

(1) The purpose of this zone is to provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing and related uses and research facilities. Such permitted uses must not cause objectionable noise, smoke, odor, dust, noxious gases, vibration, glare, heat, fire hazard or other wastes emanating from the property. The zone is to provide for an aesthetically attractive working environment with park or campus like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. The purpose is also to protect existing and future sites for such uses. The purpose of this zone is to provide an environment for industrial development consistent with the Southwest Concept Plan (SWCP) and with the Metro-designated Regionally Significant Industrial Area (RSIA).

(2) The Manufacturing Business Park (MBP) Zone will be a mix of light industrial and high-tech uses in a corporate campus setting. Permitted uses are required to be

conducted within a building and uses with unmitigated hazardous or nuisance effects are restricted. The RSIA-designated area requires at least one 100-acre parcel and one 50-acre parcel for large industrial users. The remainder of the area is likely to include light to medium industrial uses with some limited, local-serving commercial services. The zone is intended to provide for an aesthetically attractive working environment with campus-like grounds, attractive buildings, ample employee parking and other amenities appropriate to an employee oriented activity. It also is intended to protect existing and future sites for such uses by maintaining large lot configurations, a cohesive planned-development design and limiting uses to those that are of a nature that will not conflict with other industrial uses or nearby residential areas of the City.

**Section 64.200 – Use Categories.**

(1) **Use Categories.** Table 64-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MBP zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 64-1 and restrictions identified in TDC 64.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

(2) **Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 64-1  
Use Categories in the MBP Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
<b>RESIDENTIAL USE CATEGORIES</b>		
Household Living	P/C (L)	Permitted uses limited to a caretaker residence if located in the Tonquin Light Manufacturing Overlay, subject to TDC 64.210(4). In all other locations, caretaker residence may be permitted as a conditional use.
<b>COMMERCIAL USE CATEGORIES</b>		
Commercial Parking	P	--
Eating and Drinking Establishments	P (L)	Permitted uses limited to a restaurant in the Commercial Services Overlay and subject to TDC 64.210(2).
Marijuana Facilities	P (L)	Subject to TDC Chapter 80.
Office	P/C (L)	Permitted uses limited, see TDC 64.210(3).
Retail Sales and Services	P (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>o Sale of goods produced on-site subject to TDC 64.210(1); and</li> <li>o Within the Commercial Services Overlay,</li> </ul>

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
		additional uses subject to TDC 64.210(2).
<b>INDUSTRIAL USE CATEGORIES</b>		
Heavy Manufacturing	P (L)	Primary processing of organic materials, such as tanning of leather, is prohibited. All other uses permitted outright.
Light Manufacturing	P/C (L)	Conditional uses limited to trade and industrial school or training center. Truck driving schools are prohibited. All other uses permitted outright.
Warehouse and Freight Movement	P (L)	Permitted uses limited to warehousing uses that are accessory to a permitted industrial use, subject to TDC 64.210(3)
<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas.	P	--
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility Attached.</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>○ Wireless Communication Facility.</li> </ul> Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Section 64.210 – Additional Limitations on Uses.**

(1) **Sale of Goods Produced On-Site.** The retail sale of goods produced on-site is permitted, provided that the retail sale area, including the showroom area, is no greater than 5 percent of the gross floor area of the building and does not exceed 1,500 square feet.

(2) **Commercial Services Overlay.** The purpose of the Commercial Services Overlay is to provide for specific commercial services for area businesses and employees. The area of the overlay is depicted in Map 9-5. Commercial uses and development standards are subject to this section.

(a) **Permitted Uses.** The following commercial uses are permitted in the Commercial services Overlay:

(i) **Retail Sales and Service.** Retail sales and service uses are limited to:

- (A) Branch banks and ATM banking kiosks;
- (B) Child day care centers;
- (C) Food stores;

- (D) Dry cleaners; and
  - (E) Printing, copying and office services.
  - (ii) **Offices.** Office uses are limited to general offices or medical and healing arts offices.
  - (iii) **Eating and Drinking Establishments.** Eating and drinking establishments are limited to a restaurant without drive-up or drive through facilities.
  - (b) **Maximum Size.** The maximum building size for a permitted use is 3,000 square feet and the maximum building size for a building with multiple tenants is 20,000 square feet.
  - (c) **Enclosure Requirement.** All uses must be conducted within an enclosed building, except for outdoor play areas of child care centers.
- (3) **Offices.** Office uses are a permitted or conditional use as follows:
- (a) **Permitted Uses.**
    - (i) **Research and Development Offices.** Research and development offices and laboratories for chemical, engineering, and physical sciences; medical and pharmaceutical products; alternative energy production from sources such as solar and wind; industrial products and consumer products.
    - (ii) **Headquarters Offices.** Corporate, regional, or district office headquarters are permitted outright if the headquarters is for any use permitted in this Code, the offices occupy at least 20,000 square feet, and no manufacturing is conducted that is otherwise not a permitted use in the MBP zone.
  - (b) **Accessory Uses to an Industrial Use.** Offices that are accessory uses to a permitted industrial use are permitted.
  - (c) **Conditional Uses.** The following are conditional uses:
    - (i) Film and video production;
    - (ii) Call center or customer service center; and
    - (iii) Data processing or data storage center.
- (4) **Tonquin Light Manufacturing Overlay.** Additional uses are permitted in the Tonquin Light Manufacturing Overlay, shown on Map 9-5. Uses within the overlay are subject to the standards of this section.
- (a) **Additional Permitted Uses.** All permitted or conditional uses in the Light Manufacturing Zone are permitted under the same status in the MBP Zone, except that the following uses are permitted outright: contracting firms with on-site storage of equipment and materials; machine shop of 7,500 square feet or larger; cold storage warehouse; motor freight facility; and caretaker residence.
  - (b) **Additional Conditional Uses.** The following uses are permitted as conditional uses in the overlay:
    - (i) Restaurant, without drive-up or drive through facilities, with a maximum floor area of 3,000 square feet; and
    - (ii) Industrial card lock fueling facility with 3,000 feet separation from another facility.
  - (c) **Expanded or New Permitted Use.** Expanded or new permitted uses, including expanded or new outdoor storage, must be reviewed according to TDC Chapter 32 (Procedures) for the Architectural Review Application Review Process, and requires both Architectural Features and Public Facilities review consistent with TDC Chapters 73A through 73G, and 74.

(d) **Nonconforming Use.** All existing uses not listed as permitted uses in TDC 64.210(4)(a) are allowed as non-conforming uses. Expansion of these uses may occur only to the extent and as provided in TDC Chapter 35 (Nonconforming Situations).

(e) **Annexation Agreement.** An Annexation Agreement must be prepared when one or more property owners with the Tonquin Light Manufacturing Overlay submits a petition for annexation to the City.

(5) **Outdoor Uses.** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities, outdoor storage of materials and products directly related to the permitted use and outdoor play areas of child day care centers as required by state day care certification standards.

**Section 64.300 – Development Standards.** Development standards in the MBP zone are listed in Table 64-2. Additional standards may apply to some uses and situations, see TDC 64.310.

**Table 64-2  
Development Standards in the MBP Zone**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>LOT SIZE</b>		
Minimum Lot Size for Parcels not Identified in the RSIA	20,000 square feet	See map 9-5 for RSIA boundaries.
Minimum Lot Size for Parcels Identified in the RSIA	--	See map 9-5 for RSIA boundaries. Minimum lot size subject to see TDC 64.410(3).
<b>LOT DIMENSIONS</b>		
Minimum Lot Width	100 feet	When lot has frontage on public street, minimum lot width at the street is 100 feet. When lot has frontage on cul-de-sac street, minimum lot width at the street is 50 feet.
Infrastructure and Utilities Uses	--	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	--	Must be sufficient to comply with minimum access requirements of TDC 73C.
<b>MINIMUM SETBACKS</b>		
Front	30-50 feet	
Side	0-100 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad



STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
		right-of-way or spur track. For a Corner Lot, the minimum setback must be 30-50 feet from a public street.
Rear	0-100 feet	Determined through Architectural Review Process. No minimum setback if adjacent to railroad right-of-way or spur track.
Rear Setback Adjacent to Residential or Manufacturing Park District	50 feet	
Parking and Circulation Areas Adjacent to Public Right-of-Way	20-25 feet	--
Parking and Circulation Areas Adjacent to any Other Property Line	10 feet	
Private Streets	5 feet	--
Fences	50 feet	From public right-of-way.
<b>STRUCTURE HEIGHT</b>		
Maximum Height	65 feet	May be increased to 85 feet if yards adjacent to structure are not less than a distance equal to one and one-half times the height of the structure. Flagpoles may extend to 100 feet.
Maximum Height Adjacent to Residential District	28 feet	Measured at the 50-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane beginning at the 50-foot setback line at a slope of 45 degrees extending away from the 50-foot setback line.

**Section 64.310 – Additional Development Standards.**

(1) **Industrial Master Plan.** Minimum lot size, setbacks, maximum height, and other development standards may be modified by submittal of an Industrial Master Plan application. See TDC 33.050.

(2) **Spur Rail Tracks.** Spur rail tracks are not permitted within 200 feet of an adjacent residential district.

(3) **Minimum Lot Size in RSIA.** In accordance with the Metro RSIA designation and Metro Ordinance No. 02-969B and No. 02-990A, the minimum lot area for one or more parcels in the RSIA identified on Map 9-5 is 100 acres and 50 acres. When the minimum lot area of one or more Lots of Record in the RSIA is 100 acres, the minimum lot area for one or more lots may be reduced to 50 acres.

(a) When the minimum lot area requirements for RSIA designated properties in subsection (4) are met through a land platting process or established in an Industrial Master Plan process, the minimum lot size for remaining parcels located in the RSIA is 20,000 square feet.

(b) The minimum lot area of a property within the RSIA may be reduced to less than 100 acres or 50 acres pursuant to an approved Industrial Master Plan as provided in TDC 33.050.

(c) Lots or remnant areas created by the location of public streets may be less than 100 acres if necessary to create a logical, safe network of streets in the zone.

(4) **Sound Barrier Construction.** Sound barrier construction is required to mitigate the impact of noise associated with overhead doors and building mechanical equipment, including but not limited to heating, cooling and ventilation equipment, compressors, waste evacuation systems, electrical transformers, and other motorized or powered machinery located on the exterior of a building. Sound barrier construction must conform to the following standards:

(a) **Applicability.** New construction, including additions or changes to existing facilities, must comply with the provisions of this section. When additions or changes to existing facilities are proposed, existing structures on the property may be required to comply with the provisions of this section, as determined through the Architectural Review process. Where buildings or outdoor use areas located on more than one parcel are all part of a single use as determined through the Architectural Review process, all of the parcels may be required to comply with the provisions of this section.

(b) **Distance from Residential Use.** Sound barriers must be used to intercept all straight-line lateral (direct line between two points) paths of 450 feet or less between a residential property within a residential planning district and:

(i) Any side edge of an overhead door or other doorway larger than 64 square feet, at a minimum height of eight feet above the floor elevation of the doorway;  
or

(ii) Any building mechanical device at a minimum height equal to the height of the mechanical object to be screened.

(c) **Exemption for Existing Structures.** Where existing structures (on or off site) are located such that they will reflect sound away from residential areas and will function as a sound barrier, on-site sound barrier construction must not be required, except that at the time such structures are removed, sound barrier construction must be required.

(d) **Design.** Sound barriers must consist of masonry walls or earth berms located so as to reflect sound away from, rather than toward, noise sensitive properties. This may include masonry wing walls attached to a building, detached masonry walls (such as at the perimeter of the site), earth berms, or combinations of the three. Wing walls must be at least as tall as the tallest overhead door they are designed to screen at the point where they meet the building. The height of the wall may be reduced along a maximum incline formed by a horizontal distance twice the vertical change in height, or 26.5 degrees from horizontal.

(5) **Wetland Conservation Lots.** No minimum lot size, width or frontage requirement must apply to wetland conservation lots.

(6) **Setbacks for Conditional Uses.** Setback requirements for conditional uses must be as determined and approved through the Conditional Use Permit process in accordance with TDC Chapter 33 and the Architectural Review process in accordance with TDC Chapter 33 and TDC Chapter 73A through 73F. However, no setback greater than 50 feet may be required.

(7) **Setback Reduction for Developments Adjacent to Greenways and Natural Areas.** To preserve natural areas and habitat for fish and wildlife, the decision-authority may provide a front, side, or rear yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35% of the front, side, or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72);
- (ii) Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan; or
- (iii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (i) Dedicated to the City at the City's option;
- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (iv) Does the lot connect publicly owned or publicly accessible properties;
- (v) Does the lot abut an existing park, greenway, natural area or other public facility;
- (vi) Does the lot provide a public benefit or serve a public need;
- (vii) Does the lot contain environmental hazards;
- (viii) Geologic stability of the lot; and
- (ix) Future maintenance costs for the lot.

**SECTION 31. TDC Chapter 68 (Historic Preservation).** TDC 68 (Historic Preservation) is deleted in its entirety and replaced with TDC 68 (Historic Preservation) to read as follows:

**Section 68.010 – Purpose.**

(1) The purpose of this Chapter is to establish procedures and standards to preserve, protect, maintain, and enhance those landmark resources which represent or reflect elements of the City's history, cultural, social, economic, political, and architectural history, and to provide educational value, enjoyment and economic diversification as well as beautification of the City and enhancement of property values.

(2) A designated landmark, or part thereof, must not be demolished, relocated or altered, or new construction take place on a historic resource site except in conformity with this Chapter.

**Section 68.015 – Federal Projects.** Any project that involves federal property, federal funding, or federal licensing or permitting is subject to State Historic Preservation Office (SHPO) review as required by Section 106 of the National Historic Preservation Act. Federal projects often include work done in national parks, funding from HUD grants, and permits from the Army Corps of Engineers.

**Section 68.020 – Definitions.** Definitions in this Chapter are specific to Historic Resources, Significant Historic Resources, Landmarks and Historic Preservation and only apply to this Chapter.

*Adaptive Reuse.* As it relates to a landmark structure or an accessory feature of a landmark, modifying the landmark to a use or activity which is allowed under the applicable planning district designation.

*Alteration.* Addition to, or otherwise change the exterior appearance of any part of a landmark including new construction. Maintenance and repair as defined in TDC 68.140(2) is not considered alteration of a landmark.

*Archaeological Site.* As defined in state law ORS 358.905 "Archaeological site" means:

(1) a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with: (a) Each other; or (b) Biotic or geological remains or deposits.

(2) Examples of archaeological sites described in subparagraph (1) of this paragraph include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.

*Archaeological Site of Significance.* As defined in state law, ORS 358.905 "Site of archaeological significance" means: (1) Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer; or (2) Any archaeological site that has been determined significant in writing by an Indian tribe.

*Archaeological Object.* As defined in state law ORS 358.905(1) means an object that: (1) Is at least 75 years old; (2) Is part of the physical record of an indigenous or other culture found in the state or waters of the state; and (3) Is material remains of past human life or activity that are of archaeological significance including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products.

*Historic Resources.* Are those buildings, structures, objects, sites or district that potentially have a significant relationship to events or conditions of the human past.

*Historic Resources Inventory.* Is a compilation or update of information on those buildings, structures, objects, sites or districts that have been surveyed and *potentially* have a significant relationship to events or conditions of the human past.

*Owner.* Means any one of the following:

- (1) The owner of fee title of the property as shown in the deed records of the County where the property is located;
- (2) The purchaser under a land sale contract, if there is a recorded land sale contract in force for the property;
- (3) If the property is owned by the trustee of a revocable trust, the settler of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner;
- (4) For a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (i) through (iii).
- (5) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or
- (6) Means for National Register Resources, the same as defined in 36 CFR 60.3(k).

*Landmark.* Is a locally significant historic resource, which includes any site, object, building, structure or district designated as a landmark by the City.

*National Register Resource.* Buildings, structures, objects, sites or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665;16 U.S.C. 470).

*Significant Historic Resource.* A local landmark or a National Register Resource.

**Section 68.030 – Historic Resource Inventory.** When the City chooses to inventory potential historic resources or update an existing inventory, it must comply with state law. The Historic Resource Inventory is maintained by the City and available to the public.

**Section 68.035 – Evaluation and Determination of Significance.**

(1) After the City compiles an inventory of potential historic resources or updates an existing inventory, it must evaluate which resources in the inventory are significant, in compliance with state law.

(2) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement, and historic preservation plan. The National Register criteria are:

- (a) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state or national history;
- (b) Significant association with the lives of persons significant to local, regional, state or national history;
- (c) Distinctive characteristics of a type, period or method of construction, or represents the work of a master or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;
- (d) A high likelihood that, if preserved, would yield information important in prehistory or history; or
- (e) Relevance within the local historic context and priorities described in the historic preservation plan.

#### **Section 68.040 – Designated Landmark List.**

(1) After inventorying and evaluating the significance of historic resources, the City must adopt or amend its historic resource list if it chooses to protect a historic resource.

(2) Each site, structure, building, object or district designated by the City as a landmark must be added to the City's Designated Landmark List, except as otherwise provided for in Section 68.100 (6).

(3) The City's Designated Landmark's List must be maintained by the City Manager and made available to the general public on the City's website.

#### **(4) City's Designated Landmark List**

- Luster House (c.1857) 9030 SW Sagert Street (2S126AB, 102)
- Sweek House (1858) 18815 SW Boones Ferry Road (2S123, 300)
- Byrom House (1878) 9385 SW Arikara Street (2S126CD, 5600)
- Jurgens Barn (c.1880) 17700 SW Shasta Trail (2S114CD, 9700)
- Francis House (1885) 8430 SW Avery Street (2S125BC, 5401)
- Zeke Eddy House (c.1890) 9005 SW Avery Street (2S126AA, 700)
- Little White House (c.1890) 8570 SW Cherokee Street (2S123AA, 1500)
- Wesch House (c.1890) 18400 SW 86th Avenue (2S123AA, 1601)
- Smith/Boone House (c.1895) 18815 SW Boones Ferry Road (2S123, 300)
- Winona Cemetery (1900) 9900 SW Tualatin Road (2S123BA, 2700)
- Black House (1900) 11640 SW Myslony Street (2S122C, 1500)
- Richardson House (1910) 20195 SW Boones Ferry Road (2S126AA, 2000)
- Robinson Store (1912) 18810 SW Boones Ferry Road (2S124BC, 3001)
- Elmer House (1914) 11450 SW Elmer Court (2S114DC, 1100)
- Wager House (1915) 12075 SW Tualatin-Sherwood Road (2S127B, 300)
- Logan House (1917) 19930 SW Boones Ferry Road (2S123DD, 1600)
- (1918) 11325 SW Tualatin-Sherwood Road (2S127B, 700)
- Sherburn House (1925) 19840 SW Boones Ferry Road (2S123DD, 1400)

- Methodist Church (1926) previously located at 19100 SW Boones Ferry Road (2S124CB, 900), the Methodist Church building was relocated to 8700 SW Sweek Drive and is currently the Heritage Center.
- Avery Chicken Hatchery (1939) 8385 SW Avery Street (2S125BB, 601)
- Winona Grange (1940) 8340 SW Seneca Street (2S124BC, 4700)

**Section 68.050 – National Register Resources.**

(1) National Register Resources must be protected regardless of whether the resources are also designated by the City as a Landmark.

(2) In addition to other requirements of this Chapter, the review of demolition or relocation that includes a National Register Resource must consider the following factors:

- (a) Condition;
- (b) Historic integrity;
- (c) Age;
- (d) Historic significance;
- (e) Value to the community;
- (f) Economic consequences;
- (g) Design or construction rarity; and
- (h) Consistency with and consideration of other policy objectives in the acknowledged comprehensive plan.

(3) The City may apply additional protection measures upon considering, at a public hearing, the following factors:

- (a) Historic characteristics identified in the National Register nomination;
- (b) The historic significance of the resource;
- (c) The relationship to the historic context statement and historic preservation plan contained in the comprehensive plan;
- (d) The goals and policies in the comprehensive plan; and
- (e) The effects of the additional protection measures on the ability of property owners to maintain and modify features of their property.

(4) **National Register Resources List:**

- John Sweek House (1858) 18815 SW Boones Ferry Road (2S123D003400)

**Section 68.100 – Landmark Designation.**

(1) **Applicability.** Buildings, structures, sites, or objects may be designated as a landmark, as provided in this section.

(2) **Procedure Type.** Designation of a landmark is processed as a Type IV procedure under TDC Chapter 32.

(3) **Who May Request Designation.** A landmark designation may be initiated by the following:

- (a) The City Council;
- (b) The owner of the proposed resource; or
- (c) Any other person may file a request with the City Council for initiation of the designation of a landmark, provided the proposed resource is not the subject of a pending application for alteration or demolition that was submitted prior to the date of the initiation of designation.

(4) **Additional Submittal Requirements.** In addition to the submittal requirements for a Type IV application under TDC Chapter 32, an application for landmark designation must include:

(a) Narrative description of the proposed resource addressing the criteria in (5) below and including:

- (i) Significant features of the site to be covered by the designation; and
- (ii) Significant people and events connected with the proposed resource.

(b) Site plan;

(c) Current photographs of all elevations of the building or structure and any significant feature;

(d) Copies of any historical photographs, plans, or maps; ‘

(e) Any other documentation demonstrating the significance of the proposed resource; and

(f) A statement explaining compliance or non-compliance with the applicable approval criteria contained in TDC 33.070(5) and TDC 68.100(4).

(5) **Criteria.** An application for the designation of a landmark must be granted if the following criteria in (a) (b) and (c) below are met:

(a) **Age.** The proposed landmark is at least fifty years old, or demonstrates exceptional significance if less than fifty years of age; and.

(b) **Significance.** The proposed landmark demonstrates significance in at least one of the following areas:

(i) Is listed on the National Register of Historic Places;

(ii) Has a primary or secondary ranking in the City’s Historic Resource Inventory;

(iii) Is associated historically with the life or activities of a person, group, organization or institution that has made a significant contribution to the local community, state, or nation;

(iv) Is associated with events that have significantly affected past social or economic activities in the community, state or nation;

(v) Has yielded, or may be likely to yield, important information concerning prehistory or history;

(vi) Has relevance within the local historic context and priorities described in an historic preservation plan;

(vii) Embodies the distinctive characteristics or a type, period, or method of construction;

(viii) Represents the work of a master;

(ix) Possesses high artistic values in its workmanship and materials;

(x) Site or structure is significant as a visual historic resource; or

(xi) Site, in its immediate setting, retains the planting scheme, plant materials, or land uses of the relevant historic period or the landscaping is consistent with that period.

(c) **Integrity:**

(i) The building or structure retains sufficient original design characteristics, craftsmanship, or material to serve as an example of an architectural period or a significant building type, structural type, construction technique or recognized architectural style;



- (ii) The building or structure is in its original setting and remains substantially as originally constructed; or
- (iii) Site, in its immediate setting, retains its landscaping or land uses of the relevant historic period.

(6) **Owner Consent.** A property owner may refuse to consent to landmark designation at any point during the designation process under state law; In this case, the City must not include the property on the landmark list if the owner of the property objects to its designation on the public record. A refusal to consent during the designation process acts to remove the property from consideration for landmark designation. The City is not required to remove a historic resource from an inventory because an owner refuses to consent on designation.

### **Section 68.110 – Demolition Criteria.**

(1) **Applicability.** Prior to the issuance of a permit for the demolition of a Landmark or National Register Resource, the owner must first obtain a demolition permit. A neighborhood developer meeting is required before application for a demolition of a Landmark or National Register Resource can be made. At the time a demolition application is made, the City Manager must review alternatives to demolition with the owner of the Landmark or National Register Resource, including, but not limited to local, state and federal preservation programs; other alternatives may include, but are not limited to, sale of the property or building to preserve it and/or appropriate relocation.

(2) **Procedure Type.** A Permit for Demolition of a Landmark is a Type II procedure under TDC Chapter 32. A Permit for Demolition of a National Register Resource is a Type IV-A procedure under Chapter 32 and pursuant to state law.

(3) **Additional Submittal Requirements.** In addition to the submittal requirements in TDC Chapter 32 for a Type II demolition application for a Landmark or a Type IV–A demolition application for a National Register Resource, a demolition application must include:

- (a) The street address or other easily understood geographical reference to the historic resource property;
- (b) A drawing or site map illustrating the location of the historic resource;
- (c) A statement explaining compliance with the applicable approval criteria;
- (d) Plan drawings to include site, landscaping and elevations, drawn to scale;
- (e) Photographs of the significant historic resource which show all exterior elevations and views from each direction of the property;
- (f) A list of mailing recipients of the Neighborhood/Developer meeting; and
- (g) Any other information deemed necessary by the City Manager.

(4) **Notice of Application to Tualatin Historic Society.** In addition to any other persons entitled to notice under TDC Chapter 32 (Type II Decision for a Landmark and Type IV-A Decision for National Register Resource), the City Manager must mail notice of application to demolish a significant historic resource to the president of the Tualatin Historical Society.

(5) **Criteria for Demolition Permit.**

- (a) A National Register Resource Demolition Permit is subject to the criteria and requirements of Section 68.050, 68.110 (7) Mandatory Conditions of Approval and TDC Section 68.120.

(b) A Landmark Demolition Permit must be granted if the applicant demonstrates at least one of the following:

- (i) The landmark is no longer historically significant.
- (ii) The landmark is no longer architecturally significant; or
- (iii) The benefits of demolishing the landmark and the construction of the identified conflicting permitted use(s) outweigh the value to the community of preserving the landmark.

**(6) Evidence and Judgment of Criteria for Landmark Demolition Permit.** This criterion applies only when a Landmark is not also a National Register Resource. The criteria will be judged based upon the following factors:

- (a) The information used in the original designation of the landmark;
- (b) Any evidence the applicant or property owner has provided demonstrating that there would be no reasonable, long-term economic benefit to the property owner from preservation of the historic resource. In making this determination, the owner must show that all uses or adaptive uses of the landmark have been thoroughly examined. For example:
  - (i) The fact that a higher economic return would result from demolition than preservation on its own is insufficient to meet criterion (b).
  - (ii) A lack of adequate funds to pursue potential uses or adaptive uses is insufficient to meet the criterion (i.e., selling, partially preserving, or moving the historic resource are options that must be considered).
- (c) Whether issuance of a Landmark Demolition Permit would act to the detriment of the public welfare;
- (d) The City may consider the Economic, Social, Environmental and Energy consequences to the community of demolishing the historic resource as compared to preserving it;
- (e) The physical condition of the historic resource; and
- (f) For a landmark, whether it is identified as a primary or secondary resource, which are distinguished by the age of resource. Additional importance must be accorded to preserving historic resources with a primary designation.

**(7) Mandatory Conditions of Approval.** Each Landmark or National Register Resource Demolition permit must contain a condition to require the owner to:

- (a) List the significant historic resource for sale with a real estate agent for a period of not less than 90 days; it must be advertised in at least one local or state newspaper of general circulation in the City for a minimum of 10 days over a 5-week period. A copy of the advertisement must be submitted to the Planning Department prior to issuance of a demolition permit from the Building Official;
- (b) Post a sign offering the significant historic resource "For Sale." For a historic building the sign must read as follows: HISTORIC BUILDING TO BE DEMOLISHED - FOR SALE; If the significant historic resource is not a building, the specific type of resource, such as structure or object, should be substituted for the word "Building" in the sign. The applicant must post the sign within ten feet of a public street on the parcel on which the significant historic resource is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with (a) above. Marketing conducted by the applicant or property owner prior to application for demolition or relocation which meets requirements of 5(a) and

- (b) Above may be applied towards meeting the requirements;
- (c) Prepare and make available through the City any information related to the history and sale of the property to all individuals, organizations and agencies who inquire; and
- (d) Prepare photographic documentation, architectural drawings, and other graphic data or history as deemed necessary by the City Manager to preserve an accurate record of the significant historic resource. The basic format to be followed will be guidelines from the Historic American Building Survey (HABS, December 1973). The historical documentation materials are the property of the City or other party determined appropriate by the City Manager.

#### **Section 68.120 – 120-day Delay for Demolition or Modification Permit.**

- (1) Pursuant to State Law, the City must not issue a permit for the demolition or modification of a Landmark or National Register Resource for at least 120 days from:
  - (a) The date of the property owner's refusal to consent to historic resource designation, or
  - (b) The date of an application to demolish or modify the resource.
- (2) During this waiting period, the City Manager must review alternatives to demolition with the owner of the Landmark or National Register Resource, including, but not limited to, local, state and federal preservation programs, sale of the resource and relocation of the resource.

#### **Section 68.125. Removal of Landmark Designation.**

- (1) **Applicability.** Buildings, structures, sites, objects or districts may have local landmark designation removed as provided in this section, except as provided in Section 68.120 (3).
- (2) **Procedure Type.** Removal of a local landmark designation is processed as a Type IV-A procedure under Chapter 32.
- (3) **Who May Initiate Removal.** Removal of local landmark designation may be initiated by the following:
  - (a) The City Council; or
  - (b) The owner of the landmark.
- (4) **Additional Submittal Requirements.** In addition to the submittal requirements for a Type IV-A application under TDC 32.140, an application for removal of landmark designation must include:
  - (a) Narrative description of the resource proposed for delisting including:
    - (i) Significant features of the site covered by the designation; and
    - (ii) An evaluation of the current integrity of the resource including an assessment of the amount of remaining original design characteristics, craftsmanship and material.
  - (b) Site plan;
  - (c) Current photographs numbered and labeled with all elevations and views in each direction (north, east, south and west) of the landmark;
  - (d) Documentation demonstrating that the owner objected to the original designation if applicable;

- (e) Any other documentation demonstrating that the resource proposed for delisting no longer meets the requirements of TDC 68.100 (Landmark Designation); and
- (f) A statement explaining compliance or non-compliance with the applicable approval criteria contained in TDC 33.070(5).

(5) **Criteria.** An application for removal of a landmark designation must be granted if either of the following criteria is met:

- (a) The property no longer meets the criteria for local landmark designation under TDC 68.100 (Landmark Designation); or
- (b) The owner at the time of application for removal was the owner at the time of designation; and
- (c) The owner can demonstrate either:
  - (i) An objection to designation in the public record; or
  - (ii) That the owner was not provided an opportunity to object to the designation.

(6) **Effect of 120-day delay for Demolition or Modification Permit on Landmark List.** When a landmark is approved for demolition it must not be removed from the Landmark List until the required 120-day delay period as provided in Section 68.120 is completed, and no alternative has been deemed by the City to prevent the demolition of the landmark.

### **Section 68.130 – Relocation Criteria**

(1) **Applicability.** Prior to the issuance of a permit for the relocation of a significant historic resource, the owner must first obtain a significant historic resource relocation permit. A neighborhood developer meeting is required before application for a relocation of a significant historic resource can be made. At the time relocation application is made, the City Manager must review alternatives to relocation with the owner of the significant historic resource, including, but not limited to local, state and federal preservation programs. Other alternatives may include, but are not limited to, sale of the property or building to preserve it.

(2) **Procedure Type.** Landmark Relocation approval is a Type II procedure under TDC Chapter 32. National Register Resource Relocation approval is a Type IV-A procedure under Chapter 32, and pursuant to State Law.

(3) **Additional Submittal Requirements.** In addition to the submittal requirements in TDC Chapter 32 for a Type II relocation application for a Landmark or Type IV-A relocation application for a National Register Resource, an application for relocation must include:

- (a) The street address or other easily understood geographical reference to the historic resource property;
- (b) A drawing or site map illustrating the location of the historic resource;
- (c) A statement explaining compliance with the applicable approval criteria;
- (d) Plan drawings to include site, landscaping and elevations, drawn to scale;
- (e) Photographs of the historic resource which show all exterior elevations;
- (f) A list of mailing recipients of the Neighborhood/Developer meeting; and
- (g) Any other information deemed necessary by the City Manager.

(4) **Notice of Application to Tualatin Historic Society.** In addition to any other persons entitled to notice under TDC Chapter 32 (Type II Decisions and Type IV

Decisions), the City Manager must mail notice of application to relocate a significant historic resource to the president of the Tualatin Historical Society.

**(5) Criteria.**

(a) A National Register Resource Relocation Permit is subject to the criteria and requirements of Section 68.050, 68.130 (7) Mandatory Conditions of Approval and TDC Section 68.120.

(b) A Landmark Relocation Permit must be granted if the applicant demonstrates at least one of the following:

- (i) The proposed relocation site will not compromise the historical and architectural significance of the historic resource, and
- (ii) Relocation is the only alternative for preservation of the significant historic resource.

**(6) Evidence and Judgment of Criteria for a Landmark Relocation Permit.** The criteria will be judged based upon the following factors:

- (a) The information used in the original designation of the landmark;
- (b) Whether the landmark is within a Planning District that allows higher density or intensity of development than currently exists on the site, or is on land that is needed to accommodate the planned widening or realignment of a public road or transportation facility;
- (c) Whether the landmark can reasonably be used in conjunction with a use permitted in the Planning District;
- (d) Whether the continued location of the landmark on a proposed development site precludes development of other uses permitted on the site;
- (e) Whether the landmark is structurally capable of relocation;
- (f) Whether the proposed relocation site is an appropriate setting for the landmark;
- (g) Whether the proposed relocation site is within the City limits or preferably within the neighborhood within which it is currently located; and
- (h) The City may apply the Economic, Social Environmental and Energy consequences to the community of relocating the historic resource as compared to preserving it.

**(7) Mandatory Conditions of Approval.** Each Significant Historic Resource Relocation permit must contain a condition to require the owner to prepare and make available through the City any information related to the history and sale of the property to all individuals, organizations and agencies who inquire.

**(8) Effect on Landmark List.** When a landmark is relocated to another site within the City limits, the designated landmark status is automatically retained for that landmark at the new site unless an application for landmark designation removal is submitted and approved under TDC 68.125.

**Section 68.140 – Alteration and New Construction Applications and Criteria.**

**(1) Applicability.** Prior to making any alteration to or new construction on a designated landmark, property including any contributing structures a Landmark Alteration Permit is required. Applications for alterations or new construction on landmark property require Architectural Review approval in addition to a Landmark Alteration Permit.

**(2) Exceptions.** Maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature or which the

Building Official determine is required for the public safety due to an unsafe or dangerous condition does not require a Landmark Alteration Permit. Maintenance or repair include, but are not limited to the following activities:

- (a) Replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match either existing materials or those that were typically used on similar style buildings;
- (b) Repairing, or providing a new foundation that does not result in raising or lowering the building elevation unless the foundation materials and craftsmanship contributes to the historical and architectural significance of the historic resource;
- (c) Replacement of wood siding, when required due to deterioration of material, with wood material that matches the appearance of the original siding;
- (d) Repair and/or replacement of roof material with the same kind of roof materials existing, or with materials which replicate the original roof;
- (e) Installation of storm windows and doors made with wood, bronze or flat finished anodized aluminum or baked enamel frames which complement or match the color, detail and proportions of the building;
- (f) Replacement of wood sashes with wood sashes, or the addition of wood sashes when such is consistent with the original historic appearance; and
- (g) Painting and related preparation.

(3) **Procedure Type.** A Landmark Alteration Permit is subject to Type II Review in accordance with TDC Chapter 32.

(4) **Additional Submittal Requirements.** In addition to the information required for a complete application in accordance with TDC Chapter 32, the following information must be submitted:

- (a) A drawing or site map illustrating the location of the landmark including any contributing structures or landscaping on the site;
- (b) A statement explaining compliance with the applicable approval criteria, as appropriate;
- (c) Plan drawings to include site, landscaping and elevations, drawn to scale;
- (d) Photographs of the landmark and its site with views from all directions (north, east, south and west) which show all exterior features and structures in the context of the site; Photographs must be numbered and labeled and include a description of what is shown;
- (e) A list of owners of property within 1,000 feet of the subject property together with the owners' current mailing addresses; and
- (f) Any other information deemed necessary by the City Manager.

(5) **Criteria.** A Landmark Alteration Permit must be granted if the applicant demonstrates:

- (a) The alteration will not diminish the historical significance of the landmark;
- (b) The alteration will not diminish the architectural significance of the landmark;
- (c) The design of the proposed structure is compatible with the design of the landmark on the site considering scale, style, height, architectural detail, materials and colors;
- (d) The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site considering setbacks, distances between structures, location of entrances and similar siting considerations;

- (e) The use of the landmark, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in preservation of the landmark;
- (f) The value and significance of the historic resource;
- (g) The physical condition of the historic resource;
- (h) The United States Department of the Interior's Secretary of the Interior

Standards:

- (i) A property must be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
- (ii) The historic character of a property must be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property must be avoided;
- (iii) Each property is recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural elements from other buildings, must not be undertaken;
- (iv) Most properties change over time; those changes that have acquired significance in their own right must be retained and preserved;
- (v) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property must be preserved;
- (vi) Deteriorated historic features must be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature must match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features must be substantiated by documentary, physical, or pictorial evidence;
- (vii) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials must not be used. The surface cleaning of structures, if appropriate, must be undertaken using the gentlest means possible;
- (viii) Significant archeological resources affected by a project must be protected and preserved. If such resources must be disturbed, mitigation measures must be undertaken;
- (ix) New additions, exterior alterations, or related new construction must not destroy historic materials that characterize the property. The new work must be differentiated from the old and must be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment; and
- (x) The addition, adjacent, or related new construction is undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Section 68.150 – Time Limit of Approval.** All decisions made under this Chapter are void after one year from the date the decision was mailed unless:

- (1) A building permit has been issued and substantial construction pursuant to building permit has taken place as defined by the Oregon Uniform Building Code; or
- (2) The City Manager grants an extension under TDC 68.160.

**Section 68.160 – Extension of Approval Decision.**

- (1) **Applicability.** The City Manager may grant a one-year extension of a decision under this Chapter.
- (2) **Procedure Type.** Extensions of Approval pursuant to this section are processed as a Type I procedure under TDC Chapter 32.
- (3) **Submittal Requirements.** In addition to the submittal requirements under TDC 32.150, an application for an extension must include the reason(s) the request is being made.
- (4) **Criteria.** An application for an extension must be approved if the City Manager finds there have been no significant changes in any conditions, ordinances, regulations, or other standards of the City or applicable agencies that affect the previously approved decision so as to warrant its resubmittal.
- (5) **Number of Extensions.** There is no limit on the number of extensions the City Manager may grant.

**SECTION 32.** TDC 73 (Community Design Standards) is deleted in its entirety.

**SECTION 33. TDC 73A (Site Design).** TDC Chapter 73A (Site Design) is created to read as follows:

**GENERAL PURPOSE AND OBJECTIVES OF SITE AND BUILDING DESIGN STANDARDS**

**Section 73A.010 – Site and Building Design Standards Purpose and Objectives.**

- (1) **Purpose.** The purpose of the site and building design objectives and standards found in TDC 73A through TDC 73G is to promote functional, safe, innovative, and attractive sites and buildings that are compatible with the surrounding environment, including, but not limited to:
  - (a) The building form, articulation of walls, roof design, materials, and placement of elements such as windows, doors, and identification features; and
  - (b) The placement, design, and relationship of proposed site elements such as buildings, vehicular parking, circulation areas, bikeways and bike parking, accessways, walkways, buffer areas, and landscaping.
- (2) **Objectives.** The objectives of site and building design standards in TDC 73A through TDC 73G are to:
  - (a) Enhance Tualatin through the creation of attractively designed development and streetscapes;
  - (b) Encourage originality, flexibility, and innovation in building design;
  - (c) Create opportunities for, or areas of, visual and aesthetic interest for occupants and visitors to the site;
  - (d) Provide a composition of building elements which responds to function, land form, identity and image, accessibility, orientation and climatic factors;
  - (e) Conserve, protect, and restore fish and wildlife habitat areas, and maintain or create visual and physical corridors to adjacent fish and wildlife habitat areas;
  - (f) Enhance energy efficiency through the use of landscape and architectural elements; and



(g) Minimize disruption of natural site features such as topography, trees, and water features.

## **RESIDENTIAL DESIGN STANDARDS**

### **Section 73A.100 – Single-Family Design Standards Applicability; Exceptions.**

(1) **Applicability.** The single-family design standards apply to:

- (a) New single-family dwelling; or
- (b) An addition or alteration to an existing single-family dwelling when it results in:
  - (i) A 35% or more expansion of the structure's existing footprint;
  - (ii) A new second or higher story; or
  - (iii) A 35% or more alteration of an existing wall plane. For purposes of this section wall plane means all vertical surfaces on one side of a dwelling from the base of the main floor level up including walls, garage doors, entries, gable ends, dormers, etc., and excluding any roof areas.

(2) **Exceptions.** The single-family design standards in subsection (1) do not apply to a side wall plane that abuts the side yard of an adjacent dwelling.

### **Section 73A.110 – Clear and Objective (Type I) Single Family Design Standards.**

Single-Family uses using the Clear and Objective (Type I) standards must comply with the following:

(1) **Front Face.** The front face of a single family dwelling must contain:

- (a) windows that occupy at least 12% of the wall plane.
  - (i) This requirement may be reduced to 10% if one additional Residential Wall Design Element is provided beyond the minimum.
  - (ii) This requirement may be reduced to 8% if two or more additional Residential Wall Design Element are provided beyond the minimum.
  - (iii) Garage door windows may be counted toward the window coverage percentage.
- (b) At least three Residential Roof Design Elements; and
- (c) At least five of the Residential Wall Design Elements.

(2) **Rear.** The rear of a single family dwelling must contain:

- (a) windows that occupy at least 12% of the wall plane
  - (i) This requirement may be reduced to 10% if one or more additional Residential Wall Design Element is provided beyond the minimum.
  - (ii) Garage door windows may be counted toward the window coverage percentage.
- (b) At least two Residential Roof Design Elements; and
- (c) At least four Residential Wall Design Elements

(3) **Side - Corner Lot.** If the side of a single family dwellings abuts a public street, the side must contain:

- (a) Windows that occupy at least 8% of the wall plane;
  - (i) This requirement may be reduced to 6% of the wall plane if one or more additional Residential Wall Design Elements are provided on the same side elevation.
  - (ii) Garage door windows may be counted toward the window coverage percentage.

- (b) At least two Residential Roof Design Elements; and
- (c) At least four Residential Wall Design Elements.

**Section 73A.120 – Single-Family Residential Roof Design Elements.** The following are the single-family residential roof design elements:

- (1) Dormer, such as hipped, gabled, shed, or eyebrow dormer design, which is a projecting structure built out from a sloping roof and housing a window, vent, or decorative element.
- (2) Pitched or sloping roof, such as a gable roof, which slopes down-ward in two parts from a central ridge forming a gable at each end, or hip roof, which has sloping ends and sides that meet at an inclined projecting angle.
- (3) Roof eave of at least 12 inches.
- (4) Roof overhang (barge-board or verge board) of at least six inches measured outward from the face of the dwelling wall or wall plane.
- (5) Window, decorative vent, door, decorated verge boards, trusses, false beams, corbels, brackets, or other decorative element(s) in gable ends; and
- (6) Variation in roof pitch, height of roof planes, or roof orientation, such as in a roof with multi-level eaves.

**Section 73A.130 – Single-Family Residential Wall Design Elements.** The following are the single-family residential wall design elements:

- (1) Recessed entry – front façade only;
- (2) Portico – front façade only. A roofed porch-like space, open along at least one side, connected to the main dwelling entrance, supported by columns or pillars, and either protruding from or recessed within the main dwelling structure;
- (3) Covered porch at least 36 square feet in area and at least four feet deep;
- (4) Balcony, which development from the wall plane and is enclosed by a railing or parapet (low protective wall);
- (5) Vertical offsets, at least two, either projecting or recessed, and at least six inches (6") deep and a minimum of four feet long;
- (6) Horizontal offset, either projecting or recessed, at least five inches deep;
- (7) Bay window, box window, or box bay, which development at least six inches outward from the wall plane and forms a bay, alcove, or window seat;
- (8) Column or pilaster, either complete or engaged (where one part of its surface is in contact with a wall plane), and in the wall plane, at a change in wall plane, or at a corner of the dwelling;
- (9) Exterior chimney of brick, stone, composite masonry or similar materials;
- (10) Engaged tower, either square, rectangular, circular or polygonal in form;
- (11) Window trim or surround (casing) at least three and one-half inches wide that completely surrounds the window, either with or without a sill beneath the window;
- (12) Window grids, windows with multi-paned sashes, or elliptical, palladian, segmental arch, semicircular, or similarly shaped windows;
- (13) Lintel, arch, or similar decorative header casing on windows, the main entry door, portico, garage door(s), or other opening in the wall plane;

- (14) Shutters, as a matched pair for or on a window, either movable or fixed, designed to cover a window and filter light, and usually of wood or similar construction and paneled or fitted with louvers;
- (15) Variation in wall cladding, wall-surface pattern, or decorative materials such as shakes, shingles, brick, stone or other similar;
- (16) Decorative or “architectural” garage door(s), with or without windows, and including patterning relief at least five-eighths inches deep over the door(s) surface, excepting the window area if windows are present;
- (17) Decorative trellis or trellis-work, consisting of open rafter ends or beams and cross pieces to create the appearance of a structure over which climbing plants might be trained to grow; and
- (18) Band, band course, band molding, belly band, belt course, or similar horizontal element of relatively slight projection marking a division in the wall plane and adding architectural interest to a façade or elevation.

**Section 73A.140 – Discretionary (Type II) Single Family Design Standards.** Single Family uses using Type II discretionary standards, and not using the clear and objective standards, must demonstrate compliance the following discretionary standards:

- (1) All roofs must be pitched or sloping and articulated by use of such elements as dormers, gables, overhangs or eaves, and must have variations in roof pitch, height of roof planes, or roof orientation to create visual interest and avoid monotony in appearance;
- (2) Architectural articulation and other design elements, such as balconies, porches, dormers, bay windows, vertical or horizontal offsets, variations in cladding, or moldings must be used on all sides of the dwelling (except for the side of a dwelling adjacent to another dwelling) to avoid stark unarticulated building façades (elevations), to minimize the scale and visual impact of a continuous flat wall surface, and to create a sense of visual interest for passersby and neighboring property owners;
- (3) The architectural character (i.e., exterior materials, architectural articulation, design elements, etc.) of the front façade (elevation) of the dwelling must be utilized on all sides of the structure to create a unified appearance and to avoid a single block or box appearance;
- (4) New dwellings must be designed and situated on a property in order to create and maintain a visual sense of harmony with surrounding development and must not overwhelm the scale of surrounding development; and
- (5) The overall architectural design of the dwelling must foster a compatible, positive relationship with the scale and character of the street, and the scale and character of surrounding existing development.

## **COMMON WALL DESIGN STANDARDS**

**Section 73A.200 – Common Wall Design Standards.** The following standards are minimum standard for all duplex, townhouse, and multi-family developments in all zones. These standards do not apply to development in the Central Design District and Mixed Use Commercial Overlay District, which may be less than the minimums provided below.

- (1) **Private Outdoor Areas.** Common wall uses must provide private outdoor area features as follows:
- (a) A separate outdoor area of not less than 80 square feet must be attached to each ground level dwelling unit; and
  - (b) The private outdoor area must be separated from common outdoor areas in a manner that enables the resident to control access from common areas with elements, such as walls, fences or shrubs.
- (2) **Balconies, Terraces, and Loggias.** Common wall uses must provide balconies, terraces, and loggias features as follows:
- (a) A separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or loggias must be provided for each unit located above the ground level; and
  - (b) The balconies, terraces, and loggias standard does not apply to duplexes and townhouses.
- (3) **Entry Areas.** Common wall uses must provide entry area features as follows:
- (a) A private main entry area must be provided as a private extension of each dwelling unit;
  - (b) The entry area must be separated from on-site parking areas and public streets with landscaping, change of grade, low fences, walls or other means that enable the resident to supervise and control access and to retain privacy;
  - (c) The entry area must be a minimum of 24 square feet in area for each dwelling unit ;
  - (d) The entry area may be combined to serve more than one unit as determined by the City; and
  - (e) The entry area standard does not apply to duplexes and townhouses.
- (4) **Shared Outdoor Areas.** Common wall uses must provide shared outdoor area features as follows:
- (a) Must provide year round shared outdoor areas for both active and passive recreation;
  - (b) The shared outdoor area must be a minimum of:
    - (i) 300 square feet per dwelling unit; or
    - (ii) 450 square feet per dwelling unit for 55 and older communities.
  - (c) Gazebos and other covered spaces are encouraged to satisfy this requirement;
  - (d) The shared outdoor area must provide approximately the same accessibility to the maximum number of dwelling units possible;
  - (e) The shared outdoor area must allow residents to watch over these areas from windows in at least two adjacent dwelling units;
  - (f) The shared outdoor area must be separated from all entryway and parking areas with a landscaped transition area measuring a minimum of 10 feet wide;
  - (g) The shared outdoor area must have controlled access from off-site as well as from on-site parking and entrance areas with features such as fencing, walls and landscaping;
  - (h) The shared outdoor area must provide both sunny and shady spots;
  - (i) The shared outdoor area must provide a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify); and
  - (j) The shared outdoor area must standard does not apply to:

- (i) duplexes and townhouses; and
- (ii) Any development with less than 12 dwelling units.

**(5) Children's Play Areas.** Common wall uses must provide children's play area features as follows:

- (a) The children's play area must provide year round shared outdoor areas for both active and passive recreation;
- (b) The children's play area must be a minimum of 150 square feet per dwelling unit;
- (c) The children's play area must provide approximately the same accessibility to the maximum number of dwelling units possible;
- (d) The children's play area must allow residents to watch over these areas from windows in at least two adjacent dwelling units;
- (e) The children's play area must provide a separation from all entryway and parking areas with a landscaped transition area measuring a minimum of 10 feet wide;
- (f) The children's play area must have controlled access to shared outdoor areas from off-site as well as from on-site parking and entrance areas with features such as fencing, walls and landscaping;
- (g) The children's play area must provide both sunny and shady spots; and
- (h) The children's play area must provide a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify); and
- (i) The children's play area standard does not apply to:
  - (i) duplexes and townhouses;
  - (ii) 55 and older communities; and
  - (iii) Any development with less than 12 dwelling units.

**(6) Storage.** Common wall uses must provide storage features as follows:

- (a) Enclosed storage areas are required and must be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc.
  - (i) Garages do not satisfy the storage requirements.
- (b) Each storage area must be a minimum of 6 feet in height and have a minimum floor area of:
  - (i) 24 square feet for studio and one bedroom units;
  - (ii) 36 square feet for two bed-room units; and
  - (iii) 48 square feet for greater than two bedroom units.

**(7) Walkways.** Common wall uses must provide walkways as follows:

- (a) Walkways for duplexes and townhouses must be a minimum of 3 feet in width;
- (b) All other multi-family development must have walkways of a minimum of 6 feet in width;
- (c) Walkways must be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete (not gravel or woody material); and
- (d) The walkways must meet ADA standards applicable at time of construction or alteration.

**(8) Accessways.**

- (a) **When Required.** Accessways are required to be constructed when a common wall development is adjacent to any of the following:
  - (i) Residential property;
  - (ii) Commercial property;

- (iii) Areas intended for public use, such as schools and parks; and
- (iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) **Design Standard.** Accessways must meet the following design standards:

- (i) Accessways must be a minimum of 8 feet in width;
- (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
- (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
- (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
- (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
- (vi) Accessways must not be gated to prevent pedestrian or bike access;
- (vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and
- (viii) Must be constructed, owned and maintained by the property owner.

(c) **Exceptions.** The Accessway standard does not apply to the following:

- (i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and
- (ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(9) **Carports and Garages.** Common wall uses must provide Carports and Garage features as follows:

- (a) At least one garage space must be provided for each duplex or townhouse. The form, materials, color, and construction must be compatible with the unit served; and
- (b) If carports or garages are provided for multi-family development, the form, materials, color, and construction must be compatible with the complex they serve.

(10) **Safety and Security.** Common wall units must provide safety and security features as follows:

- (a) Private outdoor areas must be separated from shared outdoor areas and children's play areas with elements such as walls, buildings, landscaping, and changes in grade in a manner which enables residents to utilize these areas as an extension of their units;
- (b) Windows must be located to encourage watching over entry areas, shared outdoor areas, walkways and parking areas;
- (c) An outdoor lighting system must be provided which facilitates police observation and resident observation through strategic location, orientation and brightness

without shining into residential units, public rights-of-way, or fish and wildlife habitat areas;

(d) An identification system must be established which clearly orients visitors and emergency services as to the location of residential units. Where possible, this system must be evident from the primary vehicle entryway; and

(e) The safety and security standard does not apply to duplexes and townhouses.

(11) **Service, Delivery and Screening.** Common wall uses must provide service, delivery, and screening features as follows:

(a) Provisions for postal delivery must be conveniently located and efficiently designed for residents and mail delivery personnel;

(b) Safe pedestrian access from unit entries to postal delivery areas, shared activity areas, and parking areas must be provided. Elements include, but not limited to:

(i) Concrete paths;

(ii) Raised walkways; and

(iii) Bark chip trails

(c) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping.

## **COMMERCIAL DESIGN STANDARDS**

### **Section 73A.300 – Commercial Design Standards.**

The following standards are minimum requirements for commercial development in all zones:

(1) **Walkways.** Commercial development must provide walkways as follows:

(a) Walkways must be a minimum of 6 feet in width;

(b) Walkways must be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete (not gravel or woody material);

(c) Walkways must meet ADA standards applicable at time of construction or alteration;

(d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;

(e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;

(f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; and

(g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(2) **Accessways.**

(a) **When Required.** Accessways are required to be constructed when a common wall development is adjacent to any of the following:

(i) Residential property;

(ii) Commercial property;

(iii) Areas intended for public use, such as schools and parks; and

(iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

- (b) **Design Standard.** Accessways must meet the following design standards:
- (i) Accessways must be a minimum of 8 feet in width;
  - (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
  - (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
  - (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
  - (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
  - (vi) Accessways must not be gated to prevent pedestrian or bike access;
  - (vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and
  - (viii) Must be constructed, owned and maintained by the property owner.
- (c) **Exceptions.** The Accessway standard does not apply to the following:
- (i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and
  - (ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.
- (3) **Drive-up Uses.** Drive-up uses must comply with the following:
- (a) Provide a minimum stacking area clear of the public right-of-way and parking lot aisles from the window serving the vehicles as follows:
    - (i) Banks--each lane must be 100 feet long;
    - (ii) Restaurants--each lane must be 160 feet long; and
    - (iii) Other uses—each lane must be between 80 and 160 feet long, as determined by the City.
  - (b) Stacking area must not interfere with safe and efficient access to other parking areas on the property.
  - (c) Drive-up aisles and windows must be a minimum of 50 feet from residential zones.
  - (d) The width and turning radius of drive-up aisles must be approved by the City.
  - (e) A wall or other visual or acoustic may be required by the City.
- (4) **Safety and Security.** Commercial development must provide safety and security features as follows:
- (a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;
  - (b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;



(c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;

(d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and

(e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum 6 foot tall security fence or wall.

(5) **Service, Delivery, and Screening.** Commercial development must provide service, delivery, and screening features as follows:

(a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;

(b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and

(c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.

(6) **Adjacent to Transit.** Commercial development adjacent to transit must comply with the following:

(a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street.

(b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:

(i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;

(ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;

(iii) Provide a transit passenger landing pad accessible to disabled persons;

(iv) Provide an easement or dedication for a passenger shelter as determined by the City; and

(v) Provide lighting at the major transit stop.

## **INDUSTRIAL DESIGN STANDARDS**

**Section 73A.400 – Industrial Design Standards.** The following standards are minimum requirements for industrial development in all zones:

(1) **Walkways.** Industrial development must provide walkways as follows:

(a) Walkways must be a minimum of 5 feet in width;

(b) Walkways must be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete (not gravel or woody material);

(c) Walkways must meet ADA standards applicable at time of construction or alteration;

(e) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;

- (f) Walkways through parking areas, drive aisles, and loading areas must be of a different appearance than the adjacent paved vehicular areas; and
- (g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.

(2) **Accessways.**

(a) **When Required.** Accessways are required to be constructed when a common wall development is adjacent to any of the following:

- (i) Residential property;
- (ii) Commercial property;
- (iii) Areas intended for public use, such as schools and parks; and
- (iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.

(b) **Design Standard.** Accessways must meet the following design standards:

- (i) Accessways must be a minimum of 8 feet in width;
- (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
- (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
- (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
- (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
- (vi) Accessways may be gated for security purposes;
- (vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and
- (viii) Must be constructed, owned and maintained by the property owner.

(c) **Exceptions.** The Accessway standard does not apply to the following:

- (i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and
- (ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(3) **Drive-up Uses.** Drive-up uses must comply with the following:

(a) Must provide a minimum stacking area clear of the public right-of-way and parking lot aisles from the window serving the vehicles as follows:

- (i) Banks--each lane must be 100 feet long;
- (ii) Restaurants--each lane must be 160 feet long; and

- (iii) Other uses—each lane must be between 80 and 160 feet long, as determined by the City.
  - (b) Stacking area must not interfere with safe and efficient access to other parking areas on the property;
  - (c) Drive-up aisles and windows must be a minimum of 50 feet from residential zones.
  - (d) The width and turning radius of drive-up aisles must be approved by the City; and
  - (e) A wall or other visual or acoustic may be required by the City.
- (4) **Safety and Security.** Industrial development must provide safety and security features as follows:
  - (a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;
  - (b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;
  - (c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;
  - (d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and
  - (e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum 6 foot tall security fence or wall.
- (5) **Service, Delivery, and Screening.** Industrial development must provide service, delivery, and screening features as follows:
  - (a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;
  - (b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and
  - (c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.
- (6) **Adjacent to Transit.** Industrial development adjacent to transit must comply with the following:
  - (a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street; and
  - (b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:
    - (i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;
    - (ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;
    - (iii) Provide a transit passenger landing pad accessible to disabled persons;

- (iv) Provide an easement or dedication for a passenger shelter as determined by the City; and
- (v) Provide lighting at the major transit stop.

## **INSTITUTIONAL DESIGN STANDARDS**

**Section 73A.500 – Institutional Design Standards.** The following standards are minimum requirements for institutional development in all zones:

- (1) **Walkways.** Institutional development must provide walkways as follows:
  - (a) Walkways must be a minimum of 6 feet in width;
  - (b) Walkways must be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete (not gravel or woody material);
  - (c) Walkways must meet ADA standards applicable at time of construction or alteration;
  - (d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;
  - (e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;
  - (f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; and
  - (g) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.
- (2) **Accessways.**
  - (a) **When Required.** Accessways are required to be constructed when a common wall development is adjacent to any of the following:
    - (i) Residential property;
    - (ii) Commercial property;
    - (iii) Areas intended for public use, such as schools and parks; and
    - (iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.
  - (b) **Design Standard.** Accessways must meet the following design standards:
    - (i) Accessways must be a minimum of 8 feet in width;
    - (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
    - (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
    - (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
    - (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
    - (vi) Accessways must not be gated to prevent pedestrian or bike access;
    - (vii) Outdoor Recreation Access Routes must be provided between the development's walkway and bikeway circulation system and parks, bikeways, and greenways where a bike or pedestrian path is designated; and
    - (viii) Must be constructed, owned and maintained by the property owner.

- (c) **Exceptions.** The Accessway standard does not apply to the following:
- (i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and
  - (ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

(3) **Safety and Security.** Institutional development must provide safety and security features as follows:

- (a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;
- (b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;
- (c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;
- (d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and
- (e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum 6 foot tall security fence or wall.

(4) **Service, Delivery, and Screening.** Institutional development must provide service, delivery, and screening features as follows:

- (a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;
- (b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and
- (c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.

(5) **Adjacent to Transit.** Institutional development adjacent to transit must comply with the following:

- (a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street; and
- (b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:
  - (i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;

- (ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;
- (iii) Provide a transit passenger landing pad accessible to disabled persons;
- (iv) Provide an easement or dedication for a passenger shelter as determined by the City; and
- (v) Provide lighting at the major transit stop.

**SECTION 34. TDC 73B (Landscaping Standards).** TDC Chapter 73B (Landscaping Standards) is created to read as follows:

**Section 73B.010 – Landscape Standards Purpose and Objectives.**

(1) **Purpose.** The purpose of this Chapter is to establish standards for landscaping within Tualatin in order to enhance the environmental and aesthetic quality of the City.

(2) **Objectives.** The objectives of this Chapter are to:

- (a) Encourage the retention and protection of existing trees and requiring the planting of trees in new developments;
- (b) Use trees and other landscaping materials to temper the effects of the sun, wind, noise, and air pollution.
- (c) Use trees and other landscaping materials to define spaces and the uses of specific areas; and
- (d) Use trees and other landscaping materials as a unifying element within the urban environment.

**Section 73B.020 – Landscape Area Standards Minimum Areas by Use and Zone.**

The following are the minimum areas required to be landscaped for each use and zone:

ZONE	MINIMUM AREA REQUIREMENT*	MINIMUM AREA REQUIREMENT WITH DEDICATION FOR A FISH AND WILDLIFE HABITAT*
(1) RL, RML, RMH, RH and RH/HR zones – Permitted Uses	None	None
(2) RL, RML, RMH, RH and RH/HR zones – Conditional Uses, except Small Lot Subdivisions	25% of the total area to be developed	20% of the total area to be developed
(3) CO, CR, CC, CG, ML and MG zones <i>except</i> within the Core Area Parking District – All uses	15% of the total area to be developed	12.5% of the total area to be developed
(4) CO, CR, CC, CG, ML and MG zones <i>within</i> the Core Area Parking District – All uses	10% of the total area to be developed	7.5% of the total area to be developed
(5) IN, CN, CO/MR, MC and MP zones – All uses	25% of the total area to be developed	22.5% of the total area to be developed
(6) Industrial Business Park Overlay District and MBP – must be approved	20% of the total area to be	Not applicable

ZONE	MINIMUM AREA REQUIREMENT*	MINIMUM AREA REQUIREMENT WITH DEDICATION FOR A FISH AND WILDLIFE HABITAT*
through Industrial Master Plans	developed	
* For properties within the Hedges Creek Wetland Protection District which have signed the "Wetlands Mitigation Agreement", the improved or unimproved wetland buffer area may reduce the required landscaping to 12.5 percent as long as all other landscape requirements are met.		

**Section 73B.030 – Additional Minimum Landscaping Requirements for Common Wall Residential Uses.**

(1) **General.** In addition to requirements in TDC 73B.020, Common Wall Uses must comply with the following additional standards:

- (a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.
  - (i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.
- (b) Duplex and Townhouse developments may include hard surfaces in outdoor areas such as patios and storage areas as determined in the Architectural Review process.

**Section 73B.040 – Additional Minimum Landscaping Requirements for Commercial Uses.**

(1) **General.** In addition to requirements in TDC 73B.020, commercial uses must comply with the following:

- (a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.
  - (i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.
- (b) Minimum 5-foot-wide landscaped area must be located along all building perimeters viewable by the general public from parking lots or the public right-of-way, but the following may be used instead of the 5-foot-wide landscaped area requirement:
  - (i) Pedestrian amenities such as landscaped plazas and arcades; and
  - (ii) Areas developed with pavers, bricks, or other surfaces, for exclusive pedestrian use and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies.
- (c) 5-foot-wide landscaped area requirement does not apply to:
  - (i) loading areas,
  - (ii) bicycle parking areas,
  - (iii) pedestrian egress/ingress locations, and
  - (iv) where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than 8 feet.

(d) Development that abuts an RL or MP Zone must have landscaping approved through Architectural Review and must provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses and the adjacent RL and MP zones.

(2) **Manufacturing Park (MP) – Wetland Buffer.** Wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:

(a) Area counted as landscaping is limited to a maximum of two and one-half percent (of the total land area to be developed);

(b) Area to be counted as landscape must be within the boundaries of the subject property;

(c) No credit may be claimed for wetland buffer areas lying outside the lot lines of the subject parcel;

(d) Where wetlands mitigation in the buffer has not yet occurred at the time of development, the developer must perform, or bear the cost of, all necessary mitigation work in the course of site development, in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers and the Unified Sewerage Agency; and

(e) Where wetlands mitigation in the buffer has already been performed in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers, the developer must include an enhanced mitigation plan approved by the Oregon Division of State Lands and the Unified Sewerage Agency as part of the Architectural Review submittal. The developer must complete all work required by the enhanced wetland mitigation plan in conjunction with development of the site.

### **Section 73B.050 – Additional Minimum Landscaping Requirements for Industrial Uses.**

(1) **General.** In addition to requirements in TDC 73B.020, industrial uses must comply with the following:

(a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.

(i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.

(b) Minimum 5-foot-wide landscaped area must be located along all building perimeters viewable by the general public from parking lots or the public right-of-way, but the following may be used instead of the 5-foot-wide landscaped area requirement:

(i) Pedestrian amenities such as landscaped plazas and arcades; and

(ii) Areas developed with pavers, bricks, or other surfaces, for exclusive pedestrian use and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies.

(c) 5-foot-wide landscaped area requirement does not apply to:

(i) Loading areas,

(ii) Bicycle parking areas,

(iii) Pedestrian egress/ingress locations, and



(iv) Where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than 8 feet.

(d) Development that abuts an RL or MP Zone must have landscaping approved through Architectural Review and must provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses and the adjacent RL and MP zones.

(2) **MP Area – Wetland Buffer.** Wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:

(a) Area counted as landscaping is limited to a maximum of two and one-half percent of the total land area to be developed;

(b) Area to be counted as landscape must be within the boundaries of the subject property;

(c) No credit may be claimed for wetland buffer areas lying outside the lot lines of the subject parcel;

(d) Where wetlands mitigation in the buffer has not yet occurred at the time of development, the developer must perform, or bear the cost of, all necessary mitigation work in the course of site development, in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers and the Clean Water Services; and

(e) Where wetlands mitigation in the buffer has already been performed in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers, the developer must include an enhanced mitigation plan approved by the Oregon Division of State Lands and Clean Water Services. as part of the Architectural Review submittal. The developer must complete all work required by the enhanced wetland mitigation plan in conjunction with development of the site.

### **Section 73B.060 – Additional Minimum Landscaping Requirements for Institutional Uses.**

(1) **General.** In addition to the requirements in TDC 73B.020, institutional uses comply with the following:

(a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.

(i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.

(b) Minimum 5-foot-wide landscaped area must be located along all building perimeters viewable by the general public from parking lots or the public right-of-way, but the following may be used instead of the 5-foot-wide landscaped area requirement:

(i) Pedestrian amenities such as landscaped plazas and arcades; and

(ii) Areas developed with pavers, bricks, or other surfaces, for exclusive pedestrian use and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies.

(c) 5-foot-wide landscaped area requirement does not apply to:

(i) Loading areas,


- (ii) Bicycle parking areas,
- (iii) Pedestrian egress/ingress locations, and
- (iv) Where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than 8 feet.

(d) Development that abuts an RL or MP Zone must have landscaping approved through Architectural Review and must provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses and the adjacent RL and MP zones.

(2) **MP Area – Wetland Buffer.** Wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:

- (a) Area counted as landscaping is limited to a maximum of two and one-half percent of the total land area to be developed;
- (b) Area to be counted as landscape must be within the boundaries of the subject property;
- (c) No credit may be claimed for wetland buffer areas lying outside the lot lines of the subject parcel;
- (d) Where wetlands mitigation in the buffer has not yet occurred at the time of development, the developer must perform, or bear the cost of, all necessary mitigation work in the course of site development, in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers and Clean Water Services; and
- (e) Where wetlands mitigation in the buffer has already been performed in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers, the developer must include an enhanced mitigation plan approved by the Oregon Division of State Lands and Clean Water Services as part of the Architectural Review submittal. The developer must complete all work required by the enhanced wetland mitigation plan in conjunction with development of the site.

**Section 73B.070 – Minimum Landscaping Standards for All Zones.** The following are minimum standards for landscaping for all zones.

<p>(1) <b>Required Landscape Areas</b></p> 	<ul style="list-style-type: none"> <li>• Must be designed, constructed, installed, and maintained so that within three years the ground must be covered by living grass or other plant materials.             <ul style="list-style-type: none"> <li>• The foliage crown of trees cannot be used to meet this requirement.</li> </ul> </li> <li>• A maximum of 10% of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone.             <ul style="list-style-type: none"> <li>• Must be installed in accordance with the provisions of the American National Standards Institute ANSI</li> </ul> </li> </ul>
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	<p>A300 (Part 1) (Latest Edition).</p> <ul style="list-style-type: none"> <li>• Must be controlled by pruning, trimming, or otherwise so that: <ul style="list-style-type: none"> <li>○ It will not interfere with designated pedestrian or vehicular access; and</li> <li>○ It will not constitute a traffic hazard because of reduced visibility.</li> </ul> </li> </ul>
<p><b>(2) Fences</b></p>	<ul style="list-style-type: none"> <li>• Landscape plans that include fences must integrate any fencing into the plan to guide wild animals toward animal crossings under, over, or around transportation corridors.</li> </ul>
<p><b>(3) Tree Preservation</b></p>	<ul style="list-style-type: none"> <li>• Trees and other plant materials to be retained must be identified on the landscape plan and grading plan.</li> <li>• During construction: <ul style="list-style-type: none"> <li>○ Must provide above and below ground protection for existing trees and plant materials identified to remain;</li> <li>○ Trees and plant materials identified for preservation must be protected by chain link or other sturdy fencing placed around the tree at the drip line;</li> <li>○ If it is necessary to fence within the drip line, such fencing must be specified by a qualified arborist;</li> <li>○ Top soil storage and construction material storage must not be located within the drip line of trees designated to be preserved;</li> <li>○ Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment must only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met; and</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Tree root ends must not remain exposed.</li> <li>● Landscaping under preserved trees must be compatible with the retention and health of the preserved tree.</li> <li>● When it is necessary for a preserved tree to be removed in accordance with TDC 33.110 (Tree Removal Permit) the landscaped area surrounding the tree or trees must be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, landscape materials. Native trees are encouraged</li> <li>● 100% of the area preserved under any tree or group of trees (Except for impervious surface areas) retained in the landscape plan must apply directly to the percentage of landscaping required for a development</li> </ul>
<p><b>(4) Grading</b></p>	<ul style="list-style-type: none"> <li>● After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.</li> <li>● All planting areas must be graded to provide positive drainage.</li> <li>● Soil, water, plant materials, mulch, or other materials must not be allowed to wash across roadways or walkways.</li> <li>● Impervious surface drainage must be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas except where the landscape area is a water quality facility.</li> </ul>
<p><b>(5) Irrigation</b></p>	<ul style="list-style-type: none"> <li>● Landscaped areas must be irrigated with an automatic underground or drip irrigation system</li> <li>● <b>Exceptions:</b> <ul style="list-style-type: none"> <li>○ Irrigation requirement does not apply to duplexes and townhouses.</li> </ul> </li> </ul>
<p><b>(6) Re-vegetation in Un-landscaped Areas</b></p>	<ul style="list-style-type: none"> <li>● Vegetation must be replanted in all areas where vegetation has been</li> </ul>

	<p>removed or damaged in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements,.</p> <ul style="list-style-type: none"> <li>• Plant materials must be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons.</li> <li>• The use of native plant materials is encouraged to reduce irrigation and maintenance demands.</li> <li>• Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.</li> </ul>
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**Section 73B.080 – Minimum Standards Trees and Plants.** The following minimum standards apply to the types of landscaping required to be installed for all zones.

<p><b>(1) Deciduous Shade Trees</b></p>	<ul style="list-style-type: none"> <li>• One and on-half inch caliper measured six inches above ground;</li> <li>• Balled and burlapped; bare root trees will be acceptable to plant during their dormant season;</li> <li>• Reach a mature height of 30 feet or more;</li> <li>• Cast moderate to dense shade in summer;</li> <li>• Live over 60 years;</li> <li>• Do well in urban environments, tolerant of pollution and heat, and resistant to drought;</li> <li>• Require little maintenance and mechanically strong;</li> <li>• Insect- and disease-resistant;</li> <li>• Require little pruning; and</li> <li>• Barren of fruit production.</li> </ul>
<p><b>(2) Deciduous Ornamental Trees</b></p>	<ul style="list-style-type: none"> <li>• One and on-half inch caliper measured six inches above ground;</li> <li>• balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species</li> </ul>
<p><b>(3) Coniferous Trees</b></p>	<ul style="list-style-type: none"> <li>• 5 feet in height above ground;</li> <li>• balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species.</li> </ul>
<p><b>(4) Evergreen and Deciduous</b></p>	<ul style="list-style-type: none"> <li>• One to five gallon size;</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and</li> </ul>

<b>Shrubs</b>	<ul style="list-style-type: none"> <li>• Side of shrub with best foliage must be oriented to public view.</li> </ul>
(5) <b>Groundcovers</b>	<ul style="list-style-type: none"> <li>• Fully rooted;</li> <li>• Well branched or leafed;</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and</li> <li>• English ivy (<i>Hedera helix</i>) is prohibited.</li> </ul>
(6) <b>Lawns</b>	<ul style="list-style-type: none"> <li>• Consist of grasses, including sod, or seeds of acceptable mix within the local landscape industry;</li> <li>• 100 percent coverage and weed free; and</li> <li>• Healthy, disease-free, damage-free, characteristic of the species.</li> </ul>

**SECTION 35. TDC 73C (Parking Standards).** TDC Chapter 73C (Parking Standards) is created to read as follows:

**Section 73C.010 – Off-Street Parking and Loading Applicability and General Requirements.**

(1) **Applicability.** Off-street parking and loading is required to be provided by the owner and/or developer, in all zones, whenever the following occurs:

- (a) Establishment of a new structure or use;
- (b) Change in use; or
- (c) Change in use of an existing structure.

(2) **General Requirements.** Off-street parking spaces, off-street vanpool and carpool parking spaces, off-street bicycle parking, and off-street loading berths must be as provided as set forth in TDC 73C.100, unless greater requirements are otherwise established by the conditional use permit or the Architectural Review process.

(a) The following apply to property and/or use with respect to the provisions of TDC 73C.100:

- (i) The requirements apply to both the existing structure and use, and enlarging a structure or use;
- (ii) the floor area is measured by gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking or loading;
- (iii) Where employees are specified, the term applies to all persons, including proprietors, working on the premises during the peak shift;
- (iv) Calculations to determine the number of required parking spaces and loading berths must be rounded to the nearest whole number;
- (v) If the use of a property changes, thereby increasing off-street parking or loading requirements, the increased parking/loading area must be provided prior to commencement of the new use;
- (vi) Parking and loading requirements for structures not specifically listed herein must be determined by the City Manager, based upon requirements of comparable uses listed;
- (vii) When several uses occupy a single structure, the total requirements for off-street parking may be the sum of the requirements of the several uses

computed separately or be computed in accordance with TDC 73.370(1)(m), Joint Use Parking;

(viii) Off-street parking spaces for dwellings must be located on the same lot with the dwelling. Other required parking spaces may be located on a separate parcel, provided the parcel is not greater than five hundred (500) feet from the entrance to the building to be served, measured along the shortest pedestrian route to the building. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the site. The parcel upon which parking facilities are located must be in the same ownership as the structure;

(ix) Required parking spaces must be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and must not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business;

(x) Institution of on-street parking, where none is previously provided, must not be done solely for the purpose of relieving crowded parking lots in commercial or industrial zones; and

(xi) Required vanpool and carpool parking must meet the 9-foot parking stall standards in Figure 73-1 and be identified with appropriate signage.

**Section 73C.020 – Parking Lot Design Standards.** A parking lot, whether an accessory or principal use, intended for the parking of automobiles or trucks, must comply with the following:

(1) Off-street parking lot design must comply with the dimensional standards set forth in Figure 73-1;

(a) Exception: Parking structures and underground parking where stall length and width requirements for a standard size stall must be reduced by .5 feet and vehicular access at the entrance if gated must be a minimum of 18 feet in width.

(2) Parking lot drive aisles must be constructed of asphalt, concrete, or pervious concrete;

(3) Parking stalls must be constructed of asphalt, concrete, pervious concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material. Pervious surfaces, are encouraged for parking stalls in or abutting the Natural Resource Protection Overlay District, Other Natural Areas, or in a Clean Water Services Vegetated Corridor;

(4) Parking lots must be maintained adequately for all-weather use and drained to avoid water flow across sidewalks;

(5) Parking bumpers or wheel stops or curbing must be provided to prevent cars from encroaching on adjacent landscaped areas, or adjacent pedestrian walkways.

(6) Disability parking spaces and accessibility must meet ADA standards applicable at time of construction or alteration;

(7) Parking stalls for sub-compact vehicles must not exceed 35 percent of the total parking stalls required by TDC 73C.100. Stalls in excess of the number required by TDC 73C.100 can be sub-compact stalls;

- (8) Groups of more than 4 parking spaces must be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley;
- (9) Drives to off-street parking areas must be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site;
- (10) On-site drive aisles without parking spaces, which provide access to parking areas with regular spaces or with a mix of regular and sub-compact spaces, must have a minimum width of 22 feet for two-way traffic and 12 feet for one-way traffic; When 90 degree stalls are located on both sides of a drive aisle, a minimum of 24 feet of aisle is required. On-site drive aisles without parking spaces, which provide access to parking areas with only sub-compact spaces, must have a minimum width of 20 feet for two-way traffic and 12 feet for one-way traffic;
- (11) Artificial lighting, must be deflected to not shine or create glare in a residential zones, street right-of-way, a Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor;
- (12) Parking lot landscaping must be provided pursuant to the requirements of TDC 73C.200; and
- (13) Except for parking to serve residential uses, parking areas adjacent to or within residential zones or adjacent to residential uses must be designed to minimize disturbance of residents.

**Section 73C.030 – Shared Parking Requirements.** Parking facilities may be shared by users on adjacent parcels if the following standards are met:

- (1) One of the parcels has excess parking spaces, considering the present use of the property; the other parcel lacks sufficient area for required parking spaces;
- (2) The total number of parking spaces meets the standards for the sum of the number of spaces required for each use;
- (3) Legal documentation, to the satisfaction of the City Attorney, must be submitted verifying permanent use of the excess parking area on one lot by patrons of the uses deficient in required parking area;
- (4) Physical access between adjoining lots must be such that functional and reasonable access is provided to uses on the parcel deficient in parking spaces;
- (5) Adequate directional signs must be installed specifying the joint parking arrangement; and
- (6) Areas in the Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor would be better protected.

**Section 73C.040 – Joint Use Parking Requirements.**

- (1) Joint use of parking spaces may occur where adjacent developments or multiple uses in a development are able to jointly use some or all of the same required parking spaces because their parking demands occur at different times.
- (2) Joint use of parking spaces may be allowed if the following standards are met:
  - (a) There must be no substantial conflict in the principal operating hours of the buildings or uses for which the joint use parking is proposed. Future change of use, such as expansion of a building or establishment of hours of operation which conflict



- with or affect a joint use parking agreement are prohibited, unless approval is obtained through the Architectural Review process;
- (b) The joint use parking spaces must be located no more than 500 feet from a building or use to be served by the joint use parking;
  - (c) The number and location of parking spaces, hours of use and changes in operating hours of uses subject to joint use must be approved through the Architectural Review process;
  - (d) Legal documentation, to the satisfaction of the City Attorney, must be submitted verifying the joint use parking between the separate developments. Joint use parking agreements may include provisions covering maintenance, liability, hours of use and cross easements;
  - (e) The City Attorney approved legal documentation must be recorded by the applicant at the Washington or Clackamas County Recorder's Office and a copy of the recorded document must be submitted to the Planning Department prior to issuance of a building permit; and
  - (f) Areas in the Natural Resource Protection Overlay District, Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan, or a Clean Water Services Vegetated Corridor would be better protected.

### **Section 73C.050 – Bicycle Parking Requirements and Standards.**

- (1) **Requirements.** Bicycle parking facilities must include:
  - (a) Long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms in which the bicycle is stored;
    - (i) Long-term bicycle parking facilities may be provided inside a building in suitable secure and accessible locations.
  - (b) Short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels.
- (2) **Standards.** Bicycle parking must comply with the following:
  - (a) Each bicycle parking space must be at least six feet long and two feet wide, with overhead clearance in covered areas must be at least seven feet;
  - (b) A five (5) foot-wide bicycle maneuvering area must be provided beside or between each row of bicycle parking. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;
  - (c) Access to bicycle parking must be provided by an area at least three feet in width. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;
  - (d) Bicycle parking areas and facilities must be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs must be located at the main entrance and at the location of the bicycle parking facilities;
  - (e) Bicycle parking must be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, must be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas;

- (f) Required bicycle parking spaces must be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This does not preclude the operation of private for-profit bicycle parking businesses;
- (g) Bicycle parking may be provided within the public right-of-way in the Core Area Parking District subject to approval of the City Engineer and provided it meets the other requirements for bicycle parking; and
- (h) The City Manager or the Architectural Review Board may approve a form of bicycle parking not specified in these provisions but that meets the needs of long-term and/or short-term parking pursuant to Architectural Review.

**Section 73C.060 – Transit Facility Conversion.** Parking on existing residential, commercial, and industrial development may be redeveloped as a transit facility as a way to encourage the development of transit supportive facilities such as bus stops and pullouts, bus shelters and park and ride stations. Parking spaces converted to such uses in conjunction with the transit agency and approved through the Architectural Review process will not be required to be replaced.

**Section 73C.100 – Off-Street Parking Minimum/Maximum Requirements.**

(1) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City, except these standards do not apply in the Core Area Parking District. The Core Area Parking District standards are in TDC 73C.110.

USE	MINIMUM MOTOR VEHICLE PARKING	MAXIMUM MOTOR VEHICLE PARKING	BICYCLE PARKING	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
<b>(a) Residential Uses</b>				
(i) Detached single-family dwelling, residential home, residential facilities (located in low density (RL) zones) Townhouse and Duplexes	2.00 vehicle parking spaces per dwelling unit, residential home or residential facility (stalls or spaces within a residential garage not included, except as approved in Architectural Review).	None	None Required	N/A
(ii) Multi-family dwellings in subdivisions	1.50 spaces per unit, in addition to garage	None	Developments with four or more units;	100

			none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit	
(iii) Multi-family dwellings in complexes with private internal driveways	1.0 space/studio, 1.25 space/1 bedroom, 1.50 space/2 bedroom, 1.75 space/3= bedroom in addition to garage	None	Developments with four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit	100
(iv) Retirement housing facility	1.00 space per dwelling unit	None	0.50 space per unit	50
(v) Boarding house, lodging	1.00 space per guest house accommodation	None	0.25 space per guest house accommodation	50
(vi) Congregate care, assisted living and residential care facilities	0.50 space per dwelling unit	None	2, or 0.20 spaces per dwelling unit, whichever	50

			is greater	
(vii) Residential facilities (located in other than low density residential zones)	1.00 space per 3 beds, plus 1.00 space per employee	None	2, or 1.00 space for every 6 beds, whichever is greater	50
(viii) Dwelling units within the Central Design District except as specified in (d), (e), and (f) above	1.50 space per dwelling unit, including garage	None	Developments with four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit	100
<b>(b) Institutions</b>				
(i) Convalescent home, nursing home or sanitarium	1.00 space per 2 beds for patients or residents	None	2, or 1.00 space for every 6 beds, whichever is greater	50
(ii) Hospital	1.00 space per 500 square feet of gross floor area	None	1 space per 1,000 gross square feet	First 10 spaces or 40% whichever is greater
<b>(c) Places of Public Assembly</b>				
(i) Library, reading room	1.00 space per 400 square feet of public area	None	2, or 1.5 spaces per 1,000 gross square feet, whichever	10

			is greater	
(ii) Nursery, primary, elementary or middle school, child day care center	2.00 spaces per employee	None	4, or 1.00 space per 5 students based on the design capacity of the facility, whichever is greater	75
(iii) Senior high school	0.2 spaces per student and staff	Zone A and Zone B: 0.3 spaces per student plus 1.00 space per staff	4, or 1.00 space per 5 students based on the design capacity of the facility, whichever is greater	25
(iv) Other places of public assembly, including churches	1.00 space per 4 seats or 8 feet of bench length	Zone A: 0.6 spaces per seat Zone B: 0.5 spaces per seat	1.0 space per 40 seats or 80 feet of bench length	35
<b>(d) Commercial Amusements</b>				
(i) Theater	1.00 space per 4 seats	Zone A: 0.4 spaces per seat Zone B: 0.5 spaces per seat	1.0 space per 30 seats	10
(ii) Bowling alley	5.00 spaces per lane	None	4, or 0.50 spaces per lane, whichever is greater	40
(iii) Dance hall, skating rink	4.3 spaces per 1,000 square feet of gross floor area	Zone A: 5.4 spaces per 1,000 square feet of gross floor area Zone B: 6.5 spaces per 1,000 square	2.0 spaces per 1,000 square feet of floor area	50

		feet of gross floor area		
(iv) Racquet court, health club	1.00 space per 1,000 square feet of gross floor area	Zone A: 1.3 spaces per 1,000 square feet of gross floor area Zone B: 1.5 spaces per 1,000 square feet of gross floor area	2.0 spaces per 1,000 square feet of exercise area	50
<b>(e) Commercial</b>				
(i) Retail shops (under 100,000 square feet of gross floor area)	4.00 spaces per 1,000 square feet of gross floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	0.50 space per 1,000 square feet of gross floor area	50
(ii) Retail store handling exclusively bulky merchandise such as furniture or automobiles and service or repair shops	1.00 space per 400 square feet of sales floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	2, or 0.20 space per 1,000 square feet of sales floor area, whichever is greater	50
(iii) Shopping center (over 100,000 square feet of gross floor area)	4.1 spaces per 1,000 square feet of gross floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	0.50 space per 1,000 square feet of gross floor area	50
(iv) Banks/Savings and loans	4.30 spaces per 1,000 square feet of gross	Zone A: 5.4 spaces per 1,000 square	2, or 0.33 spaces per 1,000	10

	floor area	feet of gross floor area Zone B: 6.5 spaces per 1,000 square feet of gross floor area	square feet, whichever is greater	
(v) Medical & dental offices	3.90 spaces per 1,000 square feet of gross floor area	Zone A: 4.9 spaces per 1,000 square feet of gross floor area Zone B: 5.9 spaces per 1,000 square feet of gross floor area	2, or 0.33 spaces per 1,000 gross square feet, whichever is greater	First 10 spaces or 40%, whichever is greater
(vi) General office	2.70 spaces per 1,000 square feet of gross floor area	Zone A: 3.4 spaces per 1,000 square feet of gross floor area Zone B: 4.1 spaces per 1,000 square feet of gross floor area	2, or 0.50 spaces per 1,000 gross square feet, whichever is greater	First 10 spaces or 40%, whichever is greater
(viii) Restaurant	10.00 spaces per 1,000 square feet of gross floor area	Zone A: 19.1 spaces per 1,000 square feet of gross floor area Zone B: 23.0 spaces per 1,000 square feet of gross floor area	2.00 spaces per 1,000 gross square feet	25
(ix) Drive-up restaurant	9.90 spaces per 1,000 square feet of gross floor area	Zone A: 12.4 spaces per 1,000 square feet of gross floor area Zone B: 14.9 spaces per 1,000 square feet of gross	2.00 spaces per 1,000 gross sq. ft	25

		floor area		
(x) Motel	1.00 space per room	None	0.20 space per room	10
(xi) Mortuary	1.00 space per 4 seats or an 8 feet of bench length in chapels	None	1.0 space per 40 seats or 80 feet of bench length	10
(xii) Office furniture and office furniture sales	1.00 space per 550 gross square feet	None	2, or 0.20 space per 1,000 square feet of sales floor area, whichever is greater	10
(xiii) Park and ride lots	None	None	5% of auto spaces	100
(xiv) Major transit stops (not Park and Ride lots)	None	None	4	100
(xv) Wireless communication facility	1.0 space	None	N/A	N/A
<b>(f) Industrial</b>				
(i) Manufacturing	1.60 spaces per 1,000 square feet of gross floor area	None	2, or 0.10 spaces per 1,000 gross square feet, whichever is greater	First 5 spaces or 30%, whichever is greater
(ii) Warehousing	0.30 spaces per 1,000 square feet of gross floor area	Zone A: 0.4 spaces per 1,000 square feet of gross floor area Zone B: 0.5 spaces per 1,000 square feet of gross floor area	2, or 0.10 spaces per 1,000 gross square feet, whichever is greater	First 5 spaces or 30%, whichever is greater
(iii) Wholesale	3.00 spaces per	None	2, or 0.50	First 5 spaces



establishment	1,000 square feet of gross floor area		spaces per 1,000 gross square feet, whichever is greater	or 30%, whichever is greater
<b>(g) Exempt Uses</b>				
(i) Parking Structures	Exempt	Exempt	Exempt	Exempt
(ii) Fleet Parking	Exempt	Exempt	Exempt	Exempt
(iii) Parking for vehicles for sale, lease, or rent	Exempt	Exempt	Exempt	Exempt
(iv) Car/Vanpool Parking	Exempt	Exempt	Exempt	Exempt
(v) Dedicated Valet Parking	Exempt	Exempt	Exempt	Exempt
(v) User-Paid Parking	Exempt	Exempt	Exempt	Exempt

(2) In addition to the general parking requirements in subsection (1), the following are the minimum number of off-street vanpool and carpool parking for commercial, institutional, and industrial uses.

Number of Required Parking Spaces	Number of Vanpool or Carpool Spaces
0 to 10	1
10 to 25	2
26 and greater	1 for each 25 spaces

**Section 73C.110 – Core Area Parking District Minimum Parking Requirements.**

Uses in the Core Area Parking District must comply with the following parking requirements:

(1) The following uses must provide 75% of the spaces required in TDC 73C.100(1), whether provided individually, in accordance with the Shared Parking in TDC 73C.030, or the Joint Use Parking in TDC 73C.040:

- (a) Multi-Family dwellings in complexes with private internal driveways;
- (b) Retirement housing facility;
- (c) Boarding house, lodging;
- (d) Congregate care, assisted living and residential care facilities,
- (e) Residential facilities (located in other than low density residential planning districts);
- (f) Library, reading room;
- (g) Nursery, primary, elementary or middle school, and child day care center;
- (h) Other places of public assembly, including churches;
- (i) Theater;

- (j) Bowling alley;
- (k) Retail shops (under 100,000 square feet of gross floor area);
- (l) Retail store handling exclusively bulky merchandise such as furniture or automobiles and service or repair shops;
- (m) Mortuary;
- (n) Office furniture and office furniture sales; and
- (o) Major transit stops (not Park and Ride lots).

(2) At the time of enlargement of an existing structure or change in use, there must be no net loss of existing off-street parking, in addition to providing new off-street parking as required under TDC 73C.110.

(3) The following uses are exempt from providing off-street parking within the Core Area Parking District:

- (a) The publicly-owned community center on Tract 8 of the Tualatin Commons; and
- (b) Outdoor dining facilities.

**Section 73C.120 – Off-Street Loading Facilities Minimum Requirements.**

(1) The minimum number of off-street loading berths for commercial, industrial, and institutional uses is as follows:

USE	SQUARE FEET OF FLOOR AREA	NUMBER OF BERTHS	DIMENSIONS OF BERTH	UNOBSTRUCTED CLEARANCE OF BERTH
<b>Commercial</b>	Less than 5,000	0	0	0
	5,000 - 25,000	1	12 feet x 25 feet	14 feet
	25,000 - 60,000	2	12 feet x 35 feet	14 feet
	60,000 and over	3	12 feet x 35 feet	14 feet
<b>Industrial</b>	Less than 5,000	0	0	0
	5,000 - 25,000	1	12 feet x 60 feet	14 feet
	25,000 - 60,000	2	12 feet x 60 feet	14 feet
	60,000 and over	3	12 feet x 60 feet	14 feet
<b>Institutional</b>	Less than 5,000	0	0	0
	5,000 - 25,000	1	12 feet x 25 feet	14 feet
	25,000 - 60,000	2	12 feet x 35 feet	14 feet
	60,000 and over	3	12 feet x 35 feet	14 feet

(2) Loading berths must not use the public right-of-way as part of the required off-street loading area.

(3) Required loading areas must be screened from public view, public streets, and adjacent properties by means of sight-obscuring landscaping, walls or other means, as approved through the Architectural Review process.

(4) Required loading facilities must be installed prior to final building inspection and must be permanently maintained as a condition of use.

(5) The off-street loading facilities must in all cases be on the same lot or parcel as the structure they are intended to serve. In no case must the required off-street loading spaces be part of the area used to satisfy the off-street parking requirements.

(6) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children must be located on the site of a school or child day care center having a capacity greater than 25 students.

**Section 73C.130 – Parking Lot Driveway and Walkway Minimum Requirements.**

Parking lot driveways and walkways must comply with the following requirements:

(1) **Residential Use.** Minimum requirements for residential uses:

(a) Ingress and egress for single-family residential uses, including townhouses, and duplexes must be paved to a minimum width of 10 feet. Maximum driveway widths must not exceed 26 feet for one and two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths must be measured at the right-of-way line.

(b) Ingress and egress for multi-family residential uses must not be less than the following:

DWELLING UNITS	MINIMUM NUMBER REQUIRED	MINIMUM WIDTH	WALKWAYS, ETC.
2	1	16 feet	No walkways or curbs required
3-19	1	24 feet	No walkways or curbs required
20-49	1 or 2	24 feet  16 feet (one way)	6-foot walkway, 1 side only; curbs required
50-499	1 or 2	32 feet  24 feet	6-foot walkway, 1 side only; curbs required
Over 500	As required by City Manager	As required by City Manager	As required by City Manager

(2) **Commercial Uses.** Ingress and egress for commercial and institutional uses must not be less than the following:

REQUIRED PARKING SPACES	MINIMUM NUMBER REQUIRED	MINIMUM PAVEMENT WIDTH	MINIMUM PAVEMENT WALKWAYS, ETC.
1-99	1	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(3) **Industrial Use.** Ingress and egress for industrial uses must not be less than the following:

REQUIRED PARKING SPACES	MINIMUM NUMBER REQUIRED	MINIMUM PAVEMENT WIDTH	MINIMUM PAVEMENT WALKWAYS, ETC.
1-250	1	36 feet for first 50' from ROW, 24 feet thereafter	No curbs or walkway required
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(4) **Institutional Uses.** Ingress and egress must not be less than 24 feet. In all other cases, ingress and egress for institutional uses must not be less than the following:

REQUIRED PARKING SPACES	MINIMUM NUMBER REQUIRED	MINIMUM PAVEMENT WIDTH	MINIMUM PAVEMENT WALKWAYS, ETC.
1-99	1	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

(5) **One-way Ingress or Egress.** When approved through the Architectural Review process, one-way ingress or egress may be used to satisfy the requirements. However, the hard surfaced pavement of one-way drives must not be less than 16 feet for multi-family residential, commercial, or industrial uses.

(6) **Maximum Driveway Widths and Other Requirements.**

- (a) Unless otherwise provided in this chapter, maximum driveway widths for Commercial, Industrial, and Institutional uses must not exceed 40 feet.
- (b) Driveways must not be constructed within 5 feet of an adjacent property line, unless the two adjacent property owners elect to provide joint access to their respective properties, as provided by TDC73C.040.
- (c) The provisions of subsection (b) do not apply to townhouses and duplexes, which are allowed to construct driveways within 5 feet of adjacent property lines.
- (d) There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.
- (e) Must comply with the distance requirements for access as provided in TDC 75.
- (f) Must comply with vision clearance requirements in TDC 75.

**PARKING LOT LANDSCAPING**

### **Section 73C.200 – Parking Lot Landscaping Standards Purpose and Applicability.**

- (1) **Purpose.** The goals of the off-street parking lot standards are to create shaded areas in parking lots, to reduce glare and heat buildup, provide visual relief within paved parking areas, emphasize circulation patterns, reduce the total number of spaces, reduce the impervious surface area and stormwater runoff, and enhance the visual environment. The design of the off-street parking area must be the responsibility of the developer and should consider visibility of signage, traffic circulation, comfortable pedestrian access, and aesthetics.
- (2) **Applicability.** Off-street parking lot landscaping standards apply to any surface vehicle parking or circulation area.

### **Section 73C.210 – Common Wall Parking Lot Landscaping Requirements.**

Common wall residential uses must comply with the following landscaping requirements for parking lots in all zones:

- (1) **General.** Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.
- (2) **Clear Zone.** Clear zone must be provided for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of 8 feet as measured from the ground level.
  - (a) Exceptions: does not apply to parking structures and underground parking.
- (3) **Setback.** Minimum 10-foot landscape setback must be provided between the property lines and parking areas and must comply with the following:
  - (a) Must be planted with deciduous trees an average of not more than 30 feet on center and shrubs at least 30 inches in height which provide screening of vehicular headlights;
  - (b) Native trees and shrubs are encouraged; and
  - (c) Exceptions: Minimum 10-foot landscape setback does not apply to Duplexes and Townhouses.
- (4) **Perimeter.** Minimum five feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following:
  - (a) Deciduous trees located not more than 30 feet apart on average as measured on center;
  - (b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;
  - (c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;
  - (d) Native trees and shrubs are encouraged; and
  - (e) Exceptions:
    - (i) Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.
    - (ii) Minimum of 10 feet in width for all conditional uses in residential zones.  
However perimeter landscaping does not apply to small lot subdivisions.
- (5) **Transition.** Minimum 10-foot landscaped transition area between parking and vehicle circulation areas and buildings and shared outdoor areas and must comply with the following:

- (a) Deciduous shade trees located at not less than 30 feet on center must be located in this transition area;
  - (b) Groundcover plants mixed with low shrubs must completely cover the remainder of this area within three years;
  - (c) Native trees and shrubs are encouraged; and
  - (d) Exceptions: Minimum 10-foot landscaped transition area does not apply to Duplexes and Townhouses.
- (6) **Landscape Island.** Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following:
- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
  - (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
  - (c) Landscape separation required for every eight continuous spaces in a row;
  - (d) Must be planted with one deciduous shade trees for every four parking spaces. Required trees must be evenly dispersed throughout the parking lot;
  - (e) Must be planted with groundcover or shrubs;
  - (f) Native plant materials are encouraged;
  - (g) Landscape island areas with trees must be a minimum of 5 feet in width (from inside of curb to curb);
  - (h) Required plant material in landscape islands must achieve 90 percent coverage within three years; and
  - (i) Exceptions:
    - (i) Landscape island requirements do not apply to Duplexes and Townhouses; and
    - (ii) Landscape square footage requirements do not apply to parking structures and underground parking.

**Section 73C.220 – Commercial Parking Lot Landscaping Requirements.**

Commercial uses must comply with the following landscaping requirements for parking lots in all zones:

- (1) **General.** Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.
- (2) **Clear Zone.** Clear zone required for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of 8 feet as measured from the ground level.
  - (a) Exception: does not apply to parking structures and underground parking.
- (3) **Perimeter.** Minimum 5 feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following.
  - (a) Deciduous trees located not more than 30 feet apart on average as measured on center;
  - (b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;
  - (c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;

- (d) Native trees and shrubs are encouraged; and
- (e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.

(4) **Landscape Island.** Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following.

- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
- (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
- (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;
- (d) Landscape separation required for every eight continuous spaces in a row.
- (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;
- (f) Must be planted with groundcover or shrubs;
- (g) Native plant materials are encouraged;
- (h) Landscape island areas with trees must be a minimum of five feet in width (from inside of curb to curb);
- (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and
- (j) Exceptions:
  - (i) Landscape island requirements do not apply to Duplexes and Townhouses; and
  - (ii) Landscape square footage requirements do not apply to parking structures and underground parking.

(5) **Driveway Access.** For lots with 12 or more parking spaces, site access from the public street must be defined by:

- (a) Landscape area at least 5 feet in width on each side of the site access;
- (b) Landscape area must extend 25 feet from the right-of-way line; and
- (c) Exceptions: Does not apply to parking structures and under-ground parking which must be determined through the Architectural Review process.

**Section 73C.230 – Industrial Parking Lot Landscaping Requirements.** Industrial uses must comply with the following landscaping requirements for parking lots in all zones.

(1) **General.** Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.

(2) **Clear Zone.** Clear zone required for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of 8 feet as measured from the ground level.

- (a) Exception: does not apply to parking structures and underground parking.

(3) **Perimeter.** Minimum 5 feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following:

- (a) Deciduous trees located not more than 30 feet apart on average as measured on center;

- (b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;
  - (c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;
  - (d) Native trees and shrubs are encouraged; and
  - (e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.
- (4) **Landscape Island.** Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following.
- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
  - (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
  - (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;
  - (d) Landscape separation required for every eight continuous spaces in a row;
  - (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;
  - (f) Must be planted with groundcover or shrubs;
  - (g) Native plant materials are encouraged;
  - (h) Landscape island areas with trees must be a minimum of 5 feet in width (from inside of curb to curb);
  - (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and
  - (j) Exception: Landscape square footage requirements do not apply to parking structures and underground parking.
- (5) **Landscaping Along Driveway Access.** For lots with 12 or more parking spaces:
- (a) Landscape area at least five (5) feet in width on each side of an accessway;
  - (b) Landscape area must extend 30 feet back from the property line; and
  - (c) Exceptions: does not apply to parking structures and under-ground parking which must be determined through the Architectural Review process.

### **Section 73C.240 – Institutional Parking Lot Landscaping Requirements.**

Institutional uses must comply with the following landscaping requirements for parking lots in all zones.

- (1) **General.** Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.
- (2) **Clear Zone.** Clear zone required for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of 8 feet as measured from the ground level.
  - (a) Exception: does not apply to parking structures and underground parking.
- (3) **Perimeter.** Minimum 5 feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following:
  - (a) Deciduous trees located not more than 30 feet apart on average as measured on center;



- (b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;
  - (c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;
  - (d) Native trees and shrubs are encouraged; and
  - (e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.
- (4) **Landscape Island.** Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following:
- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;
  - (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;
  - (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;
  - (d) Landscape separation required for every eight continuous spaces in a row;
  - (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;
  - (f) Must be planted with groundcover or shrubs;
  - (g) Native plant materials are encouraged;
  - (h) Landscape island areas with trees must be a minimum of 5 feet in width (from inside of curb to curb);
  - (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and
  - (j) Exception: Landscape square footage requirements do not apply to parking structures and underground parking.
- (5) **Driveway Access.** For lots with 12 or more parking spaces, site access from the public street must be defined by:
- (a) Landscape area at least 5 feet in width on each side of the site access;
  - (b) Landscape area must extend 25 feet from the right-of-way line; and
  - (c) Exceptions: Does not apply to parking structures and under-ground parking which must be determined through the Architectural Review process.

### **SECTION 36. TDC 73D (Waste and Recyclables Management Standards).**

TDC Chapter 73D (Waste and Recyclables Management Standards) is created to read as follows:

#### **Section 73D.010 – Applicability and Objectives.**

- (1) **Applicability.** The requirements of this Chapter apply to all new or expanded:
  - (a) Common wall residential developments containing five or more units;
  - (b) Commercial developments;
  - (c) Industrial developments; and
  - (d) Institutional developments.
- (2) **Objectives.** Mixed solid waste and source separated recyclable storage areas should be designed to the maximum extent practicable to:

- (a) Screen elements such as garbage and recycling containers from view;
- (b) Ensure storage areas are centrally located and easy to use;
- (c) Meet dimensional and access requirements for haulers;
- (d) Designed to mitigate the visual impacts of storage areas;
- (e) Provide adequate storage for mixed solid waste and source separated recyclables; and
- (f) Improve the efficiency of collection of mixed solid waste and source separated recyclables.

**Section 73D.020 – Design Methods.** An applicant required to provide mixed solid waste and source separated recyclables storage areas must comply with one of following methods:

- (1) The minimum standards method in TDSC 73D.030;
- (2) The waste assessment method in TDC 73D.040;
- (3) The comprehensive recycling plan method in TDC 73D.050; or
- (4) The franchised hauler review method in TDC 73D.060.

**Section 73D.030 – Minimum Standards Method.** This method specifies a minimum storage area requirement based on the size and general use category of the new or expanded development. This method is most appropriate when specific use of a new or expanded development is not known. It provides specific dimensional standards for the minimum size of storage areas by general use category.

(1) The size and location of the storage area(s) must be indicated on the site plan. Requirements are based on an assumed storage area height of four feet for mixed solid waste and source separated recyclables. Vertical storage higher than four feet, but no higher than 7 feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of 43 percent of specific requirements). Where vertical or stacked storage is proposed, submitted plans must include drawings to illustrate the layout of the storage area and dimensions for containers.

(2) The storage area requirement is based on uses. If a building has more than one use and that use occupies 20 percent or less of the gross leasable area (GLA) of the building, the GLA occupied by that use must be counted toward the floor area of the predominant use(s). If a building has more than one use and that use occupies more than 20 percent of the GLA of the building, then the storage area requirement for the whole building must be the sum of the area of each use. Minimum storage area requirements by use is as follows:

- (a) Common wall residential 5-10 units must provide 50 square feet.
- (b) Common wall residential greater than 10 units must provide 50 square feet plus an (additional 5 square feet per unit above 10.
- (c) Commercial, industrial, and institutional developments must provide a minimum storage area of 10 square feet plus:
  - (i) Office - 4 square feet/1000 square feet gross leasable area (GLA);
  - (ii) Retail - 10 square feet/1000 square feet GLA;
  - (iii) Wholesale/ Warehouse/ Manufacturing - 6 square feet/1000 square feet GLA;
  - (iv) Educational and Institutional - 4 square feet/1000 square feet GLA; and
  - (v) All other uses- 4 square feet/1000 square feet GLA.

(3) Mixed solid waste and source separated recyclables storage areas for multiple tenants on a single site may be combined and shared.

**Section 73D.040 – Waste Assessment Method.** This method tailors the storage area size to a waste assessment and management program for the specific user of a new or expanded building. It is most appropriate when the specific use of a building is known and the type and volume of mixed solid waste to be generated can be estimated.

(1) A waste assessment form must be obtained from the City Manager. The form must be used to estimate the volumes of both mixed solid waste and source separated recyclables generated.

(2) Techniques such as a compactor or cardboard baler may be implemented to minimize the square footage of the storage area.

(3) The plans must identify the size and location of interior, or exterior storage area(s) or both, specialized equipment to be used, and collection schedule required to accommodate the volumes of waste projected in the waste assessment.

(4) The application must demonstrate that the mixed solid waste and source separated recyclable volumes expected to be generated can be stored in less space than required by the Minimum Standards Method. If the application does not demonstrate that the waste assessment method requires less space, the minimum standards method will be required.

**Section 73D.050 – Comprehensive Recycling Plan Method.** This method may be used when a comprehensive recycling plan has been developed for a specific development. It is most suited to uses such as hospitals, schools, and industrial developments.

(1) The applicant must submit plans and text that show how mixed solid waste and source separated recyclables generated by the proposed development will be served under a comprehensive recycling plan.

(2) The application must demonstrate that the mixed solid waste and source separated recyclable volumes expected to be generated can be stored in less space than required by the Minimum Standards Method. If the application does not demonstrate that the waste assessment method requires less space, the minimum standards method will be required.

**Section 73D.060 – Franchised Hauler Review Method.** This method can be used when there are unique conditions associated with the site, use, or waste stream that make compliance with any of the three other methods impracticable. The objective of this method is to match a specific hauler program (types of equipment, frequency of collection, etc.) to the unique characteristic(s) of the site or development.

(1) The applicant must coordinate with the franchised hauler to develop a plan for storage and collection of mixed solid waste and source separated recyclables to be generated. The plan must include:

(a) Site plan and architectural drawings showing the size and location of storage area(s) required to accommodate anticipated volumes;

(b) A letter from the franchised hauler that describes the level of service to be provided by the hauler, including any special equipment and collection frequency, which will keep the storage area from exceeding its capacity; and

(c) A narrative describing how the proposed site meets one or more unique conditions:

(i) Use of either of the three other methods of compliance would interfere with the use of the proposed development by reducing the productive space of the proposed development, or make it impossible to comply with the minimum off-street parking requirements of the underlying zone, or

(ii) The site is of an irregular shape or possesses steep slopes that do not allow for access by collection vehicles typically used by the franchised hauler to serve uses similar in size and scope to the proposed use, or

(iii) The proposed use will generate unique wastes that can be stacked, folded, or easily consolidated without the need for specialized equipment, such as a compactor.

(2) The application must demonstrate that the mixed solid waste and source separated recyclable volumes expected to be generated can be stored in less space than required by the Minimum Standards Method. If the application does not demonstrate that the waste assessment method requires less space, the minimum standards method will be required.

**Section 73D.070 – Location, Design and Access Standards.** The following location, design, and access standards are applicable to all storage areas:

**(1) Location Standards.**

(a) The storage area for source separated recyclables may be collocated with the storage area for mixed solid waste.

(b) Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations.

(c) Exterior storage areas must:

(i) Be located in central and visible locations on the site to enhance security for users;

(ii) Be located in a parking area; and

(iii) Not be located within a required front yard setback or in a yard adjacent to a public or private street.

**(2) Design Standards.**

(a) The dimensions of the storage area must accommodate containers consistent with current methods of local collection at time of construction or alteration.

(b) Indoor and outdoor storage areas must comply with Oregon Building and Fire Code requirements.

(c) Exterior storage areas must be enclosed by a sight obscuring fence or wall at least 6 feet in height.

(d) Evergreen plants must be placed around the enclosure walls, excluding the gate or entrance openings for common wall, commercial, and institutional developments.

(e) Gate openings for haulers must be a minimum of 10 feet wide and must be capable of being secured in a closed and open position.

- (f) Horizontal clearance must be a minimum of 10 feet and a vertical clearance of 8 feet is required if the storage area is covered.
- (g) A separate pedestrian access must also be provided in common wall, commercial, and institutional developments.
- (h) Exterior storage areas must have either a concrete or asphalt floor surface.
- (i) Storage areas and containers must be clearly labeled to indicate the type of material accepted.

**(3) Access Standards.**

- (a) Storage areas must be accessible to users at convenient times of the day, and to hauler personnel on the day and approximate time they are scheduled to provide hauler service.
- (b) Storage areas must be designed to be easily accessible to hauler trucks and equipment, considering paving, grade, gate clearance and vehicle access.
- (c) Storage areas must be accessible to hauler trucks without requiring backing out of a driveway onto a public street. If only a single access point is available to the storage area, adequate turning radius must be provided to allow hauler trucks to safely exit the site in a forward motion.
- (d) Storage areas must be located so that pedestrian and vehicular traffic movement are not obstructed on site or on public streets adjacent to the site.
- (e) The following is an exception to the access standard:
  - (i) Access may be limited for security reasons.

**SECTION 37. TDC 73E (Central Design District Design Guidelines).** TDC Chapter 73E (Central Design District Design Guidelines) is created to read as follows:

**Section 73E.010 – Central Design District Standards for Uses.** The Central Design District is as provided in Map 73-4. Development in the Central Design District is approved through the architectural review process, and all development must be consistent with the requirements of this Chapter.

**Section 73E.020 – Central Design District Design Guidelines Purpose and Applicability.**

(1) **Purpose.** The “Central Tualatin Concept Plan and Design Guidelines, October 2001” were developed for the Tualatin Commons Enhancement Strategy Work Plan and are intended to enhance the identity of the Tualatin Commons area. The purpose of the Guidelines is to:

- (a) Provide prospective developers and designers with a checklist of items that must be addressed in Central Design District proposals;
- (b) Provide the City of Tualatin with an overall conceptual approach that will enable determinations on proposals that are in concert with and add to the Central Tualatin Concept Plan; and
- (c) Provide the City of Tualatin with a method of evaluating public and private development or redevelopment on a consistent basis.

(2) **Applicability.** The Design Guidelines apply to the Central Design District as shown on TDC Figure 73-4. The Design Guidelines are structured into four topic areas:

- (a) Central Tualatin Concept;

- (b) City Connections;
- (c) Spaces and Landscapes; and
- (d) Buildings.

**Section 73E.030 – Central Design Standards Design Guidelines.** All development in the Central Design District should strive to meet the following guidelines to the maximum extent practicable. Architects and developers must consider these guidelines and the provisions of TDC 73.050(1) in designing new development in Central Design District and must include in the Architectural Review application a narrative explaining how the development considered each of the Design Guidelines and how the guidelines are balanced. Consideration of the guidelines includes an evaluation of how the proposal is or is not consistent with each guideline. In case of conflicts between guidelines or between guidelines and other objectives in TDC Chapter 73A through 73G, the proposal should provide a balance. To the maximum extent practicable, development in the Central Design District should be designed to:

**(1) Central Tualatin Concept**

- (a) **Draw People and Activity Into Central Tualatin.** Central Tualatin is strategically situated to be both a local and regional focal point. Developments should lend themselves to attracting a variety of pedestrian activities at the core of Central Tualatin. Entry points into Central Tualatin should establish a sense of arrival.
- (b) **Encourage Further Development.** Buildings and spaces should reflect an analysis of historic and existing design principles, as well as create design opportunities for new adjunct development.
- (c) **All Seasons City.** Building uses and exterior spaces should lend themselves to use throughout all four seasons. Designs should include protected spaces and pathways to enable year-round use by visitors and inhabitants.
- (d) **24 Hour / 7 Day City.** Developments should foster the idea of extended hours of use throughout the week. Where uses are subject to “business hour” operation, the development should include amenities that provide for external enjoyment of buildings at all times of day.
- (e) **Heart of a Great City.** Buildings and spaces between them should be carefully designed and crafted to reinforce each other. This reinforcing design should be of high importance for buildings which front public improvements and major circulation systems.
- (f) **Sustainable Design.** New development should embody current “green” building techniques wherever possible. Energy efficient design options should be explored as well as alternative building products which have less impact on the local as well as world environment.
- (g) **Buildings as Good Neighbors.** Each building should be designed to fit into the evolving context of Central Tualatin and should contribute and enhance the public experience, not only of itself, but of the buildings that provide its context. Undesirable elements of buildings should either be screened or hidden from view.
- (h) **A Place of Multiple Activities.** When practicable, include multiple uses in building structures, as well as flexibility in the use of exterior spaces.

(i) **Scale of the Street.** Building heights adjacent to a street edge should be at least as tall as half the width of the right-of-way. Street trees can also be used in meeting the height goal. A combination of buildings and trees are generally the best solution to create the framework of the street.

(j) **Pedestrian Interaction.** Buildings and exterior space should foster activity and interaction of citizens at a pedestrian scale. Encourage a variety of uses within walking distance for residents, employees, and visitors.

(k) **Building Setbacks.** Buildings within Central Tualatin must meet zoning regulations but should be encouraged to front the street edge. In addition, buildings placed close to side and rear property lines should be designed with sensitivity to future development on adjacent properties.

(2) **City Connections.**

(a) **Visual Linkages.** Design interior and exterior spaces that recognize and promote visual linkages to other defining elements, such as monuments, civic spaces, and other natural and urban landmarks that orient the user.

(b) **Clustering of Attractors.** Connections between major downtown attractors should be strengthened in order to create an easily walkable and friendly atmosphere. Reinforcement of connections could include new signage, landscaping and visual cues.

(c) **Axial Relationships and Monuments.** Recognize existing and potential axial relationships of places and buildings and incorporate, in building form or in monuments, extensions or terminations of these relationships.

(d) **Places and Connections.** Provide a safe, inviting series of interconnected “places,” both interior and exterior to the building structures. Provide linkages to adjacent neighborhoods for pedestrians, bicycles, and automobiles.

(e) **Transit Dynamics.** Public transit is fundamental to the future of Central Tualatin and its connection to the region. Both existing and future public transit expansion should be considered in any new development plans.

(f) **Driving and Parking.** In the design of streets and parking are-as, functional requirements of vehicular activity should not compromise, but should enhance, the pedestrian environment.

(g) **Pedestrian Opportunities.** Integrate pedestrian circulation systems with existing and planned systems, both indoor and outdoor, that connect public rights-of-way and spaces, activities and uses, utilizing furniture and landscaping that are convenient to use and in character with the public improvements.

(h) **Connection to the River.** The Tualatin River and Hedges Creek are valuable and unique community re-sources. Development should be sensitive to the natural character of the river and creekfront. Provide linkages from Central Tualatin to these resources for pedestrian and bicycle access.

(i) **Green Streets.** Promote creation of “green” streets and surface parking areas utilizing features like permeable paving, solar powered lighting, and native landscaping. City design standards should be flexible to allow designs that have a minimal impact on non-renewable natural resources.

(j) **Connections through Buildings.** Promote design that allows for public interaction with buildings. Encourage pedestrian walkways through, and elevated connections between, sections of the building.

(3) **Spaces and Landscapes.**

(a) **Civic Rooms.** Development of public spaces within and around Central Tualatin should contribute to the formation of “civic rooms.” Within these rooms, specific commercial and public uses, circulation patterns, public art, and architectural character will be encouraged to reinforce the “room” and its linkage to the overall Central Tualatin area.

(b) **Areas of Many Functions.** Create pathways, open spaces and enclosed or sheltered public spaces to be flexible and to accommodate a number of functions, whether organized or casual.

(c) **The Street.** Define the street through delineation of right-of-way with the building edge, landscaping, lighting and signing appropriate to the function of the street and the area of Central Tualatin it serves. Street trees spaced at no more than 30’ on center is critical to establishing the character of a street.

(d) **The Intersections.** Consider intersections as a “room” within the City. Maintain vehicular flow requirements while providing safe and convenient pedestrian access. When possible, focus the location of building entries, building details, street lighting, and signage at intersections.

(e) **Courtyards and Plazas.** In private development, design court-yards and plazas that provide a continuity of experience between the inside and outside of the building and between the public and private realm.

(f) **Open Space Defined By Buildings.** The spaces between buildings should enhance the public experience through building design, form and organization.

(g) **Inside and Outside.** Ground floor activities in buildings within Central Tualatin should present an interesting and enticing addition to the pedestrian experience. Exterior walls abutting public rights-of-way must have more than 50% of the surface in windows, showcases, displays, art or pedestrian access elements.

(h) **Roofscaping.** The rooftops of buildings within Central Tualatin present an opportunity for “green” design and upper level activities. New development should be encouraged to create eco-roofs and/or opportunities for places where activity could enhance the street.

(i) **Street Trees.** Selection of trees along street edges should create a unifying canopy for the street. Trees with strong vertical shapes should be used sparingly to avoid a discontinuous or “lollipop” appearance.

(j) **Signage.** Business identity signs, while conforming to other requirements of the sign ordinance, should add to the quality and character of the street. Signs should also relate to the building’s character and provide identity and focus for the use.

(4) **Buildings.**

(a) **Building Form.** Single-purpose buildings should be treated as “stand-alone” structures with style and size appropriate to use. Mixed-use buildings should be designed to relate contextually to the surrounding buildings. In general, all new development should compliment adjacent buildings.

(b) **Adaptable Design.** As Central Tualatin evolves over time, the market will dictate changes in uses and densities. Design of buildings should consider flexibility in use and density over the life of the building.

(c) **Active Buildings along Linkage Streets.** Where linkage streets are identified within Central Tualatin, active uses should be developed to support them. A retail



corridor along the major street edges would help to reinforce the pedestrian link between focal points or attractors.

(d) **Solar Access.** New development in Central Tualatin should be designed to provide solar access and to minimize the impact of shadows on neighboring buildings and spaces. The use of upper floor setbacks and sloping roofs is encouraged.

(e) **The Outside Wall.** The “outside wall,” the building’s presentation both to passers-by and to users, should invite participation. Upper levels of buildings facing the street should incorporate decks, balconies or other devices that activate the wall enclosing the street.

(f) **Craft of Building.** In designing buildings, recognize the “craft of building” as fundamental in creating appropriate building detail. Lasting materials are strongly encouraged and the way buildings are assembled is important to the final product and its relationship to Central Tualatin.

(g) **Building Entrances.** Building entrances should support and enhance the pedestrian oriented quality of Central Tualatin. Design entrances to give identity to buildings and uses therein.

(h) **Parking Relationship to Building.** Parking areas are to be integrated into the building design. Surface parking should be limited to one-half block areas. Delineate surface parking from pedestrian ways by low vertical elements, such as masonry walls, fences or landscaping.

(i) **Service Areas.** Since service access and trash holding areas are expected to be adjacent to road-ways and open spaces, care must be taken to avoid a back-door appearance to the building faces adjacent to pedestrian areas and other buildings. Employ screening and landscaping to reduce the visual impact of service areas.

(j) **Interior Working Environment.** Interior design of buildings in Central Tualatin should recognize the need for quality work environments for all its users. Natural lighting and ventilation should be utilized to the maximum extent possible.

**Section 73E.040 – Central Design Standards Residential Uses.** For townhouses, duplexes, residential, and mixed use residential developments in the Central Design District for Common Wall Development, the AR decision must consider the standards in TDC 73A.300 (Common Wall Residential Design Standards) along with the Central Tualatin Concept Standards to determine the appropriate design standard. The design standards may be less than those provided in TDC 73A.300 (Common Wall Residential Design Standards).

**Section 73E.050 – Central Design Standards Landscaping.** All common wall residential, commercial, and institutional development in the Central Design District must meet the standards in TDC 73B (Landscape Standards) for landscaping to the maximum extent practicable. Landscape Architects and developers must consider the landscaping elements of TDC 73B (Landscape Standards) in designing new development.

**Section 73E.060 – Central Design Standards Parking.** All common wall residential, commercial, and institutional development in the Central Design District must consider

the standards in TDC 73C (Parking Design Standards) along with the Central Tualatin Concept Standards to determine the appropriate design standard. The design standards may be less than those provided in TDC 73C (Parking Design Standards).

(1) Landscape islands and shade trees may be placed to frame views of the Tualatin Commons water feature or identified architectural focal elements.

(2) The City recognizes certain parking lots within the Central Design District are designed to frame views of the central water feature or identified architectural focal elements.

**Section 73E.070 – Central Design Standards Waste and Recyclables.** All common wall residential, commercial, and institutional development in the Central Design District must consider the standards in TDC 73D along with the Central Tualatin Concept Standards to determine the appropriate design standard. In the case of conflicts between the objectives in the Central Design District and those in 73D, the proposal must provide a desirable balance between the two.

**Section 73E.080 – Central Design Standards Off-Street Loading Facilities.** All common wall residential, commercial, and institutional development in the Central Design District must consider the standards in TDC 73C.120 (Off-Street Loading Facilities Standards) along with the Central Tualatin Concept Standards to determine the appropriate design standard. The design standards may be less than those provided in TDC 73C.120 (Off-Street Loading Facilities Standards).

(1) The City recognizes that where a dense mix of uses is desirable in close proximity, pedestrian circulation is strongly emphasized, and the orientation of structures around a central water feature virtually eliminates the possibility of reserving any side of a building solely for truck access.

(2) The City Manager or the Architectural Review Board may allow a loading area adjacent to or within a street right-of-way in the Central Design District where the loading and unloading operations meet all of the following criteria:

- (a) Short in duration (i.e., less than one hour);
- (b) Infrequent (fewer than three operations daily);
- (c) Does not obstruct traffic during peak traffic hours;
- (d) Does not interfere with emergency response services;
- (e) Is acceptable to the applicable roadway authority; and
- (f) The design standards for the abutting road allow on-street parking.

(3) Adjustments may include, but are not limited to:

- (a) Reduction in the number of loading berths required;
- (b) Adjustment of loading berth size specifications and right-of-way restrictions;
- (c) Shared loading berths and maneuvering areas for use by more than one building;
- (d) Alteration or elimination of screening requirements; and
- (e) Requirements for maintenance of berths in a clean and visually appealing condition.

**Section 73E.090 – Central Design Standards Access Standards.** All common wall residential, commercial, and institutional development in the Central Design District must meet the Access Standards of TDC 73C.130 (Parking Lot Driveway Standards),

except when driveway access is on local streets, not collectors or arterials and the building(s) on the property is(are) less than 5,000 square feet in gross floor area, or parking is the only use on the property, then:

- (1) Ingress and egress must not be less than 24 feet; and
- (2) Site access from the public street must be defined with a landscape area not less than five feet in width on each side and extend five (5) feet back from the property line.

**SECTION 38. TDC 73F (Wireless Communication Facilities).** TDC Chapter 73F (Wireless Communication Facilities) is created to read as follows:

**Section 73F.010 – Purpose and Objectives.**

(1) **Purpose.** The purpose of wireless communication facility design objectives and standards is to implement the purpose and objectives of TDC 73A.010 by focusing on the placement, design and relationship of proposed site elements such as support structure location, lighting, screening, fencing and landscaping.

(2) **Objectives.** All wireless communication facilities and attached facilities should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new development. In the case of conflicts between objectives, the proposal must provide a desirable balance between the objectives. Site elements must be placed and designed, to the maximum extent practicable, to: Be aesthetically and architecturally designed and located to be compatible with the surrounding environment and analyze co-location before seeking new sites.

- (a) Select colors in consideration of lighting conditions and the context under which the structure is viewed, the ability of the material to absorb, reflect or transmit light and the color's functional role, e.g., aesthetic reasons.
- (b) Select platform and antenna designs which minimize their size and visual appearance to surrounding development.
- (c) Provide a composition of structural material elements which is cohesive and responds to use needs, site context, land form, a sense of place and identity, safety, and climatic factors.
- (d) Select materials which contribute to the project's form and function, as well as to the surrounding environment.
- (e) Minimize disruption of natural site features such as topography, trees, and water features.
- (f) Take into consideration the existing topography of the site and surrounding vicinity.
- (g) Reduce the visual impact of the support structure by locating within stands of existing vegetation and trees.
- (h) Screen elements such as mechanical and electrical equipment from view.
- (i) Locate a wireless communication facility attached to existing rooftop mechanical equipment before placement on the exterior wall of a building.
- (j) Co-locate wireless communication facility or attached facility.
- (k) Construct wireless communication support structures at the minimum height necessary to serve the operational requirements of the system.
- (l) Separate wireless communication support structures from each other.

**Section 73F.020 – Maximum Height.** The maximum height for a wireless communication facilities, support structures, and antennas is as follows:

PLANNING DISTRICT	MAXIMUM STRUCTURE HEIGHT
(1) Low Density Residential (RL)	<ul style="list-style-type: none"> <li>• 35 feet</li> </ul>
(2) Medium-Low Density Residential (RML)	<ul style="list-style-type: none"> <li>• 35 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(3) Medium-High Density Residential (RMH)	<ul style="list-style-type: none"> <li>• 35 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(4) High Density Residential (RH)	<ul style="list-style-type: none"> <li>• 35 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(5) High Density/High-Rise Residential (RH/HR)	<ul style="list-style-type: none"> <li>• 64 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(6) Institutional (IN)	<ul style="list-style-type: none"> <li>• 50 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(7) Office Commercial (CO)	<ul style="list-style-type: none"> <li>• 45 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(8) Neighborhood Commercial (CN)	N/A
(9) Recreational Commercial (CR)	<ul style="list-style-type: none"> <li>• 35 feet</li> </ul>
(10) Central Commercial (CC)	<ul style="list-style-type: none"> <li>• 45 feet</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> <li>• 125 feet maximum height if approved under TDC 53.310(1).</li> </ul>
(11) General Commercial (CG)	<ul style="list-style-type: none"> <li>• 45 feet</li> <li>• 60 feet if in the Leveton Tax Increment District</li> <li>• 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> <li>• Maximum structure height for specified portions of the Central Urban Renewal Plan area is:               <ul style="list-style-type: none"> <li>○ 35 feet between the Tualatin Commons central water feature and the primary pedestrian corridor around the central water feature</li> <li>○ 75 feet in Block 13, unless between the Tualatin</li> </ul> </li> </ul>

	<p>Commons central water feature and the primary pedestrian corridor around the central water feature then 35 feet</p> <ul style="list-style-type: none"> <li>○ 60 feet in Blocks 1, 2, 3, 5, 14, 15, 16, 17, 18, 19, 20 and 22, unless between the Tualatin Commons central water feature and the primary pedestrian corridor around the central water feature then 35 feet</li> </ul>
(12) Mid-Rise/Office Commercial (CO/MR)	<ul style="list-style-type: none"> <li>● 75 feet</li> <li>● 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(13) Medical Center (MC)	<ul style="list-style-type: none"> <li>● 100 feet</li> <li>● Attached WCFs based on building height regulations in TDC 56.300</li> </ul>
(14) Mixed Use Commercial Overlay (MUCOD)	<ul style="list-style-type: none"> <li>● 50 feet if within the Durham Quarry Area</li> <li>● 50 feet if within 100 feet of the Durham Quarry Site Boundary, except that portion of the Boundary contiguous with the City of Tigard</li> <li>● 70 feet if contiguous to the boundary with the City of Tigard</li> <li>● 70 feet if greater than 100 feet from the Durham Quarry Site Boundary</li> </ul>
(15) Light Manufacturing (ML)	<ul style="list-style-type: none"> <li>● 100 feet</li> <li>● 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(16) General Manufacturing (MG)	<ul style="list-style-type: none"> <li>● 100 feet</li> <li>● 120 feet ( including antennas) if structure is within 300 feet of the centerline of I-5</li> </ul>
(17) Manufacturing Park (MP)	<ul style="list-style-type: none"> <li>● 100 feet</li> </ul>
(18) Manufacturing Business Park (MBP)	<ul style="list-style-type: none"> <li>● 65 feet</li> <li>● 85 feet if all yards adjacent to the structure are not less than a distance equal to one and one-half times the height of the structure</li> <li>● 28 feet if a property line, street, or alley separates MBP land from land in a residential district</li> </ul>
(19) Industrial Business Park Overlay (IBP)	<ul style="list-style-type: none"> <li>● 70 feet</li> <li>● 100 feet if approved as a conditional use and all yards adjacent to the structure are not less than a distance equal to the height of the structure</li> <li>● 28 feet if a property line, street, or alley separates IBP land from land in a residential district except as provided in TDC Chapter 32, in which case the maximum permitted structure height may be</li> </ul>

	increased to 100 feet,
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### **Section 73F.030 – Site Design Standards.**

(1) All Wireless Communication Facilities must comply with the following minimum design standards:

- (a) A wireless communication facility attached must not be attached to buildings which are designed solely for single family residential use;
- (b) Mechanical and electrical equipment and the bottom six feet of the support structure for a wireless communication facility must be screened from the public right-of-way and abutting property by the use of a minimum six foot tall security fence or wall consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick;
- (c) Equipment shelters, buildings or cabinets to house radio electronics equipment must be concealed, camouflaged, screened by vegetative, or placed underground.
- (d) A wireless communication facility must utilize existing site conditions such as surrounding vegetation and trees;
- (e) A wireless communication facility support structure must be constructed to the minimum height necessary to serve the operational requirements of the facility;
- (f) A wireless communication facility must be designed to allow co-location of facilities;
- (g) Wireless communication support structure towers must be used in all zones, except when co-locating on an existing structure.
- (h) Antennas and platforms must be designed to minimize their size and appearance to surrounding development;
- (i) Obsolete or unused wireless communication support structures and associated equipment and antennas must be removed within 12 months of cessation of operations at a site;
- (j) No new wireless communication support structure is permitted unless the applicant submits a co-location report showing whether or not any existing tower or support structure within one-half mile of the proposed site can accommodate the applicant's proposed antennae. The report must address the following:
  - (i) Do existing towers or support structures, or approved but not yet constructed towers or support structures, located within the geographic area meet the applicant engineering requirements;
  - (ii) Are existing towers or support structures of sufficient height to meet the applicant's engineering requirements;
  - (iii) Do existing towers or support structures have sufficient structural strength to support the applicants proposed antennae and related equipment;
  - (iv) Would the applicant's proposed antennae cause electromagnetic interference with the antennae on the existing tower or support structure, or would existing antennae cause interference with the applicant's proposed antennae; and
  - (v) Are there other limiting factors that render existing towers and support structures unsuitable or unavailable.
- (k) The minimum distance between wireless communication support structure tower is 1,500 feet. Separation must be measured by following a straight line from one wireless communication support structure tower to the next. For purposes of this

section, a wireless communication support structure tower includes wireless communication support structure tower for which the City has issued a development permit, or for which an application has been filed and not denied.

(2) In addition to complying with subsection (1), all Wireless Communication Facilities Attached must comply with the following:

- (a) Wireless communication facility attached antennas must use existing rooftop mechanical equipment, and only if not practicable be placed on the exterior wall of a building; and
- (b) Wireless communication facility attached antennas must be painted to match the color of the mechanical screen wall or building to which it is attached.

**Section 73F.040 – Setback Requirements.** Setbacks for all Wireless Communication Facilities are determined through the Architectural Review process, and must be consistent with the following:

(1) The minimum setback must be 5 feet, except as otherwise specified in (2), below;

(2) The minimum setback from an RL zone or from an RML zone with an approved small lot subdivision must be determined as follows:

- (a) The setback must be no less than 175 feet for a monopole that is no more than 35 feet in height;
- (b) The setback must increase five feet for each one foot increase in height up to 80 feet in height; and
- (c) The setback must increase 10 feet for each one foot increase in height above 80 feet.

(3) In making a determination of compliance with the setback requirements, the City Manager must consider the following factors:

(a) If the abutting property is in the Low Density Residential (RL) Zone or in the Medium-Low Density Residential (RML) Zone with an approved small lot subdivision, and if natural vegetation, such as evergreen trees, does not exist to act as a screen, then a greater setback than the minimum required may be appropriate. If such natural vegetation exists, then the minimum required setback may be appropriate;

(b) If the abutting property is in the Low Density Residential (RL) Zone or in the Medium-Low Density Residential (RML) Zone with an approved small lot subdivision, and it is vacant or its use is a single family dwelling, then a greater setback than the minimum required may be appropriate. If the use is not a single family dwelling, then the minimum required setback may be appropriate; and

(c) If the abutting property is in the Low Residential Density (RL) Zone or in the Medium-Low Density Residential (RML) Zone with an approved small lot subdivision, and it is vacant or its use is a single family dwelling and it is at a lower elevation than the subject property, then a greater setback than the minimum required may be appropriate.

**Section 73F.050. Variances.** Variances to the provisions of this Chapter are as provided in TDC 33.120.

**SECTION 39. TDC 73G (Masonry Wall Standards).** TDC Chapter 73G (Masonry Wall Standards) is created to read as follows:

**Section 73G.010 – Purpose.** The purpose of masonry wall design standards is to implement the community design objectives of TDC 10.020 to require a masonry wall in the RL and RML zones for access-restricted lot lines and property lines abutting major collectors, minor collectors, major arterials, minor arterials, expressway right-of-way, and interstate highways.

**Section 73G.020 – Applicability.**

**(1) New Construction of Access-Restricted Lot Lines in the RL and RML Zones.** A masonry wall is required to be installed for all properties in the RL and RML zones that meet either of the following:

(a) The property has access-restricted lot lines abutting the following streets for a distance greater than 60 feet:

- (i) Major collectors;
- (ii) Minor collectors;
- (iii) Major arterials;
- (iv) Minor arterials;
- (v) Expressway right-of-way; or
- (vi) Interstate highway.

(b) No existing masonry wall is located along an access restricted lot line AND more than 50 percent of masonry walls are constructed along the abutting access restricted street to the nearest intersecting streets, or hypothetical extensions thereof on both sides of the subject property (See Figure 73-5 for illustration), meet the masonry wall standard, then any new masonry wall must be in conformance with the required design standards.

**(2) Subdivisions and Partitions of Access-Restricted Lot Lines in the RL and RML Zones.** A masonry wall is required to be installed for all subdivisions and partitions in the RL and RML zones that have access-restricted lot lines abutting the following streets for a distance greater than 60 feet:

- (a) Major collectors;
- (b) Minor collectors;
- (c) Major arterials;
- (d) Minor arterials,
- (e) Expressway right-of-way; or
- (f) Interstate highway.

**(3) Replacement and Repair of Nonconforming Masonry Wall.**

(a) Where a nonconforming masonry wall exists and 60 percent or more of the length of the masonry wall is removed, the entire length of the masonry wall must comply with current standards if more than 50 percent of masonry walls are constructed along the abutting access restricted street to the nearest intersecting streets, or hypothetical extensions thereof on both sides of the subject property (See Figure 73-6 for illustration).

(b) The repair or replacement of the masonry wall must be completed within six months from the date that any portion of the masonry wall is removed.



(4) **Exceptions to Masonry Wall Location or Configuration.** The following exceptions apply to the masonry wall location or configuration requirements:

(a) Where the City Manager determines that vehicular access is to be provided from the arterial/collector/expressway to a parcel or lot abutting the arterial/collector/expressway, the masonry wall is not required along the arterial/collector/expressway frontage of that particular parcel or lot.

(b) For public streets classified as an arterial/collector/expressway, where the City Manager determines that an opening or passage through the masonry wall must be provided, the masonry wall must include such required opening. The same must be provided in masonry walls along state-owned interstate highways when required by the state or Tualatin Valley Fire & Rescue or the City Manager.

(c) All vision clearance requirements must be met.

(d) The City Manager, in the case of public streets classified as an arterial/collector/expressway, or the state in the case of state-owned interstate highways, may require an alternate location or configuration of the masonry wall alignment to accommodate stormwater facilities, easements, or other requirements, such as, but not limited to, bicycle paths, multi-use paths, or for maintenance purposes.

(e) For state-owned interstate highways, where an area of vegetation at least 200 linear feet in width runs parallel to the interstate highway and forms a visual, esthetic or acoustic barrier, or land in a Natural Resource Protection Overlay (NRPO) district or other protected area as defined in TDC Chapter 72 runs parallel to the interstate highway, and such land is located between the interstate highway property line and the developable area of a property being developed in the RL or RML Planning District, a masonry wall is not required. Where the area of vegetation is less than 200 linear feet in width, the required masonry wall must be located entirely outside the vegetated, NRPO or other protected area and as close as physically possible to, approximately parallel with, the edge of said vegetated, NRPO or other protected area on the developable portion of the property being developed.

#### **Section 73G.030 Masonry Wall Design Standards.**

(1) **Masonry Wall Design.** All masonry walls must comply with the following design standards. (See Figure 73-6 for illustration)

(a) **Material and Color.** All components of the masonry wall visible from the public vantage point must be constructed of stone, brick, stone-look or brick-look cast masonry or stone-look or brick-look cast vinyl or composite material. The color of the masonry wall must be that of natural stones, red clay brick, neutral brown-tones, or gray earth-tones.

(b) **Finished Face.** Masonry wall must be constructed such that the finished side of the masonry wall faces the public right-of-way or state-owned interstate highway, and any structural components (metal brackets, etc.) are not visible from the public or highway vantage point.

(c) **Slopes.** Masonry walls constructed on slopes must be installed using a stair-step method, whereby each masonry wall panel steps up or down the slope and remains level (zero-slope) rather than parallel to the grade of the underlying terrain.

(d) **Height.** For public streets classified as an arterial/collector/expressway, height of masonry wall panels must be six feet, and for interstate highways (I-5 or I-205) height of masonry wall panels must be a minimum of eight feet, measured from the underlying ground surface directly beneath the masonry wall panels to the top edge of the cornice cap. (Any masonry wall over six feet in height requires a building permit and engineered drawings.)

(i) For masonry walls constructed on slopes, the height of masonry wall measured at the up-slope end of each masonry wall panel must be six feet for public streets classified as an arterial/collector/express-way and a minimum of eight feet for interstate highways. (Any masonry wall over six feet in height requires a building permit and engineered drawings.)

(ii) Pilasters, excluding pilaster caps, must be no shorter than the shorter of the attached masonry wall panels, including the cornice cap, and must not extend more than six inches higher than the highest attached masonry wall panel, including the cornice cap.

(e) **Ground Clearance.** There must not be a ground clearance or gap visible between the bottom of the masonry wall panels and the underlying ground surface. Where a pre-cast panel system is used, any gaps that result beneath panels must be filled in with earth, rock, evergreen vegetation, or similar material. This provision does not prohibit the use of stormwater drainage holes.

(f) **Pilasters.** The horizontal run of masonry wall must be broken up by pilasters, which must be set at approximately regular intervals, no more than twenty feet apart on center. Pilasters must be installed perpendicular to a zero-slope plane.

(g) **Panels.** Panels must be 100 percent solid and opaque. The finished face must have the appearance of a stacked or mortared stone wall or brick wall.

(h) **Cornice.** A cornice cap must be installed on top of each of the masonry wall panels. Cornice caps must be masonry or brick in appearance, and must match or closely compliment the colors and materials used to construct the masonry wall panels and pilasters.

(i) **Pilaster Caps.** Decorative caps must be installed on top of all pilasters such that the cap completely covers the surface area of the pilaster end. Caps must be masonry or brick in appearance, and must match or closely compliment the colors and materials used to construct the masonry wall panels and pilasters. Illuminated pilaster caps are allowed, provided the lighting element is an integral internal component of the cap (i.e., no exposed light bulb) and the light is low-voltage or solar powered. Caps must be no taller than six inches, measured from the surface of the pilaster end to the highest point on the pilaster cap.

(2) **Masonry Wall Location and Impacts.** In addition to the general design standards, the masonry wall must comply with the following additional design standards:

(a) Must be located entirely outside of the public right-of-way;

(b) Must be parallel with, the property line or lot line abutting the right-of-way; and

(c) The required masonry wall must not alter drainage patterns or storm flow rates in a manner detrimental to property or persons.

(3) **Alternate Design Review.**

(a) A masonry wall unable to meet one or more of the design standards may seek approval of an alternate design through the Architectural Review process in TDC

Chapter 33. Approval or denial is based upon the criteria set forth in TDC 33.020(5), and the objectives and standards set forth in this Chapter.

(b) The variance process in TDC 33.120 is unavailable for masonry walls.

**SECTION 40. TDC 74 (Public Improvement Requirements).** TDC Chapter 74 (Public Improvement Requirements) is amended as follows:

**Section 74.010 – Purpose.** The City's Community Plan sets forth the requirements for providing adequate transportation and utility systems to serve the community's present and future needs. Land development without adequate transportation and utility systems will adversely affect the overall economic growth of the City and cause undue damage to the public health and welfare of its citizens. Consequently, the City finds that it is in the public interest to require land development to meet the following improvement requirements.

**Section 74.020 – Authority.**

(1) The City ~~Engineer~~ Manager may develop standard forms, including but not limited to deeds, easements, interim access agreements, escrow agreements, street improvement agreements, subdivision compliance agreements and agreements to dedicate right-of-way, to include the contents and warranties when they are submitted, and the procedure for implementation necessary to carry out the purpose of this chapter.

(2) Easements submitted on a final plat or on a separate easement form ~~shall~~ must be subject to this chapter.

(3) Supervision of Planting. The ~~Parks & Recreation Director~~ City Manager has jurisdiction over all trees, plants and shrubs planted or growing in or upon the public rights-of-way of the City and their planting, removal, care, maintenance and protection. The ~~Parks & Recreation Director~~ City Manager ~~shall~~ is to enforce these provisions.

**Section 74.110 – Phasing of Improvements.**

The applicant may build the development in phases. If the development is to be phased the applicant ~~shall~~ must submit a phasing plan to the City ~~Engineer~~ Manager for approval with the development application. The timing and extent or scope of public improvements and the conditions of development ~~shall~~ must be determined by the City Council on subdivision applications and by the City ~~Engineer~~ Manager on other development applications.

**Section 74.120 – Public Improvements.**

(1) Except as specially provided, all public improvements ~~shall~~ must be installed at the expense of the applicant. All public improvements installed by the applicant ~~shall~~ must be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. ~~No work shall~~ Work must not be undertaken on any public improvement until after the construction plans have been approved by the City ~~Engineer~~ Manager and a Public Works Permit issued and the required fees paid.

(2) In accordance with the Tualatin Basin Program for fish and wildlife habitat the City intends to minimize or eliminate the negative ~~affects~~ impacts of public streets by modifying right-of-way widths and street improvements when appropriate. The City Engineer Manager is authorized to modify right-of-way widths and street improvements to address the negative ~~affects~~ impacts on fish and wildlife habitat.

**Section 74.130 – Private Improvements.** All private improvements ~~shall~~ must be installed at the expense of the applicant. The property owner ~~shall~~ must retain maintenance responsibilities over all private improvements.

**Section 74.140 – Construction Timing.**

(1) All the public improvements required under this chapter ~~shall~~ must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy; or, for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

(2) All private improvements required under this chapter must be approved by the City prior to the issuance of a Certificate of Occupancy; or for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

**Section 74.210 – Minimum Street Right-of-Way Widths.** The width of streets in feet ~~shall~~ must not be less than the width required to accommodate a street improvement needed to mitigate the impact of a proposed development. In cases where a street is required to be improved according to the standards of the TDC, the width of the right-of-way ~~shall~~ must not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G.

(1) For subdivision and partition applications, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G ~~shall~~ must be shown on the final subdivision or partition plat prior to approval of the plat by the City. This right-of-way dedication ~~shall~~ must be for the full width of the property abutting the roadway and, if required by the City Engineer Manager, additional dedications ~~shall~~ must be provided for slope and utility easements if deemed necessary.

(2) For development applications other than subdivisions and partitions, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width, the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G of the Tualatin Community Plan ~~shall~~ must be dedicated to the City for use by the public prior to issuance of any building permit for the proposed development. This right-of-way dedication ~~shall~~ must be for the full width of the property abutting the roadway and, if required by the City Engineer Manager, additional dedications ~~shall~~ must be provided for slope and utility easements if deemed necessary.

(3) For development applications that will impact existing streets not adjacent to the applicant's property, and to construct necessary street improvements to mitigate those impacts would require additional right-of-way, the applicant ~~shall~~ must be responsible for obtaining the necessary right-of-way from the property owner. A right-of-way

dedication deed form shall must be obtained from the City ~~Engineer~~ Manager and upon completion returned to the City ~~Engineer~~ Manager for acceptance by the City. On subdivision and partition plats the right-of-way dedication shall must be accepted by the City prior to acceptance of the final plat by the City. On other development applications the right-of-way dedication shall must be accepted by the City prior to issuance of building permits. The City may elect to exercise eminent domain and condemn necessary off-site right-of-way at the applicant's request and expense. The City Council shall must determine when condemnation proceedings are to be used.

(4) If the City ~~Engineer~~ Manager deems that it is impractical to acquire the additional right-of-way as required in subsections (1)-(3) of this section from both sides of the center-line in equal amounts, the City ~~Engineer~~ Manager may require that the right-of-way be dedicated in a manner that would result in unequal dedication from each side of the road. This requirement will also apply to slope and utility easements as discussed in TDC 74.320 and 74.330. The City ~~Engineer's~~ Manager's recommendation shall must be presented to the City Council in the preliminary plat approval for subdivisions and partitions, and in the recommended decision on all other development applications, prior to finalization of the right-of-way dedication requirements.

(5) Whenever a proposed development is bisected by an existing or future road or street that is of inadequate right-of-way width according to TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G, additional right-of-way shall must be dedicated from both sides or from one side only as determined by the City ~~Engineer~~ Manager to bring the road right-of-way in compliance with this section.

(6) When a proposed development is adjacent to or bisected by a street proposed in TDC Chapter 11, Transportation Plan (Figure 11-3) and no street right-of-way exists at the time the development is proposed, the entire right-of-way as shown in TDC Chapter 74, Public Improvement Requirements, Figures 74-2A through 74-2G shall must be dedicated by the applicant. The dedication of right-of-way required in this subsection shall must be along the route of the road as determined by the City.

**Section 74.220 – Parcels Excluded from Development.** On subdivision development applications which include land partitioned off or having adjusted property lines from the original parcel, but do not include the original parcel, the applicant shall must be responsible for obtaining any necessary right-of-way from the owner of the original parcel if the right-of-way is needed to accommodate street improvements required of the applicant. The applicant shall must submit a completed right-of-way dedication deed to the City ~~Engineer~~ Manager for acceptance. The right-of-way dedication shall must be accepted by the City prior to the City approving the final subdivision plat.

**Section 74.310 – Greenway, Natural Area, Bike, and Pedestrian Path Dedications and Easements.**

(1) Areas dedicated to the City for Greenway or Natural Area purposes or easements or dedications for bike and pedestrian facilities during the development application process shall must be surveyed, staked and marked with a City approved boundary marker prior to acceptance by the City.

(2) For subdivision and partition applications, the Greenway, Natural Area, bike, and pedestrian path dedication and easement areas shall must be shown to be dedicated to

the City on the final subdivision or partition plat prior to approval of the plat by the City;  
or

(3) For all other development applications, Greenway, Natural Area, bike, and pedestrian path dedications and easements ~~shall~~ must be submitted to the City Engineer Manager; building permits ~~shall~~ must not be issued for the development prior to acceptance of the dedication or easement by the City.

#### **Section 74.320 – Slope Easements.**

(1) The applicant ~~shall~~ must obtain and convey to the City any slope easements determined by the City Engineer Manager to be necessary adjacent to the proposed development site to support the street improvements in the public right-of-way or accessway or utility improvements required to be constructed by the applicant.

(2) For subdivision and partition applications, the slope easement dedication area ~~shall~~ must be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, a slope easement dedication ~~shall~~ must be submitted to the City Engineer Manager; building permits ~~shall~~ must not be issued for the development prior to acceptance of the easement by the City.

#### **Section 74.330 – Utility Easements.**

(1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities ~~shall~~ must be granted to the City.

(2) For subdivision and partition applications, the on-site public utility easement dedication area ~~shall~~ must be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; and

(3) For subdivision and partition applications which require off-site public utility easements to serve the proposed development, a utility easement ~~shall~~ must be granted to the City prior to approval of the final plat by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council ~~shall~~ must determine when condemnation proceedings are to be used.

(4) For development applications other than subdivisions and partitions, and for both on-site and off-site easement areas, a utility easement ~~shall~~ must be granted to the City; building permits ~~shall~~ must not be issued for the development prior to acceptance of the easement by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council ~~shall~~ must determine when condemnation proceedings are to be used.

(5) The width of the public utility easement ~~shall~~ must meet the requirements of the Public Works Construction Code. All subdivisions and partitions ~~shall~~ must have a 6-foot public utility easement adjacent to the street. Other easements may be required as determined by the City Manager.

#### **Section 74.340 – Watercourse Easements.**

(1) Where a proposed development site is traversed by or adjacent to a watercourse, drainage way, channel or stream, the applicant ~~shall~~ must provide a storm water

easement, drainage right-of-way, or other means of preservation approved by the City ~~Engineer~~ Manager, conforming substantially with the lines of the watercourse. The City ~~Engineer~~ Manager shall must determine the width of the easement, or other means of preservation, required to accommodate all the requirements of the Surface Water Management Ordinance, existing and future storm drainage needs and access for operation and maintenance.

(2) For subdivision and partition applications, any watercourse easement dedication area shall must be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, any watercourse easement shall must be executed on a dedication form submitted to the City ~~Engineer~~ Manager; building permits shall must not be issued for the development prior to acceptance of the easement by the City.

(4) The storm water easement shall must be sized to accommodate the existing water course and all future improvements in the drainage basin. There may be additional requirements as set forth in TDC Chapter 72, Greenway and Riverbank Protection District, and the Surface Water Management Ordinance. Water quality facilities may require additional easements as described in the Surface Water Management Ordinance.

**Section 74.350 – Tracts Maintenance Easement or Lots.** A dedicated tract lot or easement will be required when access to public improvements for operation and maintenance is required, as determined by the City Manager. Access for maintenance vehicles must be constructed of an all-weather driving surface capable of carrying a 50,000-pound vehicle. The width of the tract ~~or~~ easement or lot shall must be at least 15-feet in order to accommodate City maintenance vehicles. In subdivisions and partitions, the ~~tract~~ easement or lot must be dedicated to the City on the final plat. In any other development, ~~an access~~ the easement shall or lot must be granted to the City and recorded prior to issuance of a building permit.

**Section 74.410 – Future Street Extensions.**

(1) Streets shall must be extended to the proposed development site boundary where necessary to do any one of the following:

- (a) give access to, or permit future development of adjoining land;
- (b) provide additional access for emergency vehicles;
- (c) provide for additional direct and convenient pedestrian, bicycle and vehicle circulation;
- (d) eliminate the use of cul-de-sacs except where topography, barriers such as railroads or freeways, existing development, or environmental constraints such as major streams and rivers prevent street extension; and
- (e) eliminate circuitous routes. The resulting dead end streets may be approved without a turnaround. A reserve strip may be required to preserve the objectives of future street extensions.

(2) Proposed streets shall must comply with the general location, orientation and spacing identified in the Functional Classification Plan (Figure 11-1), Local Streets Plan (TDC 11.630 and Figure 11-3) and the Street Design Standards (Figures 74-2A through 74-2G).

(a) Streets and major driveways, as defined in TDC 31.060, proposed as part of new residential or mixed residential/commercial developments ~~shall~~ must comply with the following standards:

- (i) full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers;
- (ii) bicycle and pedestrian accessway easements where full street connections are not possible, with spacing of no more than 330 feet, except where prevented by barriers;
- (iii) limiting cul-de-sacs and other closed-end street systems to situations where barriers prevent full street extensions; and
- (iv) allowing cul-de-sacs and closed-end streets to be no longer than 200 feet or with more than 25 dwelling units, except for streets stubbed to future developable areas.

(b) Streets proposed as part of new industrial or commercial development ~~shall~~ must comply with TDC 11.630, Figure 11-1, and Figures 74-2A through 74-2G.

(3) During the development application process, the location, width, and grade of streets ~~shall~~ must 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 the streets. The arrangement of streets in a subdivision ~~shall~~ must either:

- (a) provide for the continuation or appropriate projection of existing streets into surrounding areas; or
- (b) conform to a street plan approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.

(4) The City ~~Engineer~~ Manager may require the applicant to submit a street plan showing all existing, proposed, and future streets in the area of the proposed development.

(5) The City ~~Engineer~~ Manager may require the applicant to participate in the funding of future off-site street extensions when the traffic impacts of the applicant's development warrant such a condition.

**Section 74.420 – Street Improvements.** When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under TDC 74.220, the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan (TDC Chapter 11), TDC 74.425 (Street Design Standards), and the City's Public Works Construction Code, subject to the following provisions:

(1) For any development proposed within the City, roadway facilities within the right-of-way described in TDC 74.210 ~~shall~~ must be improved to standards as set out in the Public Works Construction Code.

(2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.

(3) The required improvements may include the construction or rebuilding of off-site improvements which are identified to mitigate the impact of the development.



- (4) Where development abuts an existing street, the improvement required ~~shall~~ must apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Engineer Manager to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement ~~shall~~ must connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.
- (5) If additional improvements are required as part of the Access Management Plan of the City, TDC Chapter 75, the improvements ~~shall~~ must be required in the same manner as the half-street improvement requirements.
- (6) All required street improvements ~~shall~~ must include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.
- (7) For subdivision and partition applications, the street improvements required by TDC Chapter 74 ~~shall~~ must be completed and accepted by the City prior to signing the final subdivision or partition plat, or prior to releasing the security provided by the applicant to assure completion of such improvements or as otherwise specified in the development application approval.
- (8) For development applications other than subdivisions and partitions, all street improvements required by this section ~~shall~~ must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.
- (9) In addition to land adjacent to an existing or proposed street, the requirements of this section ~~shall~~ apply to land separated from such a street only by a railroad right-of-way.
- (10) Streets within, or partially within, a proposed development site ~~shall~~ must be graded for the entire right-of-way width and constructed and surfaced in accordance with the Public Works Construction Code.
- (11) Existing streets which abut the proposed development site ~~shall~~ must be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).
- (12) Sidewalks with appropriate buffering ~~shall~~ must be constructed along both sides of each internal street and at a minimum along the development side of each external street in accordance with the Public Works Construction Code.
- (13) The applicant ~~shall~~ must comply with the requirements of the Oregon Department of Transportation (ODOT), Tri-Met, Washington County and Clackamas County when a proposed development site is adjacent to a roadway under any of their jurisdictions, in addition to the requirements of this chapter.
- (14) The applicant ~~shall~~ must construct any required street improvements adjacent to parcels excluded from development, as set forth in TDC 74.220 of this chapter.
- (15) Except as provided in TDC 74.430, whenever an applicant proposes to develop land with frontage on certain arterial streets and, due to the access management provisions of TDC Chapter 75, is not allowed direct access onto the arterial, but instead

must take access from another existing or future public street thereby providing an alternate to direct arterial access, the applicant shall must be required to construct and place at a minimum street signage, a sidewalk, street trees and street lights along that portion of the arterial street adjacent to the applicant's property. The three certain arterial streets are S.W. Tualatin-Sherwood Road, S.W. Pacific Highway (99W) and S.W. 124th Avenue. In addition, the applicant may be required to construct and place on the arterial at the intersection of the arterial and an existing or future public non-arterial street warranted traffic control devices (in accordance with the Manual on Uniform Traffic Control Devices, latest edition), pavement markings, street tapers and turning lanes, in accordance with the Public Works Construction Code.

(16) The City ~~Engineer~~ Manager may determine that, although concurrent construction and placement of the improvements in (14) and (15) of this section, either individually or collectively, are impractical at the time of development, the improvements will be necessary at some future date. In such a case, the applicant shall must sign a written agreement guaranteeing future performance by the applicant and any successors in interest of the property being developed. The agreement shall must be subject to the City's approval.

(17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.

(18) Pursuant to requirements for off-site improvements as conditions of development approval in TDC 73.055(2)(e) and TDC 36.160(8), proposed multi-family residential, commercial, or institutional uses that are adjacent to a major transit stop will be required to comply with the City's Mid-Block Crossing Policy.

#### **Section 74.425 – Street Design Standards.**

(1) Street design standards are based on the functional and operational characteristics of streets such as travel volume, capacity, operating speed, and safety. They are necessary to ensure that the system of streets, as it develops, will be capable of safely and efficiently serving the traveling public while also accommodating the orderly development of adjacent lands.

(2) The proposed street design standards are shown in Figures 72A through 72G. The typical roadway cross sections comprise the following elements: right-of-way, number of travel lanes, bicycle and pedestrian facilities, and other amenities such as landscape strips. These figures are intended for planning purposes for new road construction, as well as for those locations where it is physically and economically feasible to improve existing streets.

(3) In accordance with the Tualatin Basin Program for fish and wildlife habitat it is the intent of Figures 74-2A through 74-2G to allow for modifications to the standards when deemed appropriate by the City ~~Engineer~~ Manager to address fish and wildlife habitat.

(4) All streets must be designed and constructed according to the preferred standard. The City ~~Engineer~~ Manager may reduce the requirements of the preferred standard based on specific site conditions, but in no event will the requirement be less than the minimum standard. The City ~~Engineer~~ shall Manager must take into consideration the following factors when deciding whether the site conditions warrant a reduction of the preferred standard:

(a) Arterials:

- (i) Whether adequate right-of-way exists;
  - (ii) Impacts to properties adjacent to right-of-way;
  - (iii) Current and future vehicle traffic at the location; and
  - (iv) Amount of heavy vehicles (buses and trucks).
- (b) Collectors:
- (i) Whether adequate right-of-way exists;
  - (ii) Impacts to properties adjacent to right-of-way;
  - (iii) Amount of heavy vehicles (buses and trucks); and
  - (iv) Proximity to property zoned manufacturing or industrial.
- (c) Local Streets:
- (i) Local streets proposed within areas which have environmental constraints and/or sensitive areas and will not have direct residential access may utilize the minimum design standard.
  - (ii) When the minimum design standard is allowed, the City ~~Engineer~~ Manager may determine that no parking signs are required on one or both sides of the street.

**Section 74.430 – Streets, Modifications of Requirements in Cases of Unusual Conditions.**

(1) When, in the opinion of the City ~~Engineer~~ Manager, the construction of street improvements in accordance with TDC 74.420 would result in the creation of a hazard, or would be impractical, or would be detrimental to the City, the City ~~Engineer~~ Manager may modify the scope of the required improvement to eliminate such hazardous, impractical, or detrimental results. Examples of conditions requiring modifications to improvement requirements include but are not limited to horizontal alignment, vertical alignment, significant stands of trees, fish and wildlife habitat areas, the amount of traffic generated by the proposed development, timing of the development or other conditions creating hazards for pedestrian, bicycle or motor vehicle traffic. The City ~~Engineer~~ Manager may determine that, although an improvement may be impractical at the time of development, it will be necessary at some future date. In such cases, a written agreement guaranteeing future performance by the applicant in installing the required improvements must be signed by the applicant and approved by the City.

(2) When the City ~~Engineer~~ Manager determines that modification of the street improvement requirements in TDC 74.420 is warranted pursuant to subsection (1) of this section, the City ~~Engineer~~ Manager ~~shall~~ must prepare written findings of modification. The City ~~Engineer~~ Manager ~~shall~~ must forward a copy of said findings and description of modification to the applicant, or his authorized agent, as part of the Utility Public Facilities Review for the proposed development, as provided by ~~TDC 31.072~~ TDC Chapter 32 (Procedures). The decision of the City ~~Engineer~~ Manager may be appealed to the City Council in accordance with ~~TDC 31.076 and 31.077~~ TDC Chapter 32 (Procedures).

(3) To accommodate bicyclists on streets prior to those streets being upgraded to the full standards, an interim standard may be implemented by the City. These interim standards include reduction in motor vehicle lane width to 10 feet [the minimum specified in AASHTO's A Policy on Geometric Design of Highways and Streets (1990)], a reduction of bike lane width to 4-feet (as measured from the longitudinal gutter joint to

the centerline of the bike lane stripe), and a paint-striped separation 2 to 4 feet wide in lieu of a center turn lane. Where available roadway width does not provide for these minimums, the roadway can be signed for shared use by bicycle and motor vehicle travel. When width constraints occur at an intersection, bike lanes should terminate 50 feet from the intersection with appropriate signing.

#### **Section 74.440 – Streets, Traffic Study Required.**

(1) The City ~~Engineer~~ Manager may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City ~~Engineer~~ Manager determines that such a study is necessary in connection with a proposed development project in order to:

- (a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or
- (b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.

(2) The required traffic study ~~shall~~ must be completed prior to the approval of the development application.

(3) The traffic study ~~shall~~ must include, at a minimum:

- (a) An analysis of the existing situation, including the level of service on adjacent and impacted facilities;
- (b) An analysis of any existing safety deficiencies;
- (c) Proposed trip generation and distribution for the proposed development;
- (d) Projected levels of service on adjacent and impacted facilities;
- (e) Recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered;
- (f) The City ~~Engineer~~ Manager will determine which facilities are impacted and need to be included in the study; and
- (g) The study ~~shall~~ must be conducted by a registered engineer.

(4) The applicant ~~shall~~ must implement all or a portion of the improvements called for in the traffic study as determined by the City ~~Engineer~~ Manager.

#### **Section 74.450 – Bikeways and Pedestrian Paths.**

(1) Where proposed development abuts or contains an existing or proposed bikeway, pedestrian path, or multi-use path, as set forth in TDC Chapter 11, Transportation Figure 11-4, the City may require that a bikeway, pedestrian path, or multi-use path be constructed, and an easement or dedication provided to the City.

(2) Where required, bikeways and pedestrian paths ~~shall~~ must be provided as follows:

- (a) Bike and pedestrian paths ~~shall~~ must be constructed and surfaced in accordance with the Public Works Construction Code.
- (b) The applicant ~~shall~~ must install the striping and signing of the bike lanes and shared roadway facilities, where designated.

## **Section 74.460 – Accessways in Residential, Commercial and Industrial Subdivisions and Partitions.**

- (1) Accessways ~~shall~~ must be constructed by the applicant, dedicated to the City on the final residential, commercial or industrial subdivision or partition plat, and accepted by the City.
- (2) Accessways ~~shall~~ must be located between the proposed subdivision or partition and all of the following locations that apply:
  - (a) adjoining publicly-owned land intended for public use, including schools and parks. Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;
  - (b) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;
  - (c) adjoining undeveloped residential, commercial or industrial properties; and
  - (d) adjoining developed sites where an accessway is planned or provided.
- (3) In designing residential, commercial and industrial subdivisions and partitions, the applicant is expected to design and locate accessways in a manner which does not restrict or inhibit opportunities for developers of adjacent property to connect with an accessway. The applicant is to have reasonable flexibility to locate the required accessways. When developing a parcel which adjoins parcels where accessways have been constructed or approved for construction, the applicant ~~shall~~ must connect at the same points to provide system continuity and enhance opportunities for pedestrians and bicyclists to use the completed accessway.
- (4) Accessways must be as short as possible, but in no case more than 600 feet in length.
- (5) Accessways must be as straight as possible to provide visibility from one end to the other.
- (6) Accessways ~~shall~~ must be located and improved within a right-of-way or tract of no less than 8 feet.
- (7) Where possible, accessways ~~shall~~ must be combined with utility easements.
- (8) Accessways ~~shall~~ must be constructed in accordance with the Public Works Construction Code.
- (9) Curb ramps ~~shall~~ must be provided wherever the accessway crosses a curb and must be constructed in accordance with the Public Works Construction Code.
- (10) The Federal Americans With Disabilities Act (ADA) applies to development in the City of Tualatin. Accessways ~~shall~~ must comply with the Oregon Structural Specialty Code's (OSSC) accessibility standards.
- (11) Fences and gates which prevent pedestrian and bike access ~~shall~~ must not be allowed at the entrance to or exit from any accessway.
- (12) Final design and location of accessways ~~shall~~ must be approved by the City.
- (13) Outdoor Recreation Access Routes ~~shall~~ must be provided between a subdivision or partition and parks, bikeways and greenways where a bike or pedestrian path is designated.

**Section 74.470 – Street Lights.**

- (1) Street light poles and luminaries shall must be installed in accordance with the Public Works Construction Code.
- (2) The applicant shall must submit a street lighting plan for all interior and exterior streets on the proposed development site prior to issuance of a Public Works Permit.

**Section 74.475 – Street Names.**

- (1) No A street name can must not be used which if it will duplicate or be confused with the names of existing streets in the Counties of Washington or Clackamas, except for extensions of existing streets. Street names and numbers must conform to the established pattern in the surrounding area.
- (2) The City ~~Engineer~~ Manager shall must maintain the approved list of street names from which the applicant may choose. Prior to the creation of any street, the street name must be approved by the City ~~Engineer~~ Manager.

**Section 74.480 – Street Signs.**

- (1) Street name signs shall must be installed at all street intersections in accordance with standards adopted by the City.
- (2) Stop signs and other traffic control signs (speed limit, dead-end, etc.) may be required by the City.
- (3) Prior to approval of the final subdivision or partition plat, the applicant shall must pay the City a non-refundable fee equal to the cost of the purchase and installation of street signs, traffic control signs and street name signs. The location, placement, and cost of the signs shall must be determined by the City.

**Section 74.485 – Street Trees.**

- (1) Prior to approval of a residential subdivision or partition final plat, the applicant shall must pay the City a non-refundable fee equal to the cost of the purchase and installation of street trees. The location, placement, and cost of the trees must be determined by the City. This sum shall must be calculated on the interior and exterior streets as indicated on the final subdivision or partition plat.
- (2) In nonresidential subdivisions and partitions street trees shall must be planted by the owners of the individual lots as development occurs.
- (3) The Street Tree Ordinance specifies the species of tree which is to be planted and the spacing between trees.

**Section 74.610 – Water Service.**

- (1) Water lines shall must be installed to serve each property in accordance with the Public Works Construction Code. Water line construction plans must be submitted to the City ~~Engineer~~ Manager for review and approval prior to construction.
- (2) If there are undeveloped properties adjacent to the subject site, public water lines shall must be extended by the applicant to the common boundary line of these properties. The lines shall must be sized to provide service to future development, in accordance with the City's Water System Master Plan, TDC Chapter 12.

(3) As set forth is TDC Chapter 12, Water Service, the City has three water service levels. All development applicants ~~shall~~ must be required to connect the proposed development site to the service level in which the development site is located. If the development site is located on a boundary line between two service levels the applicant must be required to connect to the service level with the higher reservoir elevation. The applicant may also be required to install or provide pressure reducing valves to supply appropriate water pressure to the properties in the proposed development site.

#### **Section 74.620 – Sanitary Sewer Service.**

(1) Sanitary sewer lines ~~shall~~ must be installed to serve each property in accordance with the Public Works Construction Code. Sanitary sewer construction plans and calculations must be submitted to the City ~~Engineer~~ Manager for review and approval prior to construction.

(2) If there are undeveloped properties adjacent to the proposed development site which can be served by the gravity sewer system on the proposed development site, the applicant ~~shall~~ must extend public sanitary sewer lines to the common boundary line with these properties. The lines ~~shall~~ must be sized to convey flows to include all future development from all up stream areas that can be expected to drain through the lines on the site, in accordance with the City's Sanitary Sewer System Master Plan, TDC Chapter 13.

#### **Section 74.630 – Storm Drainage System.**

(1) Storm drainage lines ~~shall~~ must be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations ~~shall~~ must be submitted to the City ~~Engineer~~ Manager for review and approval prior to construction.

(2) The storm drainage calculations ~~shall~~ must confirm that adequate capacity exists to serve the site. The discharge from the development ~~shall~~ must be analyzed in accordance with the City's Storm and Surface Water Regulations.

(3) If there are undeveloped properties adjacent to the proposed development site which can be served by the storm drainage system on the proposed development site, the applicant ~~shall~~ must extend storm drainage lines to the common boundary line with these properties. The lines ~~shall~~ must be sized to convey expected flows to include all future development from all up stream areas that will drain through the lines on the site, in accordance with the Tualatin Drainage Plan in TDC Chapter 14.

#### **Section 74.640 – Grading.**

(1) Development sites ~~shall~~ must be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.

(2) A development applicant ~~shall~~ must submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City ~~Engineer~~ Manager may require the applicant to remove all excess material from the development site.

**Section 74.650 – Water Quality, Storm Water Detention and Erosion Control.** The applicant shall must comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant shall must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from Clean Water Services.

(2) On all other development applications, prior to issuance of any building permit, the applicant shall must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.

(3) For on-site private and regional non-residential public facilities, the applicant shall must submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant shall must submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site must occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

**Section 74.660 – Underground.**

(1) All utility lines including, but not limited to, those required for gas, electric, communication, lighting and cable television services and related facilities shall must be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets may be placed above ground. Temporary utility service facilities, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall must make all necessary arrangements with all utility companies to provide the underground services. The City reserves the right to approve the location of all surface-mounted transformers.

(2) Any existing overhead utilities may not be upgraded to serve any proposed development. If existing overhead utilities are not adequate to serve the proposed development, the applicant shall must, at their own expense, provide an underground system. The applicant shall must be responsible for obtaining any off-site deeds and/or easements necessary to provide utility service to this site; the deeds and/or easements shall must be submitted to the City Engineer Manager for acceptance by the City prior to issuance of the Public Works Permit.

**Section 74.670 – Existing Structures.**

(1) Any existing structures requested to be retained by the applicant on a proposed development site shall must be connected to all available City utilities at the expense of the applicant.

(2) The applicant shall must convert any existing overhead utilities serving existing structures to underground utilities, at the expense of the applicant.



(3) The applicant ~~shall~~ must be responsible for continuing all required street improvements adjacent to the existing structure, within the boundaries of the proposed development site.

**Section 74.700 – Removal, Destruction, or Injury of Trees.** It is unlawful for a person, without a written permit from the ~~Operations Director~~ City Manager, to remove, destroy, break or injure a tree, plant or shrub, that is planted or growing in or upon a public right-of-way within the City, or cause, authorize, or procure a person to do so, authorize or procure a person to injure, misuse or remove a device set for the protection of any tree, in or upon a public right-of-way.

**Section 74.705 – Street Tree Removal Permit.**

(1) A person who desires to remove or destroy a tree, as defined in TDC 31.060, in or upon public right-of-way ~~shall~~ must make application to the ~~Operations Director~~ City Manager on City forms.

(2) The applicant must provide:

- (a) The applicant's name and contact information and if applicable that of the applicant's contractor;
- (b) The number and species of all street trees the applicant desires to remove;
- (c) A clear description of the street trees' the applicant desires to remove;
- (d) The date of removal;
- (e) The reason(s) for removal; and
- (f) Other information as the ~~Operations Director~~ City Manager deems necessary.

(3) Upon the ~~Operations Director's~~ City Manager approving the removal of a street tree, the applicant or designated contractor ~~shall~~ must replace each removed tree on a one-for-one basis by fulfilling the following requirements:

- (a) Remove both the tree and stump prior to planting a replacement tree, or re-quest the City to remove the tree and stump and pay the applicable fee(s) established in TDC 74.706;
- (b) Replace the removed tree by planting a species of street tree permitted by Schedule A of the TDC Chapter 74 within the time period specified in writing by the ~~Operations Director~~ City Manager; or, the applicant may request within sixty (60) days of the permit approval date that the City replace the street tree and pay the applicable fee(s) established in TDC 74.706. If an applicant opts for the City to plant the replacement tree, the ~~Operations Department~~ City may plant the tree on its usual tree-planting schedule. Planting done by the applicant or designated contractor ~~shall~~ must comply with all applicable TDC sections and any additional requirements imposed by the ~~Operations Director~~ City Manager;
- (c) The applicant ~~shall~~ must comply with all applicable TDC sections and additional requirements imposed by the ~~Operations Director~~ City Manager. The ~~Operations Director~~ City Manager may:

~~(d)~~ waive the one-for-one replacement requirement if ~~he or she~~ the City Manager determines that the replacement would:

- (i) Conflict with public improvements or utility facilities, including but not limited to fire hydrants, water meters and pipes, lighting fixtures, traffic control signs; private improvements or utility facilities – including but not limited to

- driveways and power, gas, telephone, cable television lines; or, minimum vision clearance;
- (ii) Interfere with the existing canopy of adjacent trees, the maturation of the crown of the proposed replacement tree, or both;
  - ~~(A)~~ (iii) Cause a conflict by planting trees too close to each other, hurting the health of the trees;
  - ~~(iii)~~ (iv) Limit the selection of species from Schedule A; and
  - ~~(iv)~~ (v) Direct how to plant replacement tree(s).
- ~~(e)~~ (d) A person who fails to comply with TDC 74.705 must pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

**Section 74.706 – Street Tree Fees.** A person who applies to remove a street tree under TDC 74.705 shall must pay all costs incurred by the City as reflected in the applicable fees listed in the city of Tualatin Fee Schedule. City actions and associated fees include but are not limited to inspection of a street tree requested for removal, removal of a street tree, removal of a stump, planting of a street tree, and inspection(s) to determine if the applicant has fulfilled permit requirements.

**Section 74.707 – Street Tree Voluntary Planting.** A person who desires to plant a tree in or upon a public right-of-way may plant or have the City plant a species of street tree permitted by TDC Chapter 74 Schedule A without a City permit, if the tree is not a replacement for a tree that the person has removed. Such a person may submit a request to the City with payment of fee(s) so that the City may plant a street tree. If a stump exists where a street tree is to be planted, the person shall must remove the stump or pay a fee to the City as established in TDC 74.706 so that the City may remove the stump on behalf of the person. In all instances, a person who desires to plant a tree shall must comply with other applicable TDC sections and any additional requirements of the ~~Operations Director~~ City Manager.

**Section 74.708 – Street Tree Emergencies.**

(1) If emergency conditions occur that require the immediate cutting or removal of street trees to avoid danger or hazard to persons or property, the ~~Operations Director~~ shall City Manager must issue emergency permits without payment of fees and formal applications. If the ~~Operations Director~~ City Manager is unavailable, the adjacent property owners may proceed to cut the trees without permits to the extent necessary to eliminate the immediate danger or hazard. If a street tree is cut under this section without filing of an application with the ~~Operations Director~~ City Manager, the person doing so shall must report the action to the ~~Operations Director~~ City Manager within two City business days without payment of fee and shall must provide such information and evidence as may be reasonably required by the Operations Director to explain and justify the removal.

(2) In all instances, a person who removes a street tree as a result of an emergency must replace it within sixty (60) days of notifying the ~~Operations Director~~ City Manager. The City reserves the right to waive this requirement.

(3) A person who fails to comply with TDC 74.708 shall ~~shall~~ must pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

(4) If no emergency is found to exist, no person shall ~~shall~~ must cut or remove a street tree without complying with the requirement of the Tualatin Development Code.

**Section 74.710 – Open Ground.** When impervious material or substance is laid down or placed in or upon a public right-of-way near a tree, at least nine square feet of open ground for a tree up to three inches in diameter shall ~~shall~~ must be provided about the base of the trunk of each tree.

**Section 74.715 – Attachments to Trees.** It is unlawful for a person to attach or keep attached a rope, wire, chain, sign or other device to a tree, plant or shrub in or upon a public right-of-way or to the guard or stake intended for the protection of such tree, except as a support for a tree, plant or shrub.

**Section 74.720 – Protection of Trees During Construction.**

(1) During the erection, repair, alteration or removal of a building or structure, it is unlawful for the person in charge of such erection, repair, alteration or removal to leave a tree in or upon a public right-of-way in the vicinity of the building or structure without a good and sufficient guard or protectors to prevent injury to the tree arising out of or by reason of such erection, repair, alteration or removal.

(2) Excavations and driveways shall ~~shall~~ must not be placed within six feet of a tree in or upon a public right-of-way without written permission from the City ~~Engineer~~ Manager. During excavation or construction, the person shall ~~shall~~ must guard the tree within six feet and all building material or other debris shall ~~shall~~ must be kept at least four feet from any tree.

**Section 74.725 – Maintenance Responsibilities.** Trees, shrubs or plants standing in or upon a public right-of-way, on public or private grounds that have branches projecting into the public street or sidewalk shall ~~shall~~ must be kept trimmed by the owner of the property adjacent to or in front of where such trees, shrubs or plants are growing so that:

(1) The lowest branches are not less than 12 feet above the surface of the street, and are not be less than 14 feet above the surface of streets designated as state highways.

(2) The lowest branches are not less than eight feet above the surface of a sidewalk or footpath.

(3) ~~No~~ A plant, tree, bush or shrub shall ~~shall~~ must not be more than 24 inches in height in the triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, such an area defined by a line across the corner between the points on the street right-of-way line measured 10 feet back from the corner, and extending the line to the street curbs or, if there are no curbs, then to that portion of the street or alley used for vehicular traffic.

(4) Newly planted trees may remain untrimmed if they do not interfere with street traffic or persons using the sidewalk or obstruct the light of a street electric lamp.

(5) Maintenance responsibilities of the property owner include repair and upkeep of the sidewalk in accordance with the City Sidewalk Maintenance Ordinance.

**Section 74.730 – Notice of Violation.** When the owner, lessee, occupant or person in charge of private grounds neglects or refuses to trim a tree, shrub or plant as provided in TDC 74.725, the ~~Operations Director shall~~ City Manager must cause a written notice to trim such tree or trees, shrubs or plants to be served upon such owner, lessee, occupant or person in charge, within 10 days after the giving the notice; and if the owner, lessee or occupant or person in charge fails to do so, the person ~~shall be~~ is guilty of violating this ordinance and subject to the penalties in TDC 74.760. The notice ~~shall~~ must be served upon the owner, lessee, occupant or person in charge either by "Certified Mail-Return Receipt Requested", or by posting the same notice on the property or near to the trees, shrubs or plants to be trimmed.

**Section 74.735 – Trimming by City.** If the owner, lessee, occupant or person in charge of the property fails and neglects to trim the trees, shrubs or plants within 10 days after service of the notice in TDC 74.730, the ~~Operations Director shall~~ City Manager may trim the trees, shrubs or plants. Such trimming by the City does not act to relieve such owner, lessee, occupant or person in charge of responsibility for violating this Chapter.

**Section 74.740 – Prohibited Trees.** It is unlawful for a person to plant a tree within the right-of-way of the City of Tualatin that is not in conformance with City standards, including, Schedule A. Any tree planted subsequent to adoption of this Chapter not in compliance with City standards, including Schedule A, ~~shall~~ must be removed at the expense of the property owner.

**Section 74.745 – Cutting and Planting Specifications.** The following regulations are established for the planting, trimming and care of trees in or upon the public right-of-way of the City.

(1) When trees are cut down, the stump ~~shall~~ must be removed to a depth of six inches below the surface of the ground or finish grade of the street, whichever is of greater depth.

(2) Trees ~~shall~~ must be planted in accordance with City standards, including, Schedule A, except when a greater density is allowed under a special permit from the ~~Operations Director~~ City Manager.

**Section 74.750 – Removal or Treatment by City.** The ~~Operations Director~~ City Manager may remove or cause or order to be removed a tree, plant or shrub, planted or growing in or upon a public right-of-way which by its nature causes an unsafe condition or is injurious to sewers or public improvements, or is affected with an injurious fungus disease, insect or other pest. When, in the opinion of the ~~Operations Director~~ City Manager, trimming or treatment of a tree or shrub located on private grounds, but having branches extending over a public right-of-way is necessary, the ~~Operations Director~~ City Manager may trim or treat such a branch or branches, or cause or order branches to be trimmed or treated.

**Section 74.755 – Appeal of Permit Denial.** When application for a permit under this Chapter is denied by the ~~Operations Director~~ City Manager, an order is issued by the ~~City Engineer~~ Manager directing certain trees, shrubs or plants to be trimmed or removed, or a permit is granted by the ~~Operations Director~~ City Manager containing conditions which the applicant deems unreasonable, the applicant may appeal to the Council in writing and filed with the City Recorder within 10 City business days after the denial of the permit sought or the making of the order the appellant deems unreasonable. After hearing, the Council may either grant or deny the application, rescind or modify the order from which the appeal was taken.

**Section 74.760 – Penalties.** A person who violates this ordinance or fails to trim a tree or shrub for which notice to do so was provided, shall must, upon conviction, be fined not more than \$100.00.

**Section 74.765 – Street Tree Species and Planting Locations.** All trees, plants or shrubs planted in the right-of-way of the City shall must conform in species and location and in accordance with the street tree plan and City standards, including, Schedule A Table 74-1. If the ~~Operations Director~~ City Manager determines that none of the species in City standards, including Table 74-1, Schedule A is appropriate or finds appropriate a species not listed, the ~~Director~~ City Manager may substitute an unlisted species.

**Table 74-1  
Street Tree Species**

Species Common Names	Planting Strip Width (feet)			Powerline Compatible	Spacing on center (feet)
	4	5	6+		
Zone 1					
Leprechaun Ash	•	•	•		30
Purple Beech	•	•	•		30
European Hornbeam	•	•	•	•	30
Armstrong Maple	•	•	•		30
Scanlon/Bowhall Maple	•	•	•		30
Skyrocket English Oak	•	•	•		30
Capital Flowering Pear	•	•	•		30
Persian Parrotia	•	•	•		30
Eastern Redbud	•	•	•		30
Zelkova Musashino	•	•	•		30
Autumn Applause Ash		•	•		30
Shademaster Honey Locust		•	•		30
Zone 2					30
Golden Desert Ash	•	•	•	•	30
Leprechaun Ash	•	•	•		30
Purple Beech	•	•	•		30
Goldenrain	•	•	•		30

European Hornbeam	•	•	•	•	30
Ivory Japanese Lilac	•	•	•	•	30
Amur Maackia	•	•	•	•	30
Amur Maple	•	•	•	•	30
Crimson Sentry Maple	•	•	•	•	30
Trident Maple	•	•	•	•	30
Skyrocket English Oak	•	•	•	•	30
Persain Parrotia	•	•	•		30
Eastern Redbud	•	•	•		30
Yellowwood	•	•	•		30
Raywood Ash		•	•	•	30
Urbanite Ash		•	•		30
Ginko		•	•		30
Greenspire Linden		•	•		30
Crimson King Maple		•	•		30
Tri-Color Beech			•		60
Frontier Elm			•		60
Globe Sugar Maple			•		60
Red Sunset Maple			•		60
Red Oak			•		60
Scarlet Oak			•		60

**SECTION 41. TDC Chapter 75 (Access Management).** TDC Chapter 75 (Access Management) is amended as follows:

**Section 75.010 – Purpose.** The purpose of this chapter is to promote the development of safe, convenient and economic transportation systems and to preserve the safety and capacity of the street system by limiting conflicts resulting from uncontrolled driveway access, street intersections, and turning movements while providing for appropriate access for all properties.

**Section 75.020 – Permit for New Driveway Approach.**

**(1) Applicability.** A driveway approach permit must be obtained prior to constructing, relocating, reconstructing, enlarging, or altering any driveway approach.

**(2) Exceptions.** A driveway approach permit is not required for:

(a) The construction, relocation, reconstruction, enlargement, or alteration of any driveway approach that requires a state highway access permit; or

(b) The construction, relocation, reconstruction, enlargement or alteration of any driveway approach that is part of the construction of a publicly or privately engineered public improvement project.

**(3) Procedure Type.** A Driveway Approach Permit is processed as a Type II procedure under TDC 32.220 (Type II).

**(4) Submittal Requirements.** In addition to the application materials required by TDC 32.140 (Application Submittal), the following application materials are also required:

(a) A site plan, of a size and form and in the number of copies meeting the standards established by the City Manager, containing the following information:

(i) The location and dimensions of the proposed driveway approach;

(ii) The relationship to nearest street intersection and adjacent driveway approaches;

(iii) Topographic conditions;

(iv) The location of all utilities;

(v) The location of any existing or proposed buildings, structures, or vehicular use areas;

(vi) The location of any trees and vegetation adjacent to the location of the proposed driveway approach that are required to be protected pursuant to TDC Chapter 73B or 73C; and

(vii) The location of any street trees adjacent to the location of the proposed driveway approach.

(b) Identification of the uses or activities served, or proposed to be served, by the driveway approach; and

(c) Any other information, as determined by the Director, which may be required to adequately review and analyze the proposed driveway approach for conformance with the applicable criteria.

(5) **Criteria.** A Driveway Approach Permit must be granted if:

(a) The proposed driveway approach meets the standards of this Chapter and the Public Works Construction Code;

(b) No site conditions prevent placing the driveway approach in the required location;

(c) The number of driveway approaches onto an arterial are minimized;

(d) The proposed driveway approach, where possible:

(i) Is shared with an adjacent property; or

(ii) Takes access from the lowest classification of street abutting the property;

(e) The proposed driveway approach meets vision clearance standards;

(f) The proposed driveway approach does not create traffic hazards and provides for safe turning movements and access;

(g) The proposed driveway approach does not result in significant adverse impacts to the vicinity;

(h) The proposed driveway approach minimizes impact to the functionality of adjacent streets and intersections; and

(i) The proposed driveway approach balances the adverse impacts to residentially zoned property and the functionality of adjacent streets.

(6) **Effective Date.** The effective date of a Driveway Approach Permit approval is the date the notice of decision is mailed.

(7) **Permit Expiration.** A Driveway Approach Permit approval expires one year from the effective date, unless the driveway approach is constructed within the one-year period in accordance with the approval decision and City standards.

### **Section 75.030 – Driveway Approach Closure.**

(1) The City Manager may require the closure of a driveway approach where:

(a) The driveway approach is not constructed in conformance with this Chapter and the Public Works Construction Code;

- (b) The driveway approach is not maintained in a safe manner;
- (c) A public street improvement project is being constructed, and closure of the driveway approach will more closely conform to the current driveway approach standards;
- (d) A new building or driveway is constructed on the property;
- (e) A plan text amendment or zone change is proposed for the property served by the driveway;
- (f) A change of use or activity in an existing building increases the amount of required parking;
- (g) The driveway approach has been abandoned; or
- (h) There is a demonstrated safety issue.

(2) **Notice.** Notice of driveway approach closure must be given in writing to the property owner and any affected tenants stating the grounds for closure, the date upon which the closure becomes effective, and the right to appeal.

(3) **Appeals.** Any person entitled to notice under subsection (2) of this section may appeal the decision to the City Council.

(4) **Effect.** Closure is effective immediately upon the mailing of notice of the decision. Unless otherwise provided in the notice, closure terminates all rights to continue the use the driveway approach for which the notice of closure has been issued.

(5) **Failure to Close Driveway.** If the owner fails to close the driveway approach to conform to the notice within 90 days, the City Manager may cause the closure to be completed and all expenses assessed against the property owner.

### **Section 75.040 – Driveway Approach Requirements.**

(1) The provision and maintenance of driveway approaches from private property to the public streets as stipulated in this Code are continuing requirements for the use of any structure or parcel of real property in the City of Tualatin. No building or other permit may be issued until scale plans are presented that show how the driveway approach requirement is to be fulfilled. If the owner or occupant of a lot or building changes the use to which the lot or building is put, thereby increasing driveway approach requirements, it is unlawful and a violation of this code to begin or maintain such altered use until the required increase in driveway approach is authorized by the City.

(2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same driveway approach when the combined driveway approach of both uses, structures, or parcels of land satisfies their combined requirements as designated in this code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts must be placed on permanent file with the City Recorder.

### **(3) Joint and Cross Access.**

(a) Adjacent commercial uses may be required to provide cross access drive and pedestrian access to allow circulation between sites.

(b) A system of joint use driveways and cross access easements may be required and may incorporate the following:



(i) A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;

(ii) A design speed of 10 mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;

(iii) Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive;  
and

(iv) An unified access and circulation system plan for coordinated or shared parking areas.

(c) Pursuant to this section, property owners may be required to:

(i) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

(ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

(iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners; and

(iv) If subsection(i) through (iii) above involve access to the state highway system or county road system, ODOT or the county must be contacted and must approve changes to subsection(i) through (iii) above prior to any changes.

**(4) Requirements for Development on Less than the Entire Site.**

(a) To promote unified access and circulation systems, lots and parcels under the same ownership or consolidated for the purposes of development and comprised of more than one building site must be reviewed as one unit in relation to the access standards. The number of access points permitted must be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations must be met. This must also apply to phased development plans. The owner and all lessees within the affected area must comply with the access requirements.

(b) All access must be internalized using the shared circulation system of the principal commercial development or retail center. Driveways should be designed to avoid queuing across surrounding parking and driving aisles.

(5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Manager.

(6) Except as provided in TDC 53.100, all driveway approach must connect directly with public streets.

(7) To afford safe pedestrian access and egress for properties within the City, a sidewalk must be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section must be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks must be constructed to a design and in a manner approved by the City Manager. Sidewalks approved by the City Manager may include temporary

sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks must provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction must include construction of the curb and gutter section to grades and alignment established by the City Manager.

(8) The standards set forth in this Code are minimum standards for driveway approaches, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

(9) Minimum driveway approach width for uses are as provided in Table 75-1 (Driveway Approach Width):

**TABLE 75-1**  
**Driveway Approach Width**

<u>Use</u>	<u>Minimum Driveway Approach Width</u>	<u>Maximum Driveway Approach Width</u>
<u>Single-Family Residential, townhouses, and duplexes</u>	<u>10 feet</u>	<u>26 feet for one or two care garages</u> <u>37 feet for three or more garages</u>
<u>Multi-family</u>	<u>2 Units = 16 feet</u> <u>3-49 Units = 24 feet</u> <u>50-499 = 32 feet</u> <u>Over 500 = as required by the City Manager</u>	<u>May provide two 16 foot one-way driveways instead of one 24 foot driveway</u> <u>May provide two 24 foot one-way driveways instead of one 32 foot driveway</u>
<u>Commercial</u>	<u>1-99 Parking Spaces = 32 feet</u> <u>100-249 Parking Spaces = two approaches each 32 feet</u>	<u>Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet</u>
<u>Industrial</u>	<u>36 feet</u>	<u>Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet.</u>
<u>Institutional</u>	<u>1-99 Parking Spaces = 32 feet</u> <u>100-249 Parking</u>	<u>Over 250 Parking Spaces = As Required by the City Manager, but not exceeding 40 feet.</u>

	<u>Spaces = two approaches each 32 feet</u>	
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**(10) Driveway Approach Separation.** There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.

**(11) Distance between Driveways and Intersections.** Except for single-family dwellings, the minimum distance between driveways and intersections must be as provided below. Distances listed must be measured from the stop bar at the intersection.

(a) At the intersection of collector or arterial streets, driveways must be located a minimum of 150 feet from the intersection.

(b) At the intersection of two local streets, driveways must be located a minimum of 30 feet from the intersection.

(c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway must be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line as required by TDC 73.400(14)(b).

(d) When considering a driveway approach permit, the City Manager may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision.

**(12) Vision Clearance Area.**

(a) Local Streets. A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections must be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 10 feet from the intersection point of the right-of-way lines, as measured along such lines (see Figure 73-2 for illustration).

(b) Collector Streets. A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections must be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area must be 10 feet (see Figure 73-2 for illustration).

(c) Vertical Height Restriction. Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction must be permitted between 30 inches and 8 feet above the established height of the curb in the clear vision area (see Figure 73-2 for illustration).

**Section 75.030 Freeways and Arterials Defined 75.050 – Access Limited Roadways.**

~~(1) This section shall apply~~ applies to all City, County and State public streets, roads and highways developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City pertaining to property abutting any road or street listed in TDC 75.030. In addition, any property not abutted by a road or street listed in subsection (2), but having access to an arterial by any easement or prescriptive right, must be treated as if the property did about the arterial and this chapter applies.

~~(2) Freeways and Arterials Designated. For the purposes of this chapter the following are freeways and arterials~~ The following Freeways and Arterials are access limited roadways:

- (a) Interstate 5 Freeway;
- (b) Interstate 205 Freeway;
- (c) Pacific Highway 99W;
- (d) Tualatin-Sherwood Road at all points located within the City of Tualatin Planning Area;
- (e) Nyberg Street, from its intersection with Tualatin-Sherwood Road east to 65th Avenue, including the I-5 Interchange;
- (f) 124th Avenue from Pacific Highway 99W south to Tonquin;
- (g) Lower Boones Ferry Road, from Boones Ferry Road to the Bridgeport/72nd intersection and from the Bridgeport/72nd intersection to the east City limits;
- (h) Boones Ferry Road at all points located within the City of Tualatin Planning Area;
- (i) 65th Avenue from its intersection with Nyberg Street south to City limits;
- (j) Borland Road from 65th Avenue east to Saum Creek;
- (k) Bridgeport Road from Lower Boones Ferry Road to the west City limits;
- (l) Martinazzi Avenue from Boones Ferry Road south to Sagert Street;
- (m) Sagert Street from Martinazzi Avenue to 65th Avenue;
- (n) Leveton Drive from 108th Avenue to 124th Avenue;
- (o) 108th Avenue from Leveton Drive to Herman Road;
- (p) Herman Road from Teton Avenue to 124th Avenue;
- (q) 90th Avenue;
- (r) Avery Street; and
- (s) Teton Avenue.

~~(3) Applicability.~~

~~(a) This chapter applies to all developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City Council or any administrative officer of the City pertaining to property abutting any road or street listed in TDC 75.030. In addition, any parcel not abutted by a road or street listed in TDC 75.030, but having access to an arterial by any easement or prescriptive right, shall be treated as if it did about the arterial and this chapter applies. This Chapter shall take~~ takes precedence over any other TDC chapter and over any other ordinance of the City when considering any development, land use approval or other proposal for property abutting an arterial or any property having an access right to an arterial.

(b) ~~(4) With the approval of the City Council, the The City~~ may act on its own initiative to protect the public safety and control access on arterials or any street to be included by TDC 75.030, consistent with its authority as the City Road Authority.

**~~Section 75.050 Approval Process For Access Onto Arterials, and Appeal Provisions.~~**

~~(1) All requests for access onto arterials shall be reviewed by the City Engineer and follow the process described in TDC 31.074 through TDC 31.078 unless it is processed in conjunction with an application requiring a public hearing by the City Council. Based on provisions of this chapter and of the procedure described in TDC 31.074 through TDC 31.078, the City Engineer shall approve, approve with conditions, or reject the request for access in writing, stating the reasons for his or her decision.~~

~~(2) Notice of the City Engineer's decision shall be distributed in accordance with TDC 31.074. The applicant shall be responsible for preparing the list of property owners within the notification area in the manner provided by TDC 31.071. The City Engineer's decision shall be final 14 calendar days after the date the notice of the decision is distributed unless within the 14 calendar the City Engineer receives a request for review of the decision. Requests for review shall be submitted in accordance with TDC 31.076 and a hearing conducted in accordance with TDC 31.077.~~

**~~Section 75.070 New Intersections.~~** Except as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), all new intersections with arterials shall have a minimum spacing of ½ mile between intersections.

**~~Section 75.080 Alternate Access.~~** Except as provided in 75.090 all properties which abut two roadways shall have access on the lowest classification road-way, preferable on a local street.

**~~Section 75.090 75.060 – Interim Access Agreement.~~**

~~(1) When a property abuts a freeway or arterial and a future street shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), or abuts or bisects the property, the City Engineer Manager may approve an interim access on the arterial subject to through an agreement with the following conditions property owner if:~~

~~(4) (a) The City Engineer Manager finds that at the current time the construction of the new street shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), is impractical due to costs of right-of-way acquisition.~~

~~(2) The Interim Access Agreement must be signed by the property owner and contain the following provisions:~~

~~(a) A statement that the property owner receiving interim access agrees to dedicate the right-of-way for the new street as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), if it would be on the property;~~

~~(3) (b) A statement that the property owner agrees that at such time as the City Engineer Manager finds that it is practical to construct a new street as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), the property owner will pay for or construct its fair share of the new street;~~

~~(4)~~ (c) A statement that at such time as the new street as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), is constructed, the interim access must be closed and no longer used;

~~(d)~~ A statement that the cost of this closure of the interim access must be borne by the property owner; and

~~(e)~~ A statement that the City may enforce the Interim Access Agreement against the property owner, its successors, and assigns and seek any remedies available to the City at law and in equity.

~~(5)~~ (3) In granting the interim access the property owner may be required to share said interim access with adjacent properties.

~~(6)~~ (4) The interim access ~~shall~~ must be constructed in a manner to make it as efficient as possible. Improvements required as part of the interim access may include:

(a) A left turn lane;

(b) A right turn lane;

(c) Driveways constructed at street intersections to provide for truck turning movement;

(d) Dedication of additional right-of-way on the arterial;

(e) Installation of traffic control signals; and

(f) Limitation of new driveways to right turn in, right turn out movements by construction of raised median barriers or other means.

~~(7)~~ (5) Any interim access approved in accordance with this Chapter ~~shall~~ must be set forth in the form of a written agreement, approved by the City Attorney. The agreement ~~shall~~ must be verified by the owner in the manner provided for deeds and restrictions on real property. The agreement ~~shall~~ must bind the parties thereto as well as their heirs, successors in interest and assigns and must not be modified without the express written approval of the City, and the agreement must be recorded in the deed of records for the County in which the property is located.

### **Section ~~75.060~~ 75.070 – Existing Driveways and Street Intersections.**

(1) Existing driveways with access onto arterials on the date this chapter was originally adopted ~~shall be~~ are allowed to remain. If additional development occurs on properties with existing driveways with access onto arterials, then this Chapter applies and the entire site ~~shall~~ must be made to conform with the requirements of this chapter.

(2) The City ~~Engineer~~ Manager may restrict existing driveways and street intersections to right-in and right-out by construction of raised median barriers or other means.

**~~Section 75.100 Exceptions.~~** ~~If the City Engineer finds that it is physically impossible for a property to receive access from any other street or road than an arterial as defined in TDC 75.030 and that the property cannot physically be served by any new street as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), or any logical extension of or addition thereto, the City Engineer may grant a permanent access directly to an arterial. In doing so the City Engineer may impose conditions on the construction of said access including, but not limited to:~~

~~(1) Dedication of additional right-of-way on the arterial.~~

~~(2) Creation of a joint access.~~

~~(3) Construction of left turn lanes.~~

- (4) Construction of right turn lanes.
- (5) Installation of traffic signals.
- (6) Limitation of access to right turn in, right turn out by construction of raised median barriers or other means.

**Section 75.100 – Spacing Standards for New Intersections.** Except as shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), all new intersections with arterials must have a minimum spacing of one-half mile between intersections.

**Section 75.110 – Joint Access Standards.** When the City Manager determines that joint accesses are required by properties undergoing development or redevelopment, an overall access plan shall be prescribed by the City Manager and all properties shall adhere to this. Interim accesses may be allowed in accordance with TDC 75.090 of this chapter to provide for the eventual implementation of the overall access plan.

**Section 75.120 – Collector Streets Access Standards.**

**(1) Major Collectors.** Direct access from newly constructed single family homes, duplexes or triplexes are not permitted. As major collectors in residential areas are fully improved, or adjacent land redevelops, direct access should be relocated to the nearest local street where feasible.

**(2) Minor Collectors.** Residential, commercial and industrial driveways where the frontage is greater or equal to 70 feet are permitted. Minimum spacing at 100 feet. Uses with less than 50 feet of frontage shall use a common (joint) access where available.

**(3) If access is not able to be relocated to the nearest local street, the City Manager may allow interim access in accordance with 75.090 of this chapter to provide for the eventual implementation of the overall access plan.**

**Section 75.110 75.130 – New Streets Access Standards.**

(1) New streets designed to serve as alternatives to direct, parcel by parcel, access onto arterials are shown in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3). These streets are shown as corridors with the exact location determined through the partition, subdivision, public works permit, or Architectural Review process. Unless modified by the City Council by the procedure set out below, these streets will be the only new intersections with arterials in the City. See map for changes.

(2) Specific alignment of a new street may be altered by the City ~~Engineer~~ Manager upon finding that the street, in the proposed alignment, will carry out the objectives of this chapter to the same, or a greater degree as the described alignment, that access to adjacent and nearby properties is as adequately maintained and that the revised alignment will result in a segment of the Tualatin road system which is reasonable and logical.

(3) The City Council may include additional streets in TDC Chapter 11, Transportation, (Figures 11-1 and 11-3), through the plan amendment procedure. In addition to other required findings, the City Council must find that the addition is necessary to implement the objectives of this chapter.

**Section 75.120 75.140 – Existing Streets Access Standards.** The following list describes in detail the freeways and arterials as defined in TDC 75.030 with respect to

access. Recommendations are made for future changes in accesses and location of future accesses. These recommendations are examples of possible solutions and shall not be construed as limiting the City's authority to change or impose different conditions if additional studies result in different recommendations from those listed below.

(1) **INTERSTATE 5 (I-5)**. I-5 is a State facility and access is controlled by the State.

(2) **INTERSTATE 205 (I-205)**. I-205 is a State facility and access is controlled by the State.

(3) **PACIFIC HIGHWAY 99W.**

(a) On the southeasterly side of Pacific Highway 99W access will be provided by Cipole Road, 130th Avenue, 124th Avenue and Hazelbrook Road. In addition to 130th Avenue, shared driveway accesses will be allowed between Tax Lots 2S1 21A 1800 (Grimm's Fuel, 18850 Cipole Road) and 1801 (Construction Equipment Company, 18650 99W), and Lots 2000 (no street address) and 2101 (Anderson Forge & Machine, 18500 99W). A shared driveway access will also be allowed between 130th Avenue and 124th Avenue. West of Cipole Road and south of Pacific Highway 99W access will be provided by a new street or private drive extending west of Cipole Road across from the proposed Cummins Drive/Cipole Road intersection.

(b) East of 124th Avenue on the southeasterly side of Pacific Highway 99W, property will access onto Tualatin Road or onto Hazelbrook Road. In this area a central access from Pacific Highway 99W consisting of one right-in and one right-out driveway may be allowed. The access point shall be located within the middle one-third of the frontage between 124th Avenue and Hazelbrook Road. The City ~~Engineer~~ Manager shall determine the final location at the time any portion of either site is developed.

(c) On the northwesterly side of Pacific Highway 99W access will be provided by Cipole Road and Pacific Drive. West of Cipole Road and north of Pacific Highway 99W access will be provided by Pacific Drive. Pacific Drive will be extended as a frontage road toward the 124th Avenue intersection as far as is practicable as determined by the City ~~Engineer~~ Manager. Past that point shared driveways shall be used as determined by the City ~~Engineer~~ Manager. Pacific Drive will be reconfigured to align with 130th Avenue to form a new intersection. From the reconfigured intersection with Pacific Drive and Pacific Highway 99W to 124th Avenue, interim accesses may be approved in accordance with TDC Chapter 75. Between 124th Avenue and the Tualatin River on the northwesterly side of Pacific Highway 99W existing accesses will remain except as noted below for development or redevelopment due to the median of Pacific Highway 99W these will be limited to right-turn in, right-turn out. Any redevelopment in this area will require that the driveway accesses be consolidated to a minimum number as determined by the City Manager.

(4) **TUALATIN-SHERWOOD ROAD.**

(a) **Nyberg Street to Boones Ferry Road.** Access to this section was purchased at the time of right-of-way acquisition. Access will be provided by Martinazzi Avenue and Boones Ferry Road. Notwithstanding other provisions of this Code, a single access onto Tualatin-Sherwood Road shall be allowed along the north side of this



section in the block between Martinazzi Avenue and Boones Ferry Road; its exact location and configuration shall be determined by the City ~~Engineer~~ Manager.

(b) **Boones Ferry Road to 89th Avenue.** All access to this property was purchased as part of the right-of-way acquisition. Access ~~shall be~~ is limited to right-in, right-out access on the south side at Mohave Court and on the north side kitty-corner or opposite to Mohave Court. Full access shall be prohibited at these locations by means of a median barrier. An existing four-way intersection serving 89th Avenue, Old Tualatin-Sherwood Road, and a driveway of the Hedges Greene retail development (Tax Lot 2S123D 2600) located approximately 800 feet west of Boones Ferry Road.

(c) **89th Avenue to Teton Avenue.**

(i) Tualatin-Sherwood Road access shall be limited as follows: On the north side of the road the Emery Zidell Commons Subdivision (Tax Map 2S1-23D) shall have two street accesses located at 90th Avenue across from 90th Court and at 95th Place at the west property line. The intersection of 90th Avenue with Tualatin-Sherwood Road shall remain a four-way intersection. The four-way intersection at the west line of the Emery Zidell Subdivision shall remain located across from 95th Place on the south side of Tualatin-Sherwood Road.

(ii) Between 95th Place and 97th Avenue on the north side of Tualatin-Sherwood Road, the two existing driveways may remain, but limited to right-in, right-out. A cross access will be developed to serve tax lots 2S1 23CA 200, 90000, 700, 800, 801 and 900 for access to 95th Place.

(iii) The cul-de-sac street system (of 97th Avenue) extends north with Potano Street as a stub to the west to serve Tax Lot 2S1 23CB 100. On the south side Tualatin Gardens Subdivison (Tax Lot 2S1 23DA, 1400) shall access onto Old Tualatin-Sherwood Road. Tax Lots 2S1 23DB 00600 and 2S1 23DC 00401 shall access onto 95th Place. Between 97th Avenue and Teton Road, Tax Lots 2S1 23CC 200 and 300 shall have a joint driveway access, and Tax Lot 400 shall have a cross access to either the joint driveway on Tax Lots 200 and 300 or a cross access over Tax Lot 500 to Teton Avenue.

(iv) A driveway extends south of Tualatin-Sherwood Road at 97th Avenue. The driveway provides access for Tax Lot 2S1 23 CD 300 and the six Tualatin Business West Tax Lots 2S123CD 700, 800, 900, 1000, 1100, and 1200 located between 95th Place and the properties to the west fronting Teton (2S1 23CC/1100, 1200, 1300). The properties fronting on Teton Avenue take access from Teton Avenue. The Washington County water quality facility (Tax Lot 2S123CC 1000) is permitted the one existing service driveway adjacent to its east property line.

(d) **Teton Avenue to Avery Street/112th Avenue.**

(i) On the north side of Tualatin-Sherwood Road no new driveways will be constructed and existing driveways will be removed at the time of development or redevelopment. All of the properties will be served by either Manhasset Drive or 112th Avenue. 112th Avenue will connect to Myslony Street. Tax Lot 2S1 22DD 600 (Western Industrial Ceramics (2S1 22D/200) shall take access to Manhasset Street. An eastern extension off of the 112th Avenue/Myslony Street connection will terminate at and provide access to Tax Lot 2S1 22D 600 (Pascuzzi

Investment LLC and may provide additional access for Tax Lot 2S1 22DD 100 (UPS) which has access from the west end of Manhasset Drive.

(ii) On the south side of Tualatin-Sherwood Road there will be no new driveways or streets. Development of property east of Tax Lot 2S1 27AA 90000 (Arlington Commons at Tualatin Condominiums) on Tualatin-Sherwood Road may be accomplished only with a joint access agreement with Lakeside Lumber through its driveways on Tax Lot 2S1 27AA 2000. Tax Lot 90000 shall have one access onto Tualatin-Sherwood Road. Properties between Arlington Commons at Tualatin and Avery Street on the south side are served from Avery Street and Avery Court and no driveway access will be constructed with Tualatin-Sherwood Road.

(e) **Avery Street/112th to Cipole Road.** On the north side of Tualatin-Sherwood Road between 112th Avenue and Cipole Road the area will be served by the following streets or driveways:

(i) 115th Avenue which will extend north to Amu Street.

(ii) 124th Avenue which will extend north and west to an intersection at 124th Avenue approximately 800 feet north of Tualatin-Sherwood Road.

(iii) 124th Avenue.

(iv) Cipole Road. The exact location and configuration of the streets or driveways shall be determined by the City ~~Engineer~~ Manager.

(v) On the south side of Tualatin-Sherwood Road between Avery Street and 120th Avenue the area will be served by the following street system:

(A) 115th Avenue.

(B) 120th Avenue, which may be restricted to right-in, right-out movements in the future.

The exact location and configuration of the streets shall be determined by the City ~~Engineer~~ Manager. No driveways will be constructed in this area and existing driveways will be removed. Tax Lot 2S127B 800 (Select Sales) shall have a cross access to 115th Avenue.

(5) **NYBERG STREET.**

(a) **Tualatin-Sherwood Road to 65th Avenue:**

(a) (i) **West of I-5.** On the south side between Fred Meyer and I-5 any development shall be served by the Fred Meyer driveway Tax Lot 2S1 24CA 200 or Urban Renewal Area Block 6) aligned with the Urban Renewal Area Block 2 driveway on the north side and shall not be granted any access to Nyberg Street. No additional driveways will be allowed.

(b) (ii) **East of I-5.**

(A) On the north side of the Nyberg Woods development (Tax Lot 2S1 24A 2503) shall be limited to one signalized access and one right-in/right-out access. The driveway for Forest Rim Apartments (Tax Lot 2S1 24A 2800) may remain.

(B) On the south side, access to Tax Lot 2S1 24DB 200 (Shell) shall be limited to right-in, right-out. Tax Lot 2S1 24DB 100 (La-Z-Boy) access shall be aligned with the Nyberg Woods signalized access. The existing westside Nyberg Retail access shall be limited to right-in, right-out. Tax Lot 2S1 24DA 100 (Meridian Park Veterinary Hospital and 7Eleven) shall share a driveway

that aligns with the 65th/Nyberg Street intersection. There will be no new additional driveways created in this section of roadway.

**(6) 124TH AVENUE.**

(a) **Pacific Highway to Tualatin Road.** No street or driveway accesses on the west side of this intersection will be permitted. No driveway accesses shall be allowed between Pacific Highway 99W and Tualatin Road.

(b) **Tualatin Road to Herman Road.** Between Tualatin Road and Herman Road, access to 124th Avenue shall be limited to a street intersection at Leveton Drive. The area west of the 124th Avenue/Tualatin Road intersection and south of Pacific Highway 99W will be served by a cul-de-sac connecting to the westward extension of Leveton Drive.

(c) **Herman Road to Tualatin-Sherwood Road.** On the east side of 124th Avenue between Herman Road and Tualatin-Sherwood Road the area will be served by the following streets or driveways:

(i) A street intersection at Myslony Street.

(ii) A street or driveway intersection approximately 800 feet south of the Myslony Street/124th Avenue intersection extending east with an alternative to extend north to connect with Myslony Street a minimum of 150 feet east of 124th Avenue. Access may be limited to right in/right out as determined by the City Engineer Manager.

(iii) Cimino Street extending east and south to an intersection at Tualatin-Sherwood Road across from 120th Avenue. The exact location and configuration of the streets and driveways shall be determined by the City Manager.

(iv) On the west side of 124th Avenue between Herman Road and Tualatin-Sherwood Road the area will be served by the following streets or driveways:

(A) A driveway across from Myslony Street.

(B) A street or driveway intersection approximately 800 feet north of the intersection of Tualatin-Sherwood Road and 124th Avenue. The exact location and configuration of the streets or driveways shall be determined by the City Engineer Manager.

(d) **Tualatin-Sherwood Road.** Between Tualatin-Sherwood Road and Tonquin Road access to 124th Avenue shall be limited to street intersections at Blake Street and the unnamed east-west collector street. Depending on when this segment of 124th Avenue is constructed a (possibly interim) connection to Tonquin Road may also be provided.

**(7) LOWER BOONES FERRY ROAD.**

(a) **Boones Ferry Road to Childs Road.**

(i) On the south side of the road, Tax Lot 2S1 24AB 800 shall have its access located at its east property line. This access shall be combined with the access of the Mt. Hood Chemical Building (Tax Lot 2S1 24 700) at its west property line into one joint access.

(ii) On the north side of the road is a small lot (Leageld Development; Tax Lot 2S1 13DC/2000) the driveway of which shall line up with the intersection of Childs Road and Lower Boones Ferry Road.

(b) **Childs Road to I-5 Freeway.**

- (i) On the south side of the road the existing driveways may be allowed to remain. No new driveways will be permitted.
  - (ii) On the north side of the road, the existing driveways may be allowed to remain. No new driveways will be permitted.
- (c) **I-5 Freeway northerly to Bridgeport Road.**
  - (i) On the west side, Hazel Fern Road shall intersect with Lower Boones Ferry Road, as Traveler's Lane.
  - (ii) On the east side, the Tri-Met park and ride shall be permitted two driveway accesses as determined by the City Manager.
- (d) **72nd Avenue to the east City limits.**
  - (i) On the north side access shall be permitted only by 65th Avenue and 63rd Avenue and a right-in, right-out driveway between 65th and 63rd Avenues. Between 63rd Avenue and the east City limits the properties fronting Lower Boones Ferry Road shall take access from 63rd Avenue.
  - (ii) On the south side access shall be permitted at 65th Avenue. Between 65th Avenue and the east City limits no new accesses shall be permitted. A median may be constructed to limit access to right-in, right-out.
- (8) **BOONES FERRY ROAD.**
  - (a) **North City Limits to the Tualatin River.** All existing driveways will remain. No new driveways will be permitted.
  - (b) **Tualatin River to Tualatin Road.**
    - (i) Between the River and Martinazzi Avenue on the south side, the access for the apartments (Tax Lot 2S1 24B 1500) will be closed and converted over to the Loop Road. The Loop Road will have a right-in, right-out connection to Boones Ferry Road between the river and Martinazzi Avenue.
    - (ii) On the south side of Boones Ferry Road between Martinazzi Avenue and the driveway for the White Lot (formerly Lot C), any development or redevelopment shall take access over the White Lot or from Martinazzi Avenue.
    - (iii) Between the White lot and 84th Avenue, all properties shall have combined accesses resulting in only one access on Boones Ferry Road. Between 84th Avenue and Tualatin Road on the south side, any redevelopment shall result in no driveways onto Boones Ferry Road and access shall be taken from 84th Avenue or Seneca Street.
    - (iv) On the north side Tax Lots 2S1 24BC 1301 and 1400 and Tax Lot 2S1 24B 1300 (Apartments by Hedges Creek: Kaplan) shall combine their driveways at a location to be determined by the design of the Martinazzi Avenue-Boones Ferry Road intersection. Further the properties shall combine their access into one on Lot 1300 across from the White lot's driveway. Between the Green (former Lot G) and Blue (former Lot H) Lots, any redevelopment of these properties shall remove the existing driveways and take access from the public parking lots from a cross access between the two public lots. Between the Blue Lot and Tualatin Road any development or redevelopment shall have access off of Tualatin Road at the north edge of the property or over the Blue Lot.
  - (c) **Tualatin Road to Tualatin-Sherwood Road.**
    - (i) On the west side of this road is the Port-land & Western Railroad (PNWR) tracks. There will be no access to Boones Ferry Road across the PNWR tracks

except an access for a public street to the west side of the railroad tracks, centered on the centerline of Nyberg Street. The existing two driveways to the Tax Lot 2S1 23D 3400 (Sweek House also known as Willowbrook) shall be allowed a gated emergency access onto Boones Ferry Road, the other access shall be closed and access taken over Tax Lot 2S1 23D 2600 (Hedges Greene retail development) to Nyberg Street.

(ii) On the east side of this road, all redevelopment shall lead to elimination of all driveways onto Boones Ferry Road. Vehicular access to Boones Ferry Road in this section shall be limited to the Seneca Street intersection and Nyberg Street intersection. This will require interim access agreements per TDC 75.090.

**(d) Tualatin-Sherwood Road to Sagert Street.**

(i) On the west side, all existing driveways will be allowed to remain. On the frontage of the property of the demolished historic Tualatin Elementary School (Tax Lots 2S1 23DD 500 and 501), a new local street intersection is allowed on SW Boones Ferry Road that connects to a future public street on the Old Tualatin Elementary School property that extends north from Sagert Street in the approximate alignment of 90th Avenue. The new local street intersection may be located approximately 500 ft. north of the intersection with Sagert Street. Tax Lot 2S1 23DA 100 (the unnamed retail development at the intersection with Warm Springs Street will have one access aligned with Warm Springs.

(ii) On the east side, the driveway of McDonald's (Tax Lots 2S1 24CB 1201, 1301, and 1400) was closed and shall re-main closed. Any additional development on the Brock property (Tax Lot 2S1 24CB 2100) shall result in closure of this driveway to Boones Ferry Road. Any additional development on (Tax Lot 2S1 24CB 2200) (Tualatin West Center retail development) shall result in closure of this driveway to Boones Ferry Road. Between Warm Springs Street and Tualatin-Sherwood Road, as an option to closing the driveways at Brocks, and Tualatin West Center, it may be permissible to construct a raised median barrier or other improvements in Boones Ferry Road in this section to physically eliminate left turning movements, thus limiting all these driveways to right turn in, right turn out. Any redevelopment of the residential property between Mohawk and Sagert on the east side of Boones Ferry Road shall be accomplished in such a manner that the ultimate access to this area is from a street off of Sagert Street at its intersection with 86th Avenue. This may require interim agreements in accordance with TDC 75.090. All existing driveways in this area will be allowed to remain so long as the use of the property does not change.

**(e) Sagert Street to Avery Street.** The existing driveways will be allowed to remain. Any redevelopment of any residential property between Sagert and Avery shall result in no additional driveways being constructed in this area.

**(f) Avery Street to Ibach Street.** South of Avery Street, the Sundae Meadows Subdivision and Tualatin Presbyterian Church (Tax Lot 2S1 26AC 301) shall access Boones Ferry Road via Siletz Drive. One additional street or private drive (Cherry Lane) will be allowed for the Boones Ferry Commons Condominiums (Tax Lot 2S1 26CA 90000).

**(g) Ibach Street to Norwood Road.** Development of these residential properties shall result in no more than two driveway accesses for Tualatin High School, one

emergency access with no curb cut for Grahams Landing Townhomes Condos (Tax Lot 2S1 35BA 90000) and only street intersections for other properties. All street intersections on Boones Ferry Road between Ibach and Norwood shall be spaced a minimum of 500 feet apart.

(9) **65TH AVENUE.**

(a) **Nyberg to Borland.** There will be no new additional drive-ways.

(b) **Borland Road to south city limits.** A street connection will be constructed across from Sagert Street to serve property to the east of 65th Avenue.

(10) **BORLAND ROAD.**

(a) **Between 65th and the Entrance to Bridgeport School.** In this section of roadway, as the residential properties develop, all accesses to Borland shall be limited to street intersections. These street intersections shall be spaced a minimum of 500 feet apart. All development in this area shall be interconnected so there are no dead-end entrances from Borland Road.

(b) **Bridgeport School Entrance to Saum Creek.** As the residential properties develop, all accesses to Borland shall be limited to street intersections. These street intersections shall be spaced a minimum of 500 feet apart. All development in this area shall be interconnected so there are no dead-end entrances from Borland Road. Access to Prosperity Park Road is allowed.

(11) **BRIDGEPORT ROAD.**

(a) **72nd Avenue to the West City Limits.**

(i) On the north side, the existing driveways will be allowed to remain. No new driveways will be permitted.

(ii) On the south the existing driveways will be allowed to remain. No new driveways will be permitted.

(12) **72ND AVENUE.**

(a) **Bridgeport Road to North City Limits.** The existing driveways will be allowed to remain. No new driveways will be permitted.

(13) **MARTINAZZI AVENUE.**

(a) **Boones Ferry Road to Seneca Street.**

(i) On the west side, any redevelopment on the Haberman and Soft Tough Dentistry property (2S1 24BC 1500 and 1503) or the unnamed retail development property with corner tenant Umpqua Bank (Tax Lot 2S1 24BC 1502) shall result in combining these two driveways into one driveway on Martinazzi Avenue, or the Halstin retail development property shall take access from the White Lot (former Lot C) to Boones Ferry Road.

(ii) On the east side the existing driveway shall be removed and access shall be taken off of the Loop Road.

(b) **Seneca Street to Nyberg Street.** No driveways shall be permitted. The raised center median prohibiting left turns in this area shall remain until driveways are removed. On the west side on Tax Lot 2S1 24BC 2702 (Wells Fargo Bank), the driveway shall be removed and access taken from Seneca Street or Nyberg Street. On the east side the driveway for Tax Lot 2S114B 2000 (Tualatin Center retail development Building 1) shall be removed and access taken from the Loop Road or Nyberg Street.

(c) **Nyberg Street to Tualatin-Sherwood Road.** There shall be no access to Martinazzi Avenue.

(d) **Tualatin-Sherwood Road to Warm Springs Street.** The only access shall be the existing Fred Meyer/Martinazzi Square driveway intersection.

(e) **Warm Springs Street to Sagert Street.** There shall be no additional access granted. The only street intersection will be Mohawk Street.

(14) **SAGERT STREET.**

(a) **Martinazzi Avenue to 65th Avenue.** No new driveways or streets shall be allowed, except the City Manager may allow one driveway from the SE corner lot of Sagert and Martinazzi. This driveway may be restricted to right-in, right-out.

(15) **LEVETON DRIVE.**

(a) **108th Avenue to 118th Avenue.**

(i) On the north side of Leveton Drive, JAE (2S122B 200) shall align a driveway across from 118th Avenue and be permitted a second driveway approximately 50 feet from their east property line. Novellus (2S122AA 500 and 2S122AB 100) shall be permitted three driveways located approximately 25 feet and 950 feet from the west property line for Tax Lot 100 and 600 feet west of 108th Avenue for Tax Lot 500.

(ii) On the south side, Phight Inc. (2S122 300) shall be allowed a driveway aligned with the west Novellus (2S122AB 100) driveway and a driveway adjacent to their east property line. Fujimi (2S122 400) shall be allowed a driveway adjacent to their west property line and east property line. Tofle (2S122AD 400) shall be allowed a driveway aligning across from the Novellus (2S122AA 500) driveway and a second driveway approximately 260 feet west of 108th Avenue.

(b) **118th Avenue to 124th Avenue.** The existing driveways will be allowed to remain. No new driveways will be permitted.

(16) **108TH AVENUE.**

(a) **Leveton Drive to Herman Road.**

(i) On the west side, Tofle (2S122AD 400) shall take access from Leveton Drive. The undeveloped property (2S122AD 500) shall be allowed one driveway onto 108th Avenue. The old Shulz Clearwater site (2S122AD 800) and then Northwest Pipe and Metal Fab (2S122AD 600 and 700) shall provide a joint driveway access. The Wahco Inc. property (2S122AD 900) shall take access from Herman Road.

(ii) On the east side, the DOT Inc. site shall have a driveway that aligns with Leveton Drive. The City Operations Center (2S122AD 200 and 300) will be permitted two driveways at locations to be determined by the City Manager.

(17) **HERMAN ROAD.**

(a) **Teton Avenue to 108th Avenue.**

(i) On the north side, the existing driveways will be allowed to remain. No new (i) driveways will be permitted. Airifco (2S123B 600) will be permitted one driveway adjacent to their west property line.

(ii) On the south side is the Portland & Western Railroad (PNWR) tracks. There will be no access to Herman Road across the tracks except for a shared driveway between the Kem Equipment (2S122AD 800) and Marshall Property

(2S122AD 1000) located on the common property line. The Marshall Property (2S123BC 1000) shall take access from Teton Avenue.

(b) **108th Avenue to 118<sup>th</sup>.**

(i) On the north side the existing driveways will be allowed to remain. No new driveways will be permitted.

(ii) On the south side is the Portland & Western Railroad (PNWR) tracks. There will be no access to Herman Road across the tracks.

(c) **118th Avenue to 124th Avenue.**

(i) On the north side the existing driveways will be allowed to remain. No new driveways will be permitted.

(ii) On the south side is the Portland & Western Railroad (PNWR) tracks. There will be no access to Herman Road across the tracks.

(18) **90TH AVENUE.**

(a) **Tualatin Road to Tualatin-Sherwood Road.** The existing driveways will be allowed to remain. No new driveways will be permitted.

(19) **AVERY STREET.**

(a) Teton Road to Tualatin-Sherwood Road.

(20) **TETON AVENUE.**

(a) **Tualatin Road to Herman Road.** The existing driveways will be allowed to remain. No new driveways will be permitted.

(b) **Herman Road to Tualatin-Sherwood Road.** The existing driveways will be allowed to remain. No new driveways will be permitted.

(c) **Tualatin-Sherwood Road to Avery Street.** The existing driveways will be allowed to remain. No new driveways will be permitted.

~~**Section 75.130 Joint Accesses Required.** When the City Engineer determines that joint accesses are required by properties undergoing development or redevelopment, an overall access plan shall be prescribed by the City Engineer and all properties shall adhere to this. Interim accesses may be allowed in accordance with TDC 75.090 of this chapter to provide for the eventual implementation of the overall access plan.~~

~~**Section 75.140 Collector Streets.**~~

~~(a) Major Collectors. Direct access from newly constructed single family homes, duplexes or triplexes shall not be permitted. As major collectors in residential areas are fully improved, or adjacent land redevelops, direct access should be relocated to the nearest local street where feasible.~~

~~(b) Minor Collectors. Residential, commercial and industrial driveways where the frontage is greater or equal to 70 feet are permitted. Minimum spacing at 100 feet. Uses with less than 50 feet of frontage shall use a common (joint) access where available.~~

~~(c) If access is not able to be relocated to the nearest local street, the City Engineer may allow interim access in accordance with 75.090 of this chapter to provide for the eventual implementation of the overall access plan.~~



**SECTION 42. TDC Chapter 80 (Marijuana Facilities).** TDC 80.020(3) (Definitions), the definition of “marijuana” is amended as follows:

(3) “Marijuana” means all parts of the plant of the Cannabis family ~~Moraceae~~ Cannabaceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, and includes both medical and recreational marijuana as defined by Oregon law.

**SECTION 43. Findings.** The Council adopts the Findings as set forth in Exhibit A, which are attached and incorporated by reference.

**SECTION 44. Corrections.** Consistent with Tualatin Municipal Code Chapter 1-1, the City Attorney is authorized to renumber any and all existing figures to correspond to the updated Chapters, and correct any errors.

**SECTION 45. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision does not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional, and, further declares that, if for any reason this Ordinance should be declared unconstitutional, then the original ordinance or ordinances remain in full force and effect.

**SECTION 46. Effective Date.** As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

APPROVED AS TO FORM

ATTEST:

BY \_\_\_\_\_  
City Attorney

BY \_\_\_\_\_  
City Recorder

## Karen Perl Fox

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**From:** Jerry May [tualatinsoccer@juno.com]  
**Sent:** Friday, November 02, 2018 10:47 PM  
**To:** Karen Perl Fox  
**Subject:** Land use regulations

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hi Karen;

I was reviewing the proposed land use regulations and found a couple of items you may wish to look at.

Section 1.020 Definitions.

Density - Maximum -- Line 4 - add an "A" before "unit of land".

Section 2.030 - Plan format. Line 3 - remove the word "and"

Page 46 - Townhouses - The retained wording needs something as an entry as to what the section refers to and to make it a complete sentence.

Section 75.050 - Access Limited - 1) Is this a sentence? ---- applies to all of the city. Does this need a definition?

I don't care for the use of the word "must" throughout but you will get the meaning out to all readers. Also looks like the City Manager is going to become very busy

Good luck with this - Jerry



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LAW GROUP, PC

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November 21, 2018

Tualatin City Council  
c/o Steve Koper, Planning Manager  
Tualatin Planning Division  
18880 SW Martinazzi Avenue  
Tualatin, OR 97062

Re: PTA-18-003 Tualatin Development Code Improvement Project (TDCIP)

Dear Honorable Mayor and Members of the City Council:

This testimony is submitted on behalf of our clients, the Tonquin Industrial Group (composed of numerous industrial property owners and businesses in the Tonquin Industrial area), and specifically the following members: Tonquin Industrial, LLC; Terra Hydr, Inc.; McCamant Properties, Inc; Brown Transfer, Inc.; McCamant, LLC; and D&T Excavation (together for convenience referred to herein as TIG). Please include this letter in the record of the above referenced matter.

TIG understands the value of the TDCIP's goals of improving the overall efficiency, internal consistency and readability of the code. However, TIG has significant concerns about the proposed code amendments as currently written, because specific amendment language and provisions do not represent policy neutral revisions to the Tualatin Development Code, but rather are harmful to TIG industrial interests, and to the viability of the Regionally Significant Industrial Area within which they exist. This letter identifies provisions of concern and proposes solutions to address TIG's concerns.

The TIG properties are located in the Tonquin Light Manufacturing Overlay Zone area, and development of the TIG property will be subject to it and the Manufacturing Business Park (MBP) Zone provisions upon annexation to the City. Metro and the City have recognized the TIG properties as part of a Regionally Significant Industrial Area (RSIA) to be protected for future industrial employment uses. TIG worked closely with the City to develop the current TDC Tonquin Light Manufacturing Overlay Zone provisions so they would be consistent with the intent of the RSIA status. TIG's proposed changes to the amendment language seek to ensure that the uses and development that is currently permitted in the Tonquin Light Manufacturing Overlay Zone will continue to be permitted under the amended TDC.

The amendments do not recognize that permitted industrial, manufacturing and research uses responsibly utilize hazardous or toxic substances.

All manufacturing, industrial and research uses utilize hazardous and potentially toxic materials and substances. If a code categorically bans such materials from all zones, it essentially prohibits all of the uses the RSIA seeks to allow. While the MBP purpose statement

(Section 64.100), which refers to uses that do not cause objectionable off-site impacts (subsection (1)) or that have “unmitigated hazardous or nuisance effects,” would suggest that the appropriate use of hazardous and potentially toxic materials and substances in manufacturing, industrial and research processes is permitted, language elsewhere in the amendments suggests otherwise.

For example, the definition of “dangerous substances” at Section 63.058 provides, “All uses and development are prohibited from storing or handling any explosive, nuclear waste product, or any other substance which would cause a health or safety hazard for any adjacent land use or site.” Likewise, TDC 39.440(3) provides, “Storage, handling, repackaging, delivery or movement of hazardous or toxic materials or substances, explosives or radioactive waste is not permitted in any zones.” *See also*, Section 39.450. Those provisions are broadly worded and appear to categorically prohibit materials and substances necessary for permitted manufacturing, industrial and research uses. Since such substances are routinely a part of industrial and research uses, this provision essentially forbids industrial use. The current code protects against only unmitigated storage or handling of such substances, recognizing that proper use and storage does not pose unreasonable hazards to persons or property, and so, is allowed.

TIG encourages the City Council to direct staff to develop code amendment language that clearly recognizes as allowable the lawful use, handling and storage of dangerous substances in permitted manufacturing, industrial and research uses. Otherwise the proposed amendment language essentially prohibits industrial use in the RSIA including the types of uses the Tonquin Light Manufacturing Overlay Zone would otherwise allow.

The proposed amendments restrict access to properties in ways that could adversely impact light manufacturing development of the TIG properties.

Much of TDC Chapter 75 consists of new provisions that cannot be reasonably characterized as policy neutral. One provision in particular, raises concern about effective development in the Tonquin Light Manufacturing Overlay Zone. TDC 75.040 addresses driveway approach requirements; subsection (4) imposes requirements for development on less than an entire “site”.

TDC 75.040(4) provides that lots and parcels under the same ownership or consolidated for purposes of development that contain more than one building site must be reviewed as a single unit in relation to the access standards. The provision further provides, “The number of access points permitted must be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage.”

The priority of minimizing the number of access points over establishing the number of access points, within the maximum allowable, that best services the needs of the industrial development area is a significant policy change that does not simply clean up and clarify the existing code. It is not policy neutral. The new TDC 75.040(4) makes potential development of the Tonquin Light Manufacturing Overlay Zone area, which allows for a broad range of uses that have differing transportation-related needs, much more difficult than under the current code.

TIG encourages the City Council to direct staff to develop code amendment language that either removes the TDC 75.040(4) language identified above, or that allows for more flexibility

and different priorities for driveway approaches for partial site development in the Tonquin Light Manufacturing Overlay Zone area.

Accessory uses are not clearly allowed in the MBP zone or the Tonquin Light Manufacturing Overlay

The current TDC 64.020(1) plainly lists as a permitted use in the MBP zone: “Accessory Uses, incidental and subordinate to a permitted or conditionally permitted primary use.” Unfortunately, the amendments are not so clear that accessory uses are a permitted use in the MBP zone. If accessory uses are not allowed in the MBP zone, that omission represents a significant policy change.

In Section 39.100 general principles for use classifications, under multiple uses on a site, is a provision that addresses accessory uses. TDC 39.100(3)(c) provides: “Accessory uses are allowed in conjunction with the primary use and subject to the same regulations as the primary use, unless stated otherwise in this code.” Some of the code sections directly address accessory uses. *See, e.g.,* Section 39.210 – Residential Accessory Uses. Other provisions refer to accessory uses in passing. *See, e.g.,* Section 39.400(1) (“Products are generally not displayed or sold on site, but if so, sales and display are accessory to the primary use and subject to restrictions[.]”) The MBP zone provision only discusses as permitted offices that are accessory to a permitted industrial use. TDC 64.210(3)(b). Given the language of TDC 39.100(3)(c) and sporadic references to accessory uses throughout the code, it is not clear that accessory uses are allowed for all permitted uses in all zones or for all permitted uses in the MBP.

TIG encourages the City Council to direct staff to amend TDC 39.100(3)(c) to provide: “Accessory uses are allowed in all zones in conjunction with the primary use and subject to the same regulations as the primary use, unless stated otherwise in this code.” Alternatively, staff should insert into Table 64-1 Use Categories in the MBP Zone the Use Category “Accessory Use” with the limitation “incidental and subordinate to a permitted or conditionally permitted primary use” or insert the current code language as another provision under Section 64.210.

Several current TDC uses are omitted or substantially altered in the amendments.

Several provisions do not appear in the code amendments, or appear in modified form, that were contained in the current TDC. These are listed in bullet form below:

- The current TDC 64.020 allows “Public Work Shop and Storage Yard” as a permitted use in the MBPP. While the outdoor storage of materials and products directly related to the permitted use is allowed under TDC 64.210(5), the public work shop use is not found under the proposed new MBP provisions. Also, this use is not found elsewhere in the amendments. Public Work Shop and Storage Yard should be included as a permitted use in the MBP Zone.
- The amended TDC 64.210(4)(a), which governs additional permitted uses for the Tonquin Light Manufacturing Overlay, should use the same language as the current code for machine shop uses. Current TDC 64.036(1)(d) provides as an allowed use “Machine Shop, including automotive and truck machine shop, of 7,500 sq. feet or larger.” On the other hand, the proposed amendment to TDC 64.210(4)(a) allows for “machine shop of 7,500 square feet or larger” and TDC 39.400(2), the light

manufacturing examples of uses, lists “Machine shop, including automotive machine shop.” But both omit any reference to allowed truck machine shops. The amendments should ensure that in the Tonquin Light Manufacturing Overlay, machine shops of 7,500 square feet or larger, to include automotive and truck machine shops, are permitted outright, as they are under the current code. Trucks are vital to the types of industrial uses permitted in the overlay. Either amendment TDC 64.210(4)(a) or TDC 39.400(2) should be further amended to mirror the current TDC 64.036(1)(d) language.

- The term “motor freight facility” used in amendment TDC 64.210(4)(a) should be replaced by the language currently used in section 64.036(1): “Motor Freight Facility including: office, repair and maintenance, and transfer and storage for vehicles, equipment and materials.”

TIG has also identified what it believes are typos or mis-quotes in the amendments that should be corrected before adoption of the amendments. These include:

- Table 64-2, Lot size for parcels in RSIA has a code reference to TDC 64.410(3). The reference should be to TDC 64.310(3).
- TDC 75.050(1) does not appear to make sense – particularly the first and second sentences. Also, the provision appears to mis-cite a TDC provision (the citation should be to TDC 75.050 not 75.030).
- TDC 75.110(2) should read “in accordance with 75.060 of this chapter” not “75.090”.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,

*Wendie L. Kellington*

Wendie Kellington

CC: Clients

## REVISIONS TO PTA 18-0003 (TDCIP) DRAFT CODE

City Staff propose revisions, highlighted in yellow, to the provisions below:

### **Section 39.100 – Use Classifications – General Principles.**

(3) **Multiple Uses on a Site.** Uses may be regulated differently depending on the nature of the use on a site, in accordance with this section.

(a) **Multiple Primary Uses.** When all primary uses on a site fall within one use category, then the development falls within that use category. When the primary uses on a site fall within different use categories, each primary use is classified in the applicable use category and is subject to the regulations for that use category.

(b) **Limited Uses.** Limited uses are uses or activities that are allowed and may be subject to additional regulations beyond those required of the primary use.

(c) **Accessory Uses.** Accessory uses are uses or activities that are subordinate and incidental to a primary use on a site. Accessory uses are allowed **in all zones** in conjunction with the primary use and subject to the same regulations as the primary use, unless stated otherwise in this code.

### **Section 39.400 – Light Manufacturing.**

#### **(2) Examples of Uses.**

- Building, heating, plumbing and electrical contractor's offices, with on-site storage of equipment or materials.
- Food, beverage, and related product processing and packaging.
- Laundry, dry cleaning, dyeing or rug cleaning plant (non-retail).
- Machine shop, including automotive **and truck** machine shop.
- [...]

#### **(3) Exceptions.**

- Certain manufacturing uses are classified exclusively as Heavy Manufacturing.
- Structural-mechanical testing laboratories are classified as Heavy Manufacturing.
- Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services.
- Compost production and rendering plants are classified as Solid Waste Treatment and Recycling.
- The following uses are prohibited in all zones:
  - Auto wrecking.
  - Creosote treatment of products.
  - Distillation of bones.
  - Distillation of oil, coal, wood or tar compounds.
  - Fat rendering.
  - Forge plants.
  - **Storage, transfer, or processing of hazardous, toxic, or radioactive waste.**
  - Junk or salvage yard.
  - Manufacturing of the following products: acid; ammonia; bleaching powder; celluloid pyroxylin; cement, lime, gypsum and plaster of paris;

chlorine gas; creosote; disinfectant; dye stuffs; explosives; fertilizer; herbicides; insect poison; radioactive materials; soap; sodium compounds; tar roofing, water-proofing and other tar products.

- Rolling mills or saw mills.
- Rock crushing.
- Slaughter of livestock or poultry.
- Primary processing of organic materials such as tanning of leather.

### **Section 39.410 – Heavy Manufacturing.**

#### **(3) Exceptions.**

- Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Services.
- Compost production and rendering plants are classified as Solid Waste Treatment and Recycling.
- **The following uses are prohibited in all zones:**
  - Auto wrecking.
  - Creosote treatment of products.
  - Distillation of bones.
  - Distillation of oil, coal, wood or tar compounds.
  - Fat rendering.
  - Forge plants.
  - **Storage, transfer, or processing of hazardous, toxic, or radioactive waste.**
  - Manufacturing of the following products: acid; ammonia; bleaching powder; celluloid pyroxylin; cement, lime, gypsum and plaster of paris; chlorine gas; creosote; disinfectant; dye stuffs; explosives; fertilizer; herbicides; insect poison; radioactive materials; soap; sodium compounds; tar roofing, water-proofing and other tar products.
  - Rolling mills or saw mills.
  - Rock crushing.
  - Slaughter of livestock or poultry.

### **Section 39.440 – Warehouse and Freight Movement.**

#### **(3) Exceptions.**

- Uses that involve the transfer or storage of solid or liquid wastes are classified as Solid Waste Treatment and Recycling.
- Storage facilities that provide individual units to the general public are classified as Self-Service Storage.
- **Storage, transfer, or processing of hazardous, toxic, or radioactive waste.**

### **Section 39.450 – Wholesale Sales.**

#### **(3) Exceptions.**

- Companies that engage primarily in sales to the general public are classified as Retail Sales and Services.



- Companies that engage in sales on a membership basis are classified as either Retail Sales and Services or Wholesale Sales, based on the characteristics of the use.
- Companies that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.
- Storage, transfer, or processing of hazardous, toxic, or radioactive waste.

**Section 63.058 – Dangerous Substances.** All uses and development are prohibited from the storage, transfer, or processing of hazardous, toxic, or radioactive waste.

**Excerpt of Table 60-1**

<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas	P	--
Public Safety Facilities	P (L)/C (L)	Permitted uses limited to public works storage yard and shop Conditional uses limited to fire station.
Wireless Communication Facility	P (L)	Commercial radio or TV broadcasting antennas not permitted. All other uses permitted outright. Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Excerpt of Table 61-1**

<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas	P	--
Public Safety Facilities	P (L)/C (L)	Permitted uses limited to public works storage yard and shop Conditional uses limited to fire station.
Wireless Communication Facility	P (L)	Commercial radio or TV broadcasting antennas not permitted. All other uses permitted outright. Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Excerpt of Table 64-1**

<b>INFRASTRUCTURE AND UTILITIES USE CATEGORIES</b>		
Basic Utilities	P	--
Greenways and Natural Areas.	P	--
Public Safety Facilities	P (L)	Permitted uses limited to public works storage yard and shop.
Transportation Facilities	P	--
Wireless Communication Facility	P/C (L)	Permitted uses limited to: <ul style="list-style-type: none"> <li>o Wireless Communication Facility Attached.</li> </ul> Conditional uses limited to: <ul style="list-style-type: none"> <li>o Wireless Communication Facility.</li> </ul> Subject to maximum height and minimum setback standards defined by TDC Chapter 73F.

**Excerpt of Table 64-2**

<b>STANDARD</b>	<b>REQUIREMENT</b>	<b>LIMITATIONS AND CODE REFERENCES</b>
<b>LOT SIZE</b>		
Minimum Lot Size for Parcels not Identified in the RSIA	20,000 square feet	See map 9-5 for RSIA boundaries.
Minimum Lot Size for Parcels Identified in the RSIA	--	See map 9-5 for RSIA boundaries. Minimum lot size subject to see TDC 64.310(3).

**Section 64.210 – Additional Limitations on Uses.**

(4) **Tonquin Light Manufacturing Overlay.** Additional uses are permitted in the Tonquin Light Manufacturing Overlay, shown on Map 9-5. Uses within the overlay are subject to the standards of this section.

(a) **Additional Permitted Uses.** All permitted or conditional uses in the Light Manufacturing Zone are permitted under the same status in the MBP Zone, except that the following uses are permitted outright: contracting firms with on-site storage of equipment and materials; machine shop, including automotive and truck machine shop, of 7,500 square feet or larger; cold storage warehouse; motor freight facility,

including office, repair and maintenance, and transfer and storage for vehicles, equipment, and materials; and caretaker residence.

**Section 75.030 Freeways and Arterials Defined 75.050 – Access Limited Roadways.**

(1) This section shall apply applies to all City, County and State public streets, roads and highways developments, permit approvals, land use approvals, partitions, subdivisions, or any other actions taken by the City pertaining to property abutting any road or street listed in TDC 75.050(2). In addition, any property not abutted by a road or street listed in TDC 75.050(2), but having access to an arterial by any easement or prescriptive right, must be treated as if the property did abut the arterial and this Chapter applies.

**Section 75.110 – Joint Access Standards.** When the City Manager determines that joint accesses are required by properties undergoing development or redevelopment, an overall access plan shall be prescribed by the City Manager and all properties shall adhere to this. Interim accesses may be allowed in accordance with TDC 75.060 of this chapter to provide for the eventual implementation of the overall access plan.

**Section 75.120 – Collector Streets Access Standards.**

**75.120(3)** If access is not able to be relocated to the nearest local street, the City Manager may allow interim access in accordance with 75.060 of this chapter to provide for the eventual implementation of the overall access plan.