Emergency Vet Clinic of Tualatin

Emergency Vet Clinic of Tualatin

8250 SW Tonka St.
Tualatin, Oregon 97224

DEVELOPMENT REVIEW NARRATIVE

July 1, 2022 (revised August 31, 2022)

PROJECT NUMBER: 210062.01

CIDA
ARCHITECTURE
ENGINEERING
PLANNING
INTERIORS
LANDSCAPE

15895 SW 72ND AVE
SUITE 200
PORTLAND, OR 97224
PHONE: 503.226.1285
FAX: 503.226.1670
INFO@CIDAINC.COM
WWW.CIDAINC.COM

Introduction

This application seeks approval for the tenant improvement addition to the Emergency Vet Clinic of Tualatin (EVCOT) located at 8250 SW Tonka Street Tualatin, Oregon. The existing facility is a wooden barn built approximately in 1910 with a wooden framed addition to the east added between 1964 and 1970. In 2014/ 2015 the property was renovated and expanded to become the home of the Emergency Veterinary Clinic of Tualatin. This new addition will be wood framed construction and will be seismically separated from the existing structure. The proposed project will include new exam rooms at the west end of the building, new tech space, break room, and laundry room on the southside of the building. Additionally, a larger addition to the east side to expand the space of the current tenant also occupying the building.

Approval Criteria.

The Application meets the relevant approval criteria as demonstrated below.

Tualatin Municipal Code

03-02: Sewer Regulations

TMC 3-2-020 - Application, Permit and Inspection Procedure.

(1) No person shall connect to any part of the sanitary sewer system without first making an application and securing a permit from the City for such connection, nor may any person substantially increase the flow, or alter the character of sewage, without first obtaining an additional permit and paying such charges therefore as may be fixed by the City, including such charges as inspection charges, connection charges and monthly service charges.

(2) Upon approval of the application and payment of all charges, the City will issue a sewer connection permit for the premises covered in the application. The application and permit shall be on forms provided by the City.

(3) After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewer, the grade, materials, or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued except with written permission from the City. The applicant's signature on an application for any permit as set forth shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other City of Tualatin ordinances, rules and regulations, laws of the State of Oregon, and with the plans and specifications filed with the application, if any, together with such corrections or modifications as may be made or permitted by the City, if any. Such agreement shall be binding upon the applicant and may be altered only by the City upon the written request for the alteration from the applicant.

(4) It shall be the duty of the person doing the work authorized by permit to notify the City that said work is ready for inspection.

(5) All sewer construction work shall be inspected by an inspector acting for the City to insure compliance with all requirements of the City. No sewer shall be covered at any point until it has

been inspected and passed for acceptance. No sewer shall be connected to the City's public sewer until the work covered by the permit has been completed, inspected, and approved by the inspector. All sewers shall be tested for leakage in the presence of the inspector and shall be cleaned of all debris accumulated from construction operations.

(6) When any work has been inspected and the test results are not satisfactory, a written notice to that effect shall be given instructing the owner of the premises, or the agent of such owner, to repair the sewer or other work authorized by the permit in accordance with the ordinances, rules and regulations of the City.

(7) All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the work.

(Ord. 496-80 §2, 1-14-80)

Response: The existing building on the subject site currently has a sanitary connection and service and is assumed to be in good working order. There are no proposed changes to the existing sanitary lateral or connection.

TMC 3-2-030 - Materials and Manner of Construction.

(1) All building sewers, side sewers and connections to the main sewer shall be so constructed as to conform to the requirements of the Oregon State Plumbing Laws and rules and regulations and specifications for sewerage construction of the City.

(2) Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the City Inspector, to meet all requirements of the City.

(3) A public works permit must be secured from the City and other agency having jurisdiction by owners or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

(4) The City and its officers, agents or employees shall not be answerable for any liability or injury or death to any person or damage to any property arising during or growing out of the performance of any work by any such applicant. The applicant shall be answerable for and shall save the City and its officers, agents and employees harmless from any liability imposed by law upon the City or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same.

(Ord. 496-80 §3, 1-14-80)

Response: There are no proposed changes to the existing sanitary lateral or connection.

TMC 3-2-040 - Restrictions As to Use of Sanitary Sewer System.

(1) Neither temporary nor permanent drainage of excavations into the sanitary sewerage system shall be permitted. Drainage from roofs, foundation drains, uncontaminated cooling water, surface or ground water drains shall not be permitted into the sanitary sewerage system. Overflows or drains from private or public swimming pools shall not be permitted without written consent of the City.

(2) The City reserves the right to reject the application for service for any property owner upon whose property industrial or commercial activities create a waste of unusual strength, character or volume. All applications for the discharge of industrial waste shall be reviewed on an individual basis by the City. Certain restricted wastes may require pretreatment facilities prior to discharge to the sewerage system. Where pretreatment facilities are required, they shall be installed and maintained continuously by the owner at his expense in satisfactory and effective operation. An inspection and sampling manhole shall be constructed and made available to the City for examination and testing at any time.

(3) No person shall discharge or cause to be discharged any substances, materials, waters, or wastes, if it appears likely to the City that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance, or will violate standards established by the Department of Environmental Quality. In determining the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials used in construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors.

(4) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process; or which constitute a hazard in the receiving waters of the sewage treatment plant including but not limited to cyanides.

(c) Any waters having a pH lower than six and one-half or higher than eight and one-half, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(e) Oil-component wastes, except where separators are employed, the effluent from which contains no more than 20 Mg/L of oil.

(f) Any liquid or vapor having a temperature higher than 150° F. (65° C.)

(g) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 Mg/L or containing substances which may solidify or become viscous at temperatures between 32° and 150° F. (0° and 65° C.)

(h) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of ¾ horsepower or greater shall be subject to review and approval of the City.

(i) Any waters or wastes containing strong acid, iron, pickling wastes or concentrated plating solutions, whether neutralized or not.

(j) Any waters or wastes containing iron, [chromium], copper, zinc, lead, fluorides, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established for such materials.

(k) Any waters or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the USA as necessary, after treatment of the composite sewage to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(l) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the USA in compliance with applicable state or federal regulations.

(m) Materials which exert or cause:

(i) Unusual concentration of inert suspended solids (such as, but not limited to, fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodiumchloride and sodium sulfate).

(ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(n) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of discharge to the receiving waters.

(o) Industrial plants may be required to have separate collection systems; one system to be installed for customary sanitary sewerage connected directly to the City system; a second system to be installed to collect processing wastes from shop sinks, floor drains, wash stations, plating or cleaning works, and all other industrial waste sources. The second system is to discharge into an exterior concrete sump of sufficient capacity to hold at least one day's discharge from these sources and be connected to the City system only by a valved overflow. The sump shall be readily accessible for inspection and analysis by the City and the USA, and only properly treated or neutralized wastes will be allowed to flow into

the City system. The City reserves the right to require that City approval be secured for each incident of discharge.

(5) The interpretation of technical provisions of this ordinance, review of plans and specifications required thereby, determination of the suitability of alternate materials and types of construction and the development of rules and regulations covering unusual conditions not inconsistent with the requirements of this ordinance shall be made by the City and, where necessary, in consultation with the USA.

(Ord. 496-80 §4, 1-14-80)

Response: No Runoff from the roof, parking lot, or other impervious area is proposed to connect into the sanitary sewer system. All waste discharge will meet applicable effluent requirements.

TMC 3-2-050 - Industrial Wastes.

(1) The admission into the public sewers of any waters or wastes having (a) five-day Biochemical Oxygen Demand greater than 250 milligrams per liter; or (b) containing more than 300 milligrams per liter of suspended solids, shall be subject to the review and approval of the City. Where it is deemed necessary by the City, the owner shall provide, at his expense, such preliminary treatment as may be necessary to: (a) reduce the Biochemical Oxygen Demand to 250 milligrams per liter; (b) reduce objectional characteristics or constituents to within the maximum limits provided for; or (c) control the quality, quantities, and rates of discharge of such waters or wastes.

(2) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the City. No construction of such facilities shall be commenced until said approvals are obtained in writing.

(3) Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense and available for inspection at any time by the City.

(4) When required by the City, any owner of any property served by a side sewer carrying industrial wastes shall install a suitable sampling station in the side sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at the owner's expense and shall be maintained by him or her so as to be safe and accessible at all times.

(5) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made shall be determined in accordance with standard methods and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the side sewer is connected.

(6) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and USA and any industrial concern whereby industrial wastes of unusual strength or character may be accepted by the City and USA for treatment, subject to

payment therefor by the industrial concern and subject to such terms and conditions as might be required by either agency.

(Ord. 496-80 §5, 1-14-80)

Response: There is not anticipated industrial waste.

TMC 3-2-060 - Use of Public Sewers Required.

(1) No person shall discharge to a natural outlet within the City of Tualatin, or in an area under the jurisdiction of the City, any sewage or polluted waters, except where suitable treatment has been provided in accordance with this ordinance.

(2) Except as provided in this chapter, no person shall construct or maintain a privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage within the corporate limits of the City of Tualatin, or in any area under the jurisdiction of the City.

(3) The owner of all buildings situated within the City and abutting on a street, sewer easement, alley or right-of-way in which there is located a public sanitary sewer of the City is required at his or her expense to connect such building directly with the proper public sewer, either by gravity or with approved pumping facilities, in accordance with this ordinance, within 90 days after the date of official notice to do so; provided that the public sewer is available to or on the property and/or at a property line of the property and the structures or buildings are within 300 feet of the public sewer.

(a) In the event that, during the period of 90 days, the owner files written objections with the City Recorder against being required to connect to the public sewer, the City shall not enforce this subsection upon the owner until the Council shall have, at a meeting, heard the objections of the owner and rendered its decision. The meeting of the Council at which the objections are heard shall be held not less than ten days or more than 30 days from and after the date of the filing of the objections with the City Recorder. Not less than seven days prior to the date set by the Council for the meeting, the City shall give due notice of the date set to the owner. The decision of the Council shall be final, and no appeal shall be taken by the owner except as is provided by law.

(b) In its consideration of filed written objections, the City Council may defer the required connection to the public sewer in the following cases:

(i) Where the sewer line which could serve the owner's property is (a) extended by a person other than the owner to benefit property other than the owner's property; and (b) the owner's pro rata share of the cost of construction of the sewer line extension is not payable under the provisions of the Bancroft Bonding Act (ORS Chapter 223), then the required sewer connection may be deferred until declaration by the City Council of a health hazard resulting from nonconnection, or the termination date of a reimbursement agreement between the City and the person making the sewer line extension, whichever event first occurs.

(ii) In those cases where a structure or structures are located and used upon real property in such a manner that the use is a non-conforming use under the City of

Tualatin zoning ordinance, then connection to the public sewer may be deferred for a period of two years after official notice to connect, or declaration by the City Council of a health hazard resulting from nonconnection, or a change in the use or occupancy of the premises, whichever event first occurs.

(iii) A connection to the public sewer may be deferred until construction of a sanitary sewer improvement in the vicinity of the owner's property in such cases where the Public Works Director shall determine in writing that the owner's property will be better served by the sewer line to be constructed.

(4) In the event the owner does not connect to a public sewer in accordance with subsection (3) of this section, the Council may order the connection and assess the cost thereof in accordance with TMC 6-5-200 and 6-5-210.

(Ord. 496-80 §6, 1-14-80; Ord. 648-84, 10/22/84)

Response: The existing building contains an existing sanitary lateral connection. There are no proposed changes to the existing sanitary lateral or public connection.

TMC 3-2-080 - Sewer Contractor Insurance and Bond.

(1) No person shall make connections of private sewers to the sanitary sewer system of the City on behalf of any owner or owners of property within the City without first filing with the Public Works Director a certificate of insurance evidencing coverage for public liability in the amount of $50,000.00 for injury or death to one person and $100,000.00 for injury or death to two or more persons arising out of a single occurrence, and $50,000.00 for property damage resulting from any single occurrence for any claims, demands, suits, or actions for property damage, personal injury or death resulting from any activities of such persons, firms or corporations and their officers, agents, employees, and contractors. The certificate of insurance shall be approved by the Public Works Director before any work is commenced by the person.

(2) In addition to the coverage for public liability, and prior to the commencement of any work, the person shall post a corporate surety bond issued by a company authorized to sell such bonds in the State of Oregon, with the Public Works Director. The financial limits of the bond shall be determined by the Public Works Director. The bond shall guarantee all work performed by said person, within the 12-month period next following the posting of the bond, for the benefit of the City, against defects in materials, workmanship, and labor for a period of one year after completion of the work. The person shall post such a bond for each 12-month period within which any such work shall be performed within the City. The completion date shall be determined in writing by the Public Works Director.

(Ord. 496-80 §8, 1-14-80)

Response: The existing building contains an existing sanitary lateral connection. There are no proposed changes to the existing sanitary lateral or public connection.

TMC 3-2-090 - Establishment of Fees, Rates and Charges.

The Council may, by resolution, establish and modify the fees, rates and charges which are collected for sewer service within the City. A copy of the resolution shall be attached to this ordinance in the book of ordinances and shall also be attached to a copy of this ordinance which is made available for public information.

(Ord. 496-80 §10, 1-14-80)

Response: Understood.

TMC 3-2-100 - Billing.

(1) Sewer service shall be billed at regular intervals, and payment shall be made within the first 20 days of the month following the month in which the billing period ends. The billing period shall be as determined by the City Manager.

(2) Closing bills shall be paid at the time of discontinuance of service.

(3) All sewer service charges shall be mailed to the premises where service is furnished, unless the property owner requests that the bill be submitted to another address.

(4) Accounts receiving less than a full month's service shall be billed for a proration (based on the number of days in the billing period) of the sewer service monthly charge.

(Ord. 496-80 §11, 1-14-80; Ord. 738-87, §1, 11-23-87)

Response: The existing building contains an existing sanitary service and billing account.

TMC 3-2-110 - Delinquent Accounts.

(1) Sewer service charges are due and payable within the first 20 days of a month immediately following a billing period. If such sewer service charges are not paid on or before the 30th day of a month immediately following a billing period, the account shall be delinquent and water service to the customer may be turned off in accordance with the procedure set forth in this section.

(2) Prior to the date scheduled for turnoff, the meter reader or other authorized agent of the City shall notify the customer of the scheduled turnoff as follows:

    (a) Unless the front door of the premises is inaccessible, the meter reader or City agent shall attempt to contact the occupant at such premises.

(b) If no adult person responds at the premises to the meter reader's or agent's attempted contact, then a written notice shall be affixed either on or near the door.

(3) The notification provided to the customer under this section shall state the following:

(a) Water service will be terminated due to nonpayment of sewer service charges;

(b) Water service termination may be avoided by paying delinquent charges;

(c) If sewer service charges are disputed the customer may contact the City Finance Department at telephone number 692-2000; and

(d) A specific date and time when water service will be terminated unless delinquent charges are first paid or unless the City Finance Department is notified that the sewer service charge is disputed. Such date shall be not less than five days from the date notification is provided.

(4) Except in the case of extreme hardship as determined by the City Manager, unless the delinquent sewer service charges are paid in full by the time and date indicated in the notification, or the City Finance Department is notified that the sewer service charge is disputed, the meter reader or City agent shall cause water service to be turned off after the date indicated in the notification. In cases of extreme hardship water service under a delinquent account may be restored where an acceptable schedule of installment payments for delinquent and current charges is arranged between the City and the customer.

(5) Except in cases of extreme hardship where an installment payment plan is arranged, pursuant to Subsection (4) of this section, whenever an account shall become delinquent three or more times within one fiscal year, an additional delinquency notification charge shall be assessed and collected on the next following billing and any future billings within the fiscal year for which the account is delinquent to cover the additional administrative expense on such account.

(6) In addition to the accrued sewer service bill and any other charges which may be assessed, the customer responsible for the sewer bill shall pay the water service restoration fee as established by the Council before water service is restored.

(7) Except where a customer has appealed a determination concerning sewer service or sewer charges, where the Finance Department is notified by a customer that such customer's sewer service charge is disputed, if water service has not yet been terminated, such termination shall be stayed until the disputed charges are examined and a determination is made. If the customer alleges that a problem with the meter exists, then the meter will be examined. If the sewer service charge is determined by the City to be correct, then the customer will be notified in writing of such finding and advised of the procedures available for appeal. If sewer service charges have been determined to be correct and the same as indicated in the delinquency notification, unless an appeal is filed in accordance with procedures applicable in cases of appeal from rulings or determinations made under the City's water utility ordinance, or such charges are paid, water service shall be terminated on or after the eleventh day following the City's written notification of its finding.

(Ord. 496-80 §12, 1-14-80; Ord. 837-91, §1, 7-22-91)

Response: Understood.

TMC 3-2-120 - Sewer Charge Liens.

(1) When for any reason the sewer service charges have not been paid, the City Manager shall proceed to collect the charges in the manner provided by law. In addition to any other remedies provided by law, the City Manager may cause a report and request for lien to be prepared and forward a copy by certified mail return receipt requested to the owner of record of the property. The property owner shall be notified that unless a hearing is requested to contest the City Manager's determination, the City will docket a lien against the property. Except as otherwise provided in subsection (2) of this section, requests for hearing shall be made and determined in accordance with procedures applicable to appeals of decisions of the City Manager pursuant to the City's water utility ordinance.

(2) At the hearing to determine the validity of the lien, the City Council may accept, reject, or modify the determination of the City Manager as set forth in the report. If the City Council finds that sewer service charges are payable by the owner as set forth in the report, unpaid and uncollected, it shall, by motion, direct the City Manager to docket the unpaid and uncollected sewer service charge in the City lien docket. Upon completion of the docketing, the City shall have a lien against the described property for the full amount of the unpaid charge, together with simple interest at the rate of ten percent per annum and with the City's actual cost of providing notice to the owner. The lien shall be enforceable in any manner provided in ORS Chapter 223. The docketing of a lien against the property by the City shall not preclude the City from pursuing other available remedies to collect such charges, interest, penalties and costs.

(Ord. 496-80 §14, 1-14-80; Ord. 837-91, §3, 7-22-91)

Response: Understood.

TMC 3-2-130 - Nonpayment of Bills.

A customer's water service may be discontinued if the sewer bill is not paid in accordance with TMC 3-2-100.

(Ord. 496-80 §15, 1-14-80)

Response: Understood.

TMC 3-2-140 - Noncompliance.

The City may discontinue water service to a customer for noncompliance with a City sewer regulation if the customer fails to comply with the regulation within five days after receiving written notice of the City's intention to discontinue service. If such noncompliance affects matters of health, safety or other conditions that warrant such action, the City may discontinue water service immediately.

(Ord. 496-80 §16, 1-14-80)

Response: Understood.

TMC 3-2-150 - Abandoned and Nonrevenue-Producing Services.

When an improvement which is connected to the sewer system is destroyed by fire or is torn down, the owner may file a written statement with the City Recorder stating the date of destruction or removal of the improvements and pay all sewer service charges up to the date of destruction or removal.

There will be no monthly service charge made to the property until new improvements are placed on the property and connected to the sewer system. If the new service size is larger than the previous connection, the customer shall pay a connection charge.

(Ord. 496-80 §17, 1-14-80)

Response: The existing building contains an existing sanitary service in good working order and there are no proposed changes or connections to the system.

TMC 3-2-160 - Construction Standards.

All sewer line construction and installation of services and equipment shall be in conformance with the City of Tualatin Public Works Construction Code. In addition, whenever a property owner extends a sewer line, the extension shall be carried to the opposite property line or to such other point as determined by the Public Works Director.

(Ord. 496-80 §18, 1-14-80)

Response: The existing building contains an existing sanitary service in good working order and no extensions to sanitary are proposed.

TMC 3-2-180 - Protection From Damage.

(1) No person shall maliciously, willfully, or as the result of gross negligence, break, damage, destroy, uncover, deface or tamper with any structure, facility, appurtenance or equipment which is a part of the sanitary sewer system of the City of Tualatin. This section does not apply, however, to any employee of the City during the time he or she is engaged in his or her official employment, nor to any person or persons authorized to work in any manner on the sewer system.

(Ord. 496-80 §20, 1-14-80)

Response: All existing sanitary infrastructure will be protected during construction.

TMC 3-2-190 - Powers and Authority of Inspectors.

The Public Works Director and other duly authorized employees of the City shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with this ordinance.

(Ord. 496-80 §21, 1-14-80)

Response: Duly authorized employees of the City will be granted access for inspection as required.

TMC 3-2-200 - Recovery of Damages.

Any person who, as the result of violating this ordinance, causes any expenses, loss or damage to the City of Tualatin, shall immediately become liable to the City for the full sum of such expense, loss or damage. The Council may, at its discretion, instruct the City Attorney to proceed against such person, in any court of competent jurisdiction, in a civil action to be brought in the name of the City of Tualatin, for the recovery of the full sum of such expense, loss or damage sustained by the City.

(Ord. 496-80 §22, 1-14-80)

Response: Understood.

TMC 3-2-210 - Penalty.

In addition to any other remedy provided in this chapter, violation this ordinance is punishable by a fine not to exceed $500.00.

(Ord. 496-80 §23, 1-14-80)

Response: Understood.

TMC 3-2-230 - Customer Request for Discontinuance.

(1) Any occupant or manager of property connected to the public sewer system may temporarily or permanently disconnect from service and discontinue further sewer service charges only by utilizing the procedures set forth in the water utility ordinance for permanent or temporary discontinuance of water service, as appropriate. When any premises within the City become vacant, totally unoccupied, or unused, and water service is discontinued and upon application of the owner thereof or their authorized agent, payment of all outstanding water, sanitary sewer, storm sewer and road utility charges, and approval by the Finance Director, the sewer utility fee shall thereafter not be billed and shall not be a charge against the property.

(Ord. 496-80 §26, 1-14-80; Ord. 837-91, §4, 7-22-91)

Response: There are no plans to disconnect or discontinue service for the existing building.

03-03: Water Service

TMC 3-3-030 - Application for Service.

(1) No water service will be provided without a signed application containing the following information:

(a) The location of the premises to be served.

(b) The date on which the applicant will be ready for service.

(c) The date of birth of the applicant.

(d) The driver's license number of the applicant.

(e) The address to which bills are to be mailed or delivered.

(f) Whether the applicant is an owner or tenant of the premises.

(g) An agreement to abide by all rules, regulations and ordinances of the City governing water service.

(h) Such other information as the City Manager may determine necessary for administration purposes.

(2) Two or more persons who join to make and submit a single application for service shall be jointly and severally liable for all applicable charges. Where the address of each person is indicated as the same, separate bills need not be sent.

(3) In addition to or in lieu of applications for service, the City Manager may require other forms of security prior to providing service.

(4) The City may terminate service, if service to the premises is turned on without first submitting an application and obtaining City approval. In addition to other remedies provided by this ordinance, before service is restored following termination pursuant to this section, the applicant shall pay double the applicable rate for the quantity of water consumed, as estimated by the City Manager.

(5) Where service to premises is provided, charges imposed and billed, and such charges have remained unpaid and the account has become delinquent, in addition to other remedies provided by this ordinance or other law, the City may require the following as a condition of providing future water service:

(a) When a tenant's account on leased premises has become delinquent and the tenant vacates the premises without paying the account in full, the property owner shall satisfy the outstanding water service charges or submit a joint application with the future tenant before water service will be restored.

(b) The City may refuse to provide service to any premises where the person to whom service has been provided has failed to pay previously imposed water service charges until such unpaid charges are paid in full.

(Ord. 839-91 §3, 7-22-91; Ord. 1269-08 §1, 8-11-08)

Response: The existing building currently has an existing water service in good working order. No changes to the water service are planned.

TMC 3-3-040 - Separate Services Required.

(1) Except as authorized by the City Engineer, a separate service and meter to supply regular water service or fire protection service shall be required for each building, residential unit or structure served. For the purposes of this section, trailer parks and multi-family residences of more than four dwelling units shall constitute a single unit unless the City Engineer determines that separate services are required.

(2) For nonresidential uses, separate meters shall be provided for each structure. Separate meters shall also be provided to each buildable lot or parcel on which water service is or will be provided.

(Ord. 839-91 §4, 7/22/9)

Response: The existing building currently has an existing water service in good working order. No additional water services are planned.

TMC 3-3-050 - Regular Service.

(1) Upon the application for water service, and payment of all charges, the City will install a service connection and meter of such size and location as approved by the City Engineer. Service connections and meters larger than two inches may be installed by the property owner after approval from the City Engineer.

(2) Where the service connection and meter have been installed, regular service shall be provided upon application and payment of all charges if the structure for which service is desired complies with Subsection (3) of this section.

(3) Regular service shall not be provided until the structure to which water is furnished has received either an approved final inspection in the case of a single-family residence, or a temporary or permanent certificate of occupancy in the case of all other structures.

(4) The customer shall, at the customer's own risk and expense, furnish, install and keep in good and safe condition equipment that may be required for receiving, controlling, applying and utilizing water. The City shall not be responsible for loss or damage caused by the improper care or wrongful act of the customer or the customer's agent in installing, maintaining, using, operating or interfering with the equipment.

(5) The service connection, whether located on public or private property, is the property of the City; and the City reserves the right to have it repaired, maintained and replaced.

(Ord. 839-91 §5, 7-22-91)

Response: The existing building currently has an existing water service in good working order. No changes to the water service are planned.

TMC 3-3-060 - Temporary Water Service.

(1) A person may not use a temporary connection to receive water from a City water source without first obtaining a permit from the City. A permit issued under this section is only valid at the connection location and duration of time specified by the City in the permit.

(2) Temporary water rates, permit fees, and any other related fees will be as established by resolution of the City Council.

(3) Temporary water service permits are only available for properties located within the corporate limits of the City of Tualatin.

(4) To obtain a temporary water service permit from the City, a person must:

  (a) Provide the name, address, and contact information of the person or business receiving the water;

  (b) Provide connection location and date(s) and time(s) the water connection is to be utilized;

  (c) Pay all applicable permit fees; and

  (d) Provide any other information the City Manager, or designee, deems necessary or appropriate to administer the permit.

(5) Temporary water service permits are subject to the following requirements:

  (a) The temporary water service permit is non-transferable valid for one year. The permit may be renewed for one additional one-year period for a maximum of two years;

  (b) Temporary water service will cease upon expiration of the permit;

  (c) The permit holder must pay all meter installation fees, permit fees, applicable deposits, water use fees, and comply with any other requirements or rules required by the City Manager related to temporary water service;

  (d) The maximum meter size for temporary water service is two inches;

(e) A backflow device is required to be installed on the water source before a person may receive temporary water service;

(f) The permit holder must inform any subsequent occupant of the property receiving the temporary service that the property is subject to a temporary water service permit; and

(g) Regular service will not be installed until final building inspection and application for regular service is made with the City.

(Ord. No. 1441-20 , § 2, 7-13-20)

Response: The existing building currently has an existing water service in good working order. Use of a temporary water service is not planned.

TMC 3-3-063 - Temporary Fire Hydrant Service.

(1) A person may not use a temporary hydrant connection to receive water from a City water source without first obtaining a permit from the City. A permit issued under this section is only valid at the connection location and duration of time specified by the City in the permit.

(2) Temporary hydrant service rates, permit fees, and any other related fees will be as established by resolution of the City Council.

(3) Temporary hydrant services are only available for properties located within the corporate limits of the City of Tualatin.

(4) To obtain a temporary hydrant service permit from the City, a person must:

(a) Provide the name, address, and contact information of the person or business receiving the water;

(b) Provide connection location and date(s) and time(s) the water connection is to be utilized;

(c) Pay all applicable permit fees; and

(d) Provide any other information the City Manager, or designee, deems necessary or appropriate to administer the permit.

(5) Temporary hydrant service permits are subject to the following requirements:

(a) The temporary hydrant service permit is non-transferable and valid for six months. The permit may be renewed for an additional six-month period for a maximum of one year;

(b) Temporary hydrant service cannot be used to supplement undersized water services or be used on an ongoing basis;

(c) Temporary hydrant service will cease upon expiration of the permit;

(d) The permit holder must pay all meter installation fees, permit fees, applicable deposits, water use fees, and comply with any other requirements or rules required by the City Manager related to temporary water service;

(e) Hydrant meters will be delivered and installed by City staff and locked to a preapproved hydrant for use for the duration of the permit; and

(f) Regular service will not be installed until final building inspection and application for regular service is made with the City.

(6) Upon termination of a temporary hydrant service permit, the meter and all equipment provided by the City must be returned to the City in the same condition as it was received. If the meter has not been returned to the City within ten days from the date of permit expiration, the City may retain any remaining deposit. Fee for water use, and/or the daily rental fee may still be billed in addition to the deposit when a hydrant meter is not returned.

(7) All funds placed on deposit for the hydrant meter or other equipment will be applied to charges owed to the City. Deposited funds that exceed charges will be returned to the permit holder.

(Ord. No. 1441-20 , § 3, 7-13-20)

Response: The existing building currently has an existing water service in good working order. No temporary hydrant service permits are planned.

TMC 3-3-065 - Water Fill Station Service.

(1) A person may not receive water from a City Water Fill station without first obtaining a permit from the City. A permit issued under this section is only valid for the amount of water and the connection location specified by the City in the permit.

(2) Water fill station rates, permit fees, and any other related fees will be as established by resolution of the City Council.

(3) To obtain a water fill station service permit from the City, a person must:

(a) Provide the name, address, and contact information of the person or business receiving the water;

(b) Provide the date(s) and time(s) the water connection is to be utilized, and estimated water needed;

(c) Pay all applicable permit fees; and

(d) Provide any other information the City Manager, or designee, deems necessary or appropriate to administer the permit.

(4) Water fill station service permits are subject to the following requirements:

(a) The water fill station service permit is non-transferable and valid for six months. The, permit may be renewed for additional six-month periods. There is no limit on the number of renewals.

(b) Water fill station service will cease upon expiration of the permit;

(c) The permit holder must pay all meter installation fees, permit fees, applicable deposits, water use fees, and comply with any other requirements or rules required by the City Manager related to temporary water service.

(Ord. No. 1441-20 , § 4, 7-13-20)

Response: The existing building currently has an existing water service in good working order. No water fill stations are planned.

TMC 3-3-070 - Damages, Liability, and Violations Related to Temporary, Fire Hydrant, or Water Fill Stations.

(1) A permit holder, as provided in TMC 3-3-060 (Temporary Water Service), TMC 3-3-063 (Temporary Fire Hydrant Service), or TMC 3-3-065 (Water Fill Station Service), is liable to the City for all damages to a meter, meter box, hydrant, or other City equipment or infrastructure, regardless of cause, including any improper use, damage from freezing temperatures, and any unauthorized water used by another person. A permit holder must promptly pay the repair or replacement costs associated with any damage. Failure of a permit holder to promptly pay for such damages is grounds for suspension of all City water service.

(2) Violation of any provision of TMC 3-3-060 (Temporary Water Service), TMC 3-3-063 (Temporary Fire Hydrant Service), or TMC 3-3-065 (Water Fill Station Service) is a civil infraction and subject to a fine of up to $1,000.00. Each day, and each day that a violation continues, is a separate civil infraction.

(3) The remedies provided herein are in addition to any other remedy provided by law.

(Ord. No. 1441-20 , § 5, 7-13-20)

Response: Understood.

TMC 3-3-080 - Fire Protection Service.

Fire protection facilities will be allowed under the following conditions:

(1) The owner of a fire protection system shall furnish and install a service meter approved by the City.

(2) When a building has a fire protection service which is separate from the regular water service to the building, an appropriate backflow device, but not less than a double check detector check, approved by the Operations Director, shall be used in place of a service meter. Water supplied through this service shall not be used for any purpose except for suppressing a fire or testing of the fire protection system. If registration of regular water usage is recorded on the detector check meter, the City may require installation of a service meter or removal of the fire protection service.

(3) The service meter shall be owned and maintained by the City and the appropriate backflow device shall be owned and maintained by the owner.

(4) No charge shall be made for water used in the extinguishing of a fire or system testing if the customer reports the use to the City in writing within ten days of the use.

(5) Water may be obtained from fire protection facilities for filling a tank connected with the fire service, but only if written permission is secured from the City in advance and an approved means of measurement is available and utilized. The water used shall be charged at the rates for general use.

(6) Charges for fire protection service shall be as specified in the rates and charges.

(Ord. 839-91 §8, 7-22-91)

Response: No changes to fire protection service are planned.

TMC 3-3-090 - Interruptions in Service.

The City will make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall endeavor to reestablish service with the shortest possible delay consistent with the safety of its consumers and the general public. The City may resort to temporary shutdowns or interruptions in service in order to carry out improvements and repairs. Insofar as practical, and as time permits, the City will endeavor to give prior notice to the affected customers, but such notice shall not be required in case of interruption due to emergency repairs or where the condition is unanticipated. The City shall not be liable for damage resulting from an interruption in service.

(Ord. 839-91 §9, 7-22-91)

Response: Understood.

TMC 3-3-100 - Meters.

(1) Meters up to and including two inches will be furnished by the City. Meters larger than two inches may be furnished by the customer upon approval of the Operations Director.

(2) All meters, including those for fire protection service, shall be located within the public right-of-way or within an access easement approved by the City Engineer.

(3) All meters, whether furnished by the City or a customer, shall be owned and maintained by the City.

(4) Meters will be sealed by the City at the time of installation, and no seal shall be altered or broken except by one of its authorized agents.

(5) If a change in size of a meter and service is required, the change shall be accomplished on the basis of a new installation.

(6) The customer is responsible for maintaining access to the meter free and clear of all shrubs, landscaping and other materials. Any obstructions may be trimmed or removed by the City and the cost therefore billed to the customer of the premises served.

(Ord. 839-91 §10, 7-22-91)

Response: The existing building currently has an existing water meter. No changes to the water service are planned.

TMC 3-3-110 - Construction Standards.

All water line construction and installation of services and equipment shall be in conformance with the City of Tualatin Public Works Construction Code. In addition, whenever a property owner extends a water line, which upon completion, is intended to be dedicated to the City as part of the public water system, said extension shall be carried to the opposite property line or to such other point as determined by the City Engineer. Water line size shall be determined by the City Engineer in accordance with the City's Development Code or implementing ordinances and the Public Works Construction Code.

(Ord. 839-91 §10, 7-22-91)

Response: The existing building currently has an existing water service in good working order. No new services or main extensions are planned.

TMC 3-3-120 - Backflow Prevention Devices and Cross Connections.

(1) Except where this ordinance provides more stringent requirements, the definitions, standards, requirements and regulations set forth in the Oregon Administrative Rules pertaining to public water supply systems and specifically OAR 333 Division 61 in effect on the date this ordinance becomes effective are hereby adopted and incorporated by reference.

(2) The owner of property to which City water is furnished for human consumption shall install in accordance with City standards an appropriate backflow prevention device on the premises where any of the following circumstances exist:

(a) Those circumstances identified in regulations adopted under subsection (1) of this section;

(b) Where there is a fire protection service, an irrigation service or a nonresidential service connection which is two inches or larger in size;

(c) Where the potable water supply provided inside a structure is 32 feet or more, higher than the elevation of the water main at the point of service connection;

(3) All double check detector assemblies used for system containment on fire protection services shall be approved by the Oregon State Health Division. The meter register on all double check detector assemblies shall be indicated in cubic feet measurement.

(4) Except as otherwise provided in this subsection, all irrigation systems shall be installed with a double check valve assembly. Irrigation system backflow prevention device assemblies installed before the effective date of this ordinance, which were approved at the time they were installed but are not on the current list of approved device assemblies maintained by the Oregon State Health Division, shall be permitted to remain in service provided they are properly maintained, are commensurate with the degree of hazard, are tested at least annually, and perform satisfactorily. When devices of this type are moved, or require more than minimum maintenance, they shall be replaced by device assemblies which are on the Health Division list of approved device assemblies.

(5) Any installation, corrective measure, disconnection or other change to a backflow prevention device shall be performed at the sole expense of the owner of the property. All costs or expenses for any correction or modification to the City's system caused by or resulting from a cross connection shall be the responsibility of the owner and/or the user of the cross connection.

(6) Any backflow prevention device which is installed on property for the protection of the City water supply shall be tested at the time of installation and immediately after the device is moved or relocated. The property owner shall forward the results of such testing to the Operations Director within ten days of the date of installation or relocation.

(Ord. 839-91 §12, 7-22-91)

Response: No new backflow devices or changes to existing ones are planned.

TMC 3-3-130 - Control Valves.

The customer shall install a suitable valve, as close to the meter location as practical, the operation of which will control the entire water supply from the service. The operation by the customer of the curb stop in the meter box is prohibited.

(Ord. 839-91 §13, 7-22-91)

Response: The existing building currently has an existing water service in good working order. No changes to the water service are planned.

TMC 3-3-140 - Establishment of Fees, Rates and Charges.

(1) The City Council adopts the following charge classifications, together with the purpose noted. The City Council adopts and may amend by resolution the attached charges, rates, and fees for the use of the City water supply system and for other materials and services provided by the City in connection with such system. For purposes of this ordinance and any resolutions establishing fees under this ordinance, the following fees and charges shall mean:

(a) Facility Charge. Charges for the fixed and maintenance costs of having the water system available to provide water.

(b) Usage or Consumption Charge. The charge that covers the volume of water delivered to the customer's premises.

(c) Service Charge. A charge for meter reading, preparing the bill, accounting for the receipt of payment, maintaining customer records and responding to customer inquiries.

(d) Delinquency Notification Charge. In addition to accrued finance charges, any customer who has not been granted an extension of time for remittance of any fee imposed by this ordinance and who has failed to pay the fee on or before the date required for such payment within a fiscal year shall pay a penalty, referred to as the "delinquency notification charge."

(e) Fire Protection Service Charges. A charge for service, defined in TMC 3-3-020(2).

(f) Hydrant and Temporary Water Usage Charges. Various fees relating to the temporary use of City equipment to enable water service to be temporarily obtained from a fire hydrant, including but not limited to the deposit for valves and wrenches, the permit fee and usage charges.

(g) Connection Charges. Charges for direct connection to the City water system or for enlarging or adding to the service connection that increases the potential flow into the customer's premises.

(h) In Lieu of Tax Payment. Property which lies outside of the City limits and receives water service shall pay an in lieu of tax payment, which represents an amount equivalent to what an owner of property within the City would otherwise pay for local improvements or for debt service on the water system capital improvement bonds.

(i) Service Restoration Charge. Where service has been discontinued either by removal or shut off of the valve, but not due to violation of TMC 3-3-200(1), a charge shall be imposed and collected for restoring service.

(j) Emergency or Other Shut-Off Charge or Turn On. Where the service is removed, shut off or turned on depending on whether the request is fulfilled during or outside of normal City business hours, a shut off or turn on service charge shall be imposed and collected.

(k) Charge for Processing Non-Sufficient Funds (NSF) Checks. When a check used to pay charges to the City is returned to the City by the bank or other financial institution from which it is drawn due to insufficient funds or the account is closed, a charge will be imposed. The collection of this charge is in addition to and not in lieu of any criminal penalties that may be available.

(l) Charge for restoring a meter that was removed by the City due to violation of TMC 3-3-200

(m) Water Service Charge. A fee imposed and collected for water service, consumption and facilities, and where applicable, a fire protection system.

(2) Except as specifically provided in this ordinance or by resolution, all charges and service fees shall be due and payable within 20 days of billing for provision of service.

(3) It shall be unlawful and a violation of this ordinance for any person to use or maintain connection to the City system without paying the appropriate charges and fees established in this Section or any resolution adopted pursuant hereto, or to fail to pay such fee or fees on time.

(4) Nothing in this chapter shall in any way limit the right of the City to bring a civil action for legal or equitable remedies or damages in connection with failure to pay, or late payment of any charge or fee established in this ordinance or the right of the City to terminate water service through the disconnection of the service line, or other appropriate means. The expense of such a disconnection or discontinuance, as well as the cost of restoring service, shall be a debt due the City and shall be recoverable in the same manner as other delinquent charges and fees.

(5) In addition to any other remedies provided by this chapter or by law, the City may refuse to issue any permit to any person who is delinquent in any payment due the City, and may discontinue service pursuant to TMC 3-3-200.

(Ord. 839-91 §14, 7-22-91; Ord. 1269-08, §2, Amended, 08-11-08)

Response: Understood.

TMC 3-3-150 - Water Service Charges.

(1) The water service charge shall be imposed where one or more of the following conditions are present:

(a) For the occupancy of property which maintains connection to the public water system;

(b) For the actual use of water originating with the public water supply system; or

(c) For the maintenance of water service.

(2) Payment of the water service charge shall be the responsibility of the user. The occupant shall be responsible for charges for occupied property. For multi-tenant or unoccupied property, the charge

shall be the responsibility of the manager of the property who has the authority direct or indirect, to control water service to the property.

(3) For billing purposes, the City may presume that the owner of property is the user, occupant or manager of the property. Except as otherwise provided, water services charges shall be mailed to the customer at the address of the premises where water service is furnished. The City may also mail a separate bill to the owner of leased premises. If the owner is not the user, occupant or manager, and notifies the City in writing of that fact, and provides the City with the name and address of the actual user, occupant or manager, the City shall cancel the original bill and submit a corrected bill to the actual user, occupant or manager.

(4) It shall be a violation of this ordinance to knowingly provide false information to the City regarding any fact related to billing of a water service charge or other charge of the City.

(Ord. 839-91 §15, 7-22-91)

Response: The existing building currently has an existing water service with a billed account paying the water service charges.

TMC 3-3-160 - Adjustment of Accounts.

(1) The Finance Director may adjust a customer's account for any of the following circumstances:

(a) Accounts receiving less than one full month's service shall be billed for the actual consumption in the partial month, and a pro-ration (based on the number of days in the billing period) of the facilities charge, the service charge, and, if applicable, the fire protection charge.

(b) When a meter fails to register, registers inaccurately or for any reason cannot be read, the City may compute the bill upon an average consumption based on the customer's consumption during the preceding three months, or in the absence of such consumption history, the average consumption of a similarly situated customer.

(2) Where a customer's water consumption during a given period exceeds by more than three times the consumption amount for the same period in the immediately preceding year, or where residency is less than one year, then for the average consumption during the immediately preceding three months (herein "normal consumption"), and the customer submits a written request for adjustment of the account due to necessary repairs, together with an itemized receipt for repairs (or other satisfactory evidence of repair) within 30 days of such repair, the account may be adjusted. The City may inspect the customer's premises in order to verify that excessive consumption was caused by a leak or break in the system. Adjustment under this subsection shall only be allowed where the City is able to verify or agrees a leak or break in the customer's system was the reason for the excessive consumption. Where an adjustment under this subsection is allowed, the customer shall be required to pay the applicable consumption rate on normal consumption amounts and one-half the applicable consumption rate for consumption amounts which exceed the normal consumption amount. The facilities charge, the service charge and, if applicable, the fire protection charge shall not be adjusted under this subsection. The time period for payment of such adjusted amounts shall not exceed three months.

(Ord. 839-91 §16, 7-22-91)

Response: Understood.

TMC 3-3-170 - Delinquent Accounts.

(1) Water service charges are due and payable within the first 20 days of a month immediately following a billing period. If such water service charges are not paid on or before the thirtieth day of a month immediately following a billing period, the account shall be delinquent and water service to the customer may be turned off in accordance with the procedure set forth in this section.

(2) Prior to the date scheduled for turnoff, the City shall notify the customer of the scheduled turnoff by written notice, which shall be affixed either on or near the door.

(3) The notification provided to the customer under this section shall state the following:

(a) Water service will be terminated due to nonpayment of water service charges;

(b) Water service termination may be avoided by paying delinquent charges;

(c) If water service charges are disputed the customer may contact the City Finance Department; and

(d) A specific date and time when water service will be terminated unless delinquent charges are first paid or unless the City Finance Department is notified that the water service charge is disputed. Such date shall be not less than three days from the date notification is provided.

(4) Except in the case of extreme hardship as determined by the City Manager, unless the delinquent water service charges are paid in full by the time and date indicated in the notification, or the City Finance Department is notified that the water service charge is disputed, the meter reader or City agent shall cause water service to be turned off no sooner than the date indicated in the notification. In cases of extreme hardship water service under a delinquent account may be restored where an acceptable schedule of installment payments for delinquent and current charges is arranged between the City and the customer.

(5) Except in cases of extreme hardship where an installment payment plan is arranged, pursuant to Subsection (4) of this section, whenever an account shall become delinquent, an additional delinquency notification charge shall be assessed and collected on the next following billing and any future billings for which the account is delinquent to cover the additional administrative expense on such account.

(6) In addition to the accrued water service bill and any other charges which may be assessed, the customer responsible for the water bill shall pay the service restoration fee as established by the Council before water service is restored.

(7) Except as otherwise provided in TMC 3-3-210, where the Finance Department is notified by a customer that such customer's water service charge is disputed, if water service has not yet been terminated, such termination shall be stayed until the disputed charges are examined and a determination is made. If the customer alleges that a problem with the meter exists, then the meter will be examined. If the water service charge is determined by the City to be correct, then the customer will be notified in writing of such finding and advised of the procedures available for appeal. If water service charges have been determined to be correct and the same as indicated in the delinquency notification, unless an appeal is filed in accordance with TMC 3-3-210, or such charges are paid, water service shall be terminated on or after the eleventh day following the City's written notification of its finding.

(Ord. 839-91 §17, 7-22-91; Ord.1269-08 §3, 08-11-08)

Response: Understood.

TMC 3-3-180 - Water Charge Liens.

(1) When for any reason the water service charges have not been paid, the City Manager shall proceed to collect the charges in the manner provided by law. In addition to any other remedies provided by law, the City Manager may cause a report and request for lien to be prepared and forward a copy by certified mail return receipt requested to the owner of record of the property. The property owner shall be notified that unless a hearing is requested to contest the City Manager's determination, the City will docket a lien against the property.

Except as otherwise provided in Subsection (2) of this section, requests for hearing shall be made and determined in accordance with TMC 3-3-210.

(2) At the hearing to determine the validity of the lien, the City Council may accept, reject, or modify the determination of the City Manager as set forth in the report. If the City Council finds that water service charges are payable by the owner as set forth in the report, unpaid and uncollected, it shall, by motion, direct the City Manager to docket the unpaid and uncollected water service charge in the City lien docket. Upon completion of the docketing, the City shall have a lien against the described property for the full amount of the unpaid charge, together with simple interest at the rate of ten percent per annum and with the City's actual cost of providing notice to the owner. The lien shall be enforceable in any manner provided in ORS Chapter 223. The docketing of a lien against the property by the City shall not preclude the City from pursuing other available remedies to collect such charges, interest, penalties and costs.

(Ord. 839-91 §18, 7-22-91)

Response: Understood.

TMC 3-3-190 - Customer Request for Discontinuance.

(1) Any occupant or manager of property connected to the public water system may disconnect from service and discontinue further water service charges by utilizing the procedure in this Section. If

notice of discontinuance is not given as provided in this section, the customer shall remain liable for unpaid charges on service to the premises.

(2) A customer desiring to permanently discontinue water service to the customer's premises shall notify the City, giving the customer's name, the date of discontinuance, the name of the property owner, the name of the new occupant of such premises, if known, and a forwarding address for the final bill. The City shall then cause the meter to be read on the date of discontinuance and turn off water service while placing a notice on the premises concerning application for future water service, unless the property owner prior to discontinuance applies for continued water service until a new occupant takes possession of the premises and applies for service.

(3) A customer desiring to temporarily discontinue water service to the customer's premises shall notify the City in writing, giving the customer's name, the name of the property owner, the date of discontinuance and the date of resumption of service. The City shall then cause the meter to be read on the date of discontinuance and record such information in the City's account records. The customer shall be responsible for water service charges from and after the date given for resumption of service unless prior thereto service is resumed in which case water service charges shall accrue from and after such earlier date. Before a discontinuance is allowed, notice to the City must be given in accordance with this subsection and all outstanding utility charges shall first be satisfied.

(Ord. 839-91 §19, 7-22-91)

Response: There are no plans to discontinue service for the existing building.

TMC 3-3-200 - Prohibited Conduct.

(1) It is unlawful and a violation of this ordinance for any person to commit or cause any of the following acts:

(a) Wasteful or improper use of water during times of water shortage due to drought, damage to the water system or supply capability or unanticipated substantial demand which threatens the supply or pressure capability of the water system, or some combination of the foregoing. Wasteful or improper use under this paragraph shall include, but not be limited to, the use of water at times or in a manner which is prohibited by the terms of any City Council rule which may be adopted by resolution.

(b) Use of an apparatus, appliance or other equipment which utilizes City water service where such equipment is dangerous, unsafe or violates City ordinances or regulations;

(c) Excessive demand for water service by a customer which results or may result in inadequate service to other customers;

(d) Obtaining water or other service provided under this ordinance by false or misleading acts or representations;

(e) Damage, destruction, alteration, interference with, connection to or tampering with City equipment, including but not limited to the breaking or destruction of seals, and damage to a meter resulting from hot water or steam from the customer's premises;

(f) Except by specific agreement from the City, the resale of water supplied by the City or the delivery of water to premises other than those specified in the application for service;

(g) Except as may be needed for Fire District use or as expressly permitted by the City, the operation, alteration, change, removal, disconnection, connection with or interference in any manner with any fire hydrant in the City;

(h) The unauthorized connection to or turn on of any water service without authorization where such service has been disconnected or turned off;

(i) Except by means of an approved metering device or by express authorization of the Operations Director, the use of any water from the water system;

(j) The further use of City water service after the date shown on a request for discontinuance of such service without a request for and approval of resumption or restoration of service.

(k) Where a customer has applied for the temporary discontinuance of water service, the resumption of use of City water service without first notifying the City and prior to the date previously indicated for such resumption of water service.

(2) In addition to any other remedy provided by City ordinance or state law, violation of any provision of this section is a civil infraction and subject to forfeiture in the amount of $500.00.

(3) In addition to any other remedy provided by City ordinance or state law, where the violation of this section results in damage to or destruction of City property, or the use of City water service without a meter or the nonpayment of required charges, the City shall have the right to recover in a court of competent jurisdiction the reasonable value or cost of repair or replacement of the item, plus 15 percent.

(4) Whenever it is necessary to make an inspection to enforce this ordinance, or to connect, disconnect, turn on or turn off a water service, or whenever the City Manager has reasonable cause to believe that there exists on any premises any condition which is unsafe, dangerous or hazardous to the public water supply system, the City Manager may enter such premises at all reasonable times to inspect the same or to perform any duty set forth in this ordinance. If the premises are occupied, the City Manager shall first present credentials and request entry; and if such premises are not occupied, the City Manager shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused or if the owner or person in control of the premises cannot be located in a timely manner, the City Manager shall have recourse to a warrant or other remedy provided by law to secure entry. Nothing contained herein shall be construed as imposing upon the City the obligation to or liability for inspection of any apparatus on the customer's premises, since such liability rests with the customer.

(5) In addition to any other remedy provided by City ordinance or state law, the City may discontinue water service to a customer for noncompliance with any provision of this ordinance. "Noncompliance with this ordinance" means failure or refusal to remedy a violation or a repeated violation for which written notice or warning of such violation has been given either by delivery in

person, by posting on the property or by registered or certified mail return receipt requested. Except as provided below, a person who has been given warning or notice of noncompliance may request review of such determination in accordance with TMC 3-3-210. If such noncompliance affects matters of health or safety or the security of the system, or other conditions warrant such action, such as wasteful or improper use of water, the City may discontinue water service immediately, provided review of such determination pursuant to TMC 3-3-210 shall be provided upon timely and proper request.

(Ord. 839-91 §20, 7-22-91; Ord. 874-92, §§3, 4, 7-13-92)

Response: No prohibited conduct will occur.

TMC 3-3-210 - Administrative Appeal.

(1) Except as otherwise provided in (2) of this section, any person aggrieved by a ruling or interpretation of, and requesting a variance or exception from the provisions of this ordinance or a review of such ruling or interpretation shall submit a written appeal to the City Manager, not more than ten days after the ruling or interpretation. The appeal shall set forth the facts and circumstances leading to the appeal, the rule or interpretation at issue, the nature of the ruling or interpretation from which relief is sought, the impact of the rule or ruling on the appellant, together with any other reasons for the appeal. Failure of an appeal to conform to the requirements of this subsection shall be grounds for dismissal of the appeal.

(2) In the case of appeals of disputes concerning water service charges, in addition to the requirements of subsection (1) of this section, the following provisions shall apply. Unless otherwise directed by the Finance Director, where a termination notice concerning the disputed water service charge has been delivered as provided in TMC 3-3-170, water service shall be discontinued unless the written appeal is accompanied by a deposit in the full amount of the disputed water service charge. Where unpaid sewer service charges are a reason for water service termination, a deposit of the disputed sewer service charge shall also be submitted. Such deposit shall stay the termination of water service and shall be in addition to any applicable appeal fee. Upon the disposition of such appeal either by the City Manager or upon appeal by the City Council, that portion of the deposit which is determined to represent correct service charges shall be paid to the appropriate City account and that portion of the deposit which is determined to represent incorrect service charges shall be credited to the customer's service account, or if appropriate, returned to the customer.

(3) The City Manager shall review each complete appeal request. The City Manager may request additional information from the appellant, and from City staff. The City Manager shall cause to be prepared a written decision on the matter within 30 days of receipt of a complete appeal. The City Manager's written decision shall be mailed or delivered to the appellant.

(4) If the appellant is dissatisfied with the City Manager's decision, the appellant may appeal the matter to the City Council. Such appeal shall be in writing and shall be actually received by the City within ten days of the date of mailing or delivery of the City Manager's decision. Failure of an appeal to conform to the requirements of this subsection shall be grounds for dismissal of the appeal.

(5) The City Council shall review the written appeal of the City Manager's decision, and any written material submitted by the City Manager, and the ordinance, rule or decision at issue. The City

Council may schedule a hearing by written notice not less than 14 days in advance to hear testimony and further information. The City Council may uphold, set aside, or modify the decision of the City Manager. The decision of the City Manager may be rejected or modified only if:

(a) It exceeds the authority of the City; or

(b) It was based upon an incorrect interpretation of law or ordinance; or

(c) It was not supported by substantial evidence in the record.

(6) The decision of the City Council shall be made in writing, and shall be sent to the appellant not more than 60 days from receipt of the appeal to the Council.

(7) Notwithstanding the foregoing, this section shall not apply to civil infraction proceedings initiated by the City to enforce this ordinance. Except as otherwise provided in (2) of this section or as directed by the City Manager, an appeal of any ruling or interpretation to the City Manager or the City Council shall not stay the effective date of a City decision to discontinue service.

(Ord. 839-91 §21, 7-22-91)

Response: Understood.

TMC 3-3-220 - Miscellaneous Provisions.

(1) All users of the system, all contractors who may perform work on the system in any manner and all other persons or entities whose actions may affect the system shall indemnify and hold harmless the City, its officers, employees, and representatives from and against all suits, actions or claims of any character or nature brought because of any injuries or damages received or sustained by any person or property or alleged to have been so received or sustained on account of the actions or failure to act of such users, contractors or other persons, their subcontractors, employees or representatives. Such indemnification shall include the costs of defense of such claims including attorney fees.

(2) A user or connector to the City water system does not thereby acquire a vested property interest in continued use or connection to the system. Such use or connection is conditional always upon such user or connector complying with all applicable terms and conditions contained in this ordinance and all resolutions adopted pursuant hereto and, further, upon compliance with all federal, state or local requirements which are or may hereafter be imposed upon such user or connector. Nothing contained herein shall require the City to provide service or access to the water system to such user or connector when the City has determined that the public interest requires a limitation on such water service or access.

(Ord. 839-91 §21, 7-22-91)

Response: Understood.

TMC 3-3-230 - Prior Ordinances Repealed.

(1) Except as provided in (2) and (3) of this section, Ordinance No. 498-80 is hereby repealed.

(2) Ordinance Number 498-80, Section 14 and agreements officially approved by the City pursuant to such ordinance provisions shall remain in full force and effect until connection charges pursuant thereto are paid or the agreements expire according to their terms and thereafter said ordinance provisions are repealed.

(3) Charges for materials and services which were imposed and deposits for meters and other equipment which were collected pursuant to Ordinance 498-80 or any implementing resolution shall remain effective, due and owing. Enforcement of such charges shall be as provided in this ordinance.

(Ord. 839-91 §23, 7-22-91)

Response: Understood.

TMC 3-3-240 - Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this ordinance.

(Ord. 839-91 §24, 7-22-91)

Response: Understood.

03-05: Soil Erosion, Surface Water Management, Water Quality Facilities, and Building & Sewers

EROSION CONTROL

TMC 3-5-040 - Erosion Prohibited.

Visible or measurable erosion which enters, or is likely to enter, the public storm and surface water system or leaves the property on which it originates, is prohibited, and is a violation of this ordinance. The owner of the property from which erosion originates and any person whose activity on the property causes such erosion, shall be deemed responsible for causing such erosion and shall be responsible to stop erosion, cleanup past erosion, and prevent erosion from occurring in the future.

(Ord. 846-91 §4, 10-28-91)

Response: Erosion control measures will be in place during construction.

TMC 3-5-050 - Erosion Control Permits.

(1) Except as noted in subsection (3) of this section, no person shall cause any change to improved or unimproved real property that causes, will cause, or is likely to cause a temporary or permanent increase in the rate of soil erosion from the site without first obtaining a permit from the City and paying prescribed fees. Such changes to land shall include, but are not limited to, grading, excavating, filling, working of land, or stripping of soil or vegetation from land.

(2) No construction, land development, grading, excavation, fill, or the clearing of land is allowed until the City has issued an Erosion Control Permit covering such work, or the City has determined that no such permit is required. No public agency or body shall undertake any public works project without first obtaining from the City an Erosion Control Permit covering such work, or receiving a determination from the City that none is required.

(3) No Erosion Control Permit from City is required for the following:

(a) For work of a minor nature provided all the following criteria are met:

(A) The development does not require a development permit or approval from the City;

(B) No development activity or disturbance of land surface occurs within 100 feet of a sensitive area defined in TMC 3-5.270;

(C) The slope of the site is less than 20 percent;

(D) The work on the site involves the disturbance of less than 500 square feet of land surface; and

(E) The excavation, fill or combination thereof involves less than 20 cubic yards of material.

(b) Permits and approvals of land division, interior improvements to an existing structure, and other activities for which there is no physical disturbance to the surface of the land.

(c) A permit shall not be required for activities within the City which constitute accepted farming practices as defined in ORS 215.203, provided any erosion does not cause sedimentation in waters of the Tualatin River basin.

(4) An exception from the permit requirement shall not relieve the property or its owner from the prohibition of TMC 3-5.040.

(Ord. 846-91 §5, 10-28-91)

Response: An Erosion Control permit will be obtained prior to construction activity.

TMC 3-5-060 - Permit Process.

(1) Applications for an Erosion Control Permit. Application for an Erosion Control Permit shall include an Erosion Control Plan which contains methods and interim facilities to be constructed or used concurrently and to be operated during construction to control erosion. The plan shall include either:

(a) A site specific plan outlining the protection techniques to control soil erosion and sediment transport from the site to less than one ton per acre per year as calculated using the Soil Conservation Service Universal Soil Loss Equation or other equivalent method approved by the City Engineer, or

(b) Techniques and methods contained and prescribed in the Soil Erosion Control Matrix and Methods, outlined in TMC 3-5.190 or the Erosion Control Plans - Technical Guidance Handbook, City of Portland and Unified Sewerage Agency, January, 1991.

(2) Site Plan. A site specific plan, prepared by an Oregon registered professional engineer, shall be required when the site meets any of the following criteria:

(a) Greater than five acres;

(b) Greater than one acre and has slopes greater than 20 percent;

(c) Contains or is within 100 feet of a City-identified wetland or a waterway identified on FEMA floodplain maps; or

(d) Greater than one acre and contains highly erodible soils.

(Ord. 846-91 §6, 10-28-91)

Response: A site plan will be provided as the site is over 1 acre and contains slopes greater than 20%.

TMC 3-5-070 - Maintenance.

The property owner or holder of an erosion control permit shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective during the construction or other permitted activity. If the facilities and techniques approved in an Erosion Control Plan are not effective or sufficient as determined by the City site inspection, the permittee shall submit a revised plan within three days, (excluding Saturday, Sunday and holidays) of written notification either by personal delivery or regular mail, from the City. Upon approval of the revised plan by the City, the permittee shall immediately implement the additional or revised facilities and techniques of the revised plan. In cases where erosion is occurring, the City may require the applicant to install interim control measures prior to submittal of the revised Erosion Control Plan. In no event will the City be responsible for the success or failure of any approved Erosion Control Plan.

(Ord. 846-91 §7, 10-28-91)

Response: Understood.

TMC 3-5-080 - Inspection.

All erosion control measures shall be installed prior to the start of any work requiring an erosion control permit and shall be maintained until after the work is complete and until no further potential of erosion exists. The permittee shall call the City prior to the foundation inspection of a building for an inspection of the erosion control measures for that property.

(Ord. 846-91 §8, 10-28-91)

Response: Understood.

TMC 3-5-090 - Physical Erosion.

No person shall drag, drop, track or otherwise place or deposit, or allow to be placed or deposited mud, dirt, rock or other debris upon a public street or into any part of a public storm and surface water system, or into any part of a private storm and surface water system which drains or connects to the public storm and surface water system. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into any part of the storm and surface water system without approved erosion control measures first being installed to the satisfaction of the City.

(Ord. 846-91 §9, 10-28-91)

Response: Erosion control measures will be in place so as to not affect the public system.

TMC 3-5-100 - Permit Fee.

(1) The City Engineer shall collect a fee, as established by the City Council by resolution, for the review of plans, administration, enforcement and field inspection to carry out the rules contained herein.

(2) No permit shall be issued and no regulated activity requiring a permit shall occur until fees required by this chapter are first paid.

(Ord. 846-91 §10, 10-28-91)

Response: Understood.

TMC 3-5-110 - Air Pollution—Dust, Fumes, Smoke and Odors.

(1) Dust shall be minimized to the extent practicable, utilizing all measures necessary, including, but not limited to:

(a) Sprinkling haul and access roads and other exposed dust producing areas with water.

(b) Applying dust palliatives on access and haul roads.

(c) Establishing temporary vegetative cover.

(d) Placing wood chips or other effective mulches on vehicle and pedestrian use areas.

(e) Maintaining the proper moisture condition on all fill surfaces.

(f) Pre-wetting cut and borrow area surfaces.

(g) Use of covered haul equipment.

(2) Tires, oils, paints, asphalts, coated metals or other such materials will not be permitted in combustible waste piles, and will not be burned at the construction site.

(3) Open burning shall not be permitted unless approved by the Department of Environmental Quality and the prevailing wind will carry smoke away from nearby built-up areas or communities.

(4) Open burning shall not be permitted within 1,000 feet of a residence or built-up area or within 250 feet of the drip line of any standing timber or flammable growth.

(5) Open burning shall not be permitted during a local air inversion or other climatic conditions that may result in a smoke pall hanging over a built-up area or community.

(6) Open burning shall not be permitted when climatic and moisture conditions are contributing to high danger of forest or range fires as determined by local, state or federal authorities.

(Ord. 846-91 §11, 10-28-91)

Response: Dust will be minimized and no open burning is planned.

TMC 3-5-120 - Maintaining Water Quality.

(1) Construction between stream banks shall be kept to a minimum.

(2) Pollutants such as fuels, lubricants, bitumens, raw sewage, and other harmful materials shall not be discharged into or near rivers, streams or impoundments.

(3) The use of water from a stream, or impoundment shall not result in altering the temperature of the water body enough to affect aquatic life.

(4) All sediment-laden water from construction operations shall be routed through stilling basins, filtered or otherwise treated to reduce the sediment load.

(Ord. 846-91 §12, 10-28-91)

Response: Proper disposal of pollutants and water quality measures will be maintained.

TMC 3-5-130 - Fish and Wildlife Habitat.

(1) The construction shall be done in a manner to minimize the adverse effects on wildlife and fishery resources.

(2) The requirements of local, state, and federal agencies charged with wildlife and fish protection shall be adhered to by the entire construction work force.

(Ord. 846-91 §13, 10-28-91)

Response: The contractor will protect the existing wildlife and adhere to requirements for construction.

TMC 3-5-140 - Control of Noise Levels.

Construction noise shall be minimized by the use of proper engine mufflers, protective sound reducing enclosures, and other sound barriers. Construction activities producing excessive noise that cannot be reduced by mechanical means shall be restricted to locations where their sound impact is reduced to a minimum at the edge of work area.

(Ord. 846-91 §14, 10-28-91)

Response: Noise control measures will be taken during construction.

TMC 3-5-150 - Natural Vegetation.

(1) As far as is practicable, the natural vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage. Trees shall not be used as anchors for stabilizing working equipment.

(2) During clearing operations, trees shall not be permitted to fall outside the work area. In areas designated for selective cutting or clearing, care in falling and removing trees and brush shall be taken to avoid injuring trees and shrubs to be left in place.

(3) Where natural vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation established, as soon as practicable after construction has commenced, except where construction of sewers will be followed by paving.

(Ord. 846-91 §15, 10-28-91)

Response: Existing natural vegetation will be maintained as much as practicably possible. Disturbed landscape will be revegetated.

TMC 3-5-170 - Pesticides, Fertilizers.

(1) The use of pesticides, including insecticides, herbicides, defoliants, soil sterilants, and so forth, and the use of fertilizers, must strictly adhere to federal, state, county and local restrictions. Time, area, method and rate of application must be cleared with the local authorities and their requirements followed.

(2) All materials defined in subsection (1) of this section delivered to the job site shall be covered and protected from the weather. None of the materials shall be exposed during storage. Waste material, rinsing fluids, and other such material shall be disposed of in such manner that pollution of groundwater, surface water, or the air does not occur. In no case shall toxic materials be dumped into drainageways.

(3) All personnel shall stay out of sprayed areas for the prescribed time. All such areas shall be fenced, appropriately signed, or otherwise protected to restrict entry.

(Ord. 846-91 §17, 10-28-91)

Response: If pesticides and fertilizers are used, proper precautions and restrictions will be taken and followed.

TMC 3-5-180 - Contaminated Soils.

If the construction process reveals soils contaminated with hazardous materials or chemicals the contractor shall stop work immediately, ensure no contaminated material is hauled from the site, remove the contractor's work force from the immediate area of the contaminated area, leaving all machinery and equipment, and secure the area from access by the public until such time as a mitigation team has relieved them of that responsibility. Contractor shall notify the City and an emergency response team (911) of the situation upon its discovery. No employees who may have come in contact with the contaminated material shall be allowed to leave the site until such time as the emergency response team releases them.

(Ord. 846-91 §18, 10-28-91)

Response: If contaminated soils are encountered, proper steps will be taken to ensure no contaminated material leaves the site.

TMC 3-5-190 - Soil Erosion Control Matrix and Methods.

(1) Establishing Primary Access Point. As one of the initial activities at the start of any earthwork, a gravel driveway shall be established. The driveway shall meet the following:

(a) The driveway shall begin at curb line, or at the edge of the street or pavement if no curb, and be of sufficient length to allow construction and delivery vehicles to unload material and have access without needing to frequently drive over muddy areas.

(b) The rock surface must be kept clean and free of mud, either from mud or dirt dropping or washing onto the surface, or from mud or soil "pumping" through the crushed rock from the action of vehicles. If contaminated such that significant mud will be washed or transported onto the streets, then the crushed rock shall be placed or covered with an additional thickness of crushed rock.

(c) The responsibility for design and performance of the driveway remains with the applicant. It is suggested the driveway be a minimum of 20 feet × 20 feet, eight inches thick, and be made of two inches minus or larger crushed rock, or ¾ inches minus crushed rock with a geotextile fabric installed between the subbase and rock.

(d) Tires and equipment shall be washed or otherwise cleaned prior to entering public right-of-way when the vehicle or equipment has entered a muddy area.

(2) Additional Access. Construction and delivery vehicles and equipment shall use the primary access point (the gravel driveway). Vehicles and equipment shall not access the property from any other point (shall not "hop the curb"), unless required due to the physical layout of the parcel, and not simply due to convenience.

If is necessary to access the site at other than the primary access point:

(a) A second temporary or permanent crushed rock access point shall be established if there is an ongoing need to access the property at a second point. Large or difficult properties may require more than one permanent access point.

(b) If there is only a one time or infrequent need to access the property at other than an established access point, then the vehicle or equipment may "hop the curb". Each time the vehicle or equipment reenters the street any mud, dirt, or other such debris that falls or is deposited on the street shall be immediately cleaned using hand labor or mechanical means.

Immediate means within five minutes of the mud, dirt, or debris being deposited on the street. Mud, dirt and debris shall not be allowed to accumulate to be cleaned up at the end of the day or "later". Under no circumstance shall mud, dirt or debris be washed into the storm and surface water system.

(c) Under no circumstance shall vehicles or equipment enter a property adjacent to a stream, water course, or other storm and surface water facility, or a wetland such that it would not be possible to avoid contaminating or depositing mud, dirt, or debris into the water or wetland.

(3) Silt Barriers. Silt barriers shall be installed concurrent with grading, and will be inspected prior to "footing" inspection. They shall be installed downhill of all graded, filled and stripped areas, and

across the path of concentrated flows. They shall be designed and installed to capture erosion on site. Silt barriers can be:

(a) Hay bales;

(b) Silt fence; or

(c) Gravel filter system, such as the early installation of sidewalk base rock. A gravel filter is permitted only when slopes are less than five percent.

(4) Exceptions to Silt Barrier Requirement. Silt barriers are not required as described above on a site, or on portions of a site:

(a) Where a "community" Erosion Control Plan is in effect;

(b) Where there are no concentrated flows and the slope being protected has a grade of less than two percent;

(c) Where flows are collected through the use of temporary or permanent grading or other means such that the flows are routed to an approved settling pond, filtering system or silt barrier; or

(d) Where there are no concentrated flows, the slopes are less than ten percent, and where the run-off passes through a grassed area which is either owned by the applicant, or approved for such use in writing by the owner of the grassed area. The grass area shall be at least equal in area to the area being protected.

(5) Community Plan. An individual or group may submit a plan to control erosion from multiple lots, and this shall be referred to as a "Community Erosion Control Plan", or "Community Plan". In such case, the group of lots will be evaluated as if they were one lot.

If an individual lot in a Community Plan is sold to new owners, the new owner may either join the Community Plan (with the approval of the other "community" owner or owners), or will need to submit their own Erosion Control Plan if erosion potential still exists on the parcel. If a lot is sold and the new owner does not join the Community Plan, then the community Plan must be revised to prevent erosion from entering the withdrawn property.

(6) Protection Measure Removal. The erosion control facilities and techniques shall remain in place and be maintained in good condition until all disturbed soil areas are permanently stabilized by installation of landscaping, seeding, mulching or otherwise covered and protected from erosion.

(7) Miscellaneous. Filter systems may not be used on catch basins in public streets as a part of single family erosion control plans. Plastic sheeting should generally not be used as an erosion control measure in single family house construction. Plastic sheeting may be used to protect small, highly erodible areas, or temporary stock-piles of material. If used, the path of concentrated flow from the plastic must be protected.

(Ord. 846-91 §19, 10-28-91)

Response: Proper erosion control measures will be in place and maintained during construction. This includes construction entrance, silt barrier, inlet protection, etc.

ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS

TMC 3-5-200 - Downstream Protection Requirement.

Each new development is responsible for mitigating the impacts of that development upon the public storm water quantity system. The development may satisfy this requirement through the use of any of the following techniques, subject to the limitations and requirements in TMC 3-5-210:

(1) Construction of permanent on-site stormwater quantity detention facilities designed in accordance with this title;

(2) Enlargement of the downstream conveyance system in accordance with this title and the Public Works Construction Code;

(3) The payment of a Storm and Surface Water Management System Development Charge, which includes a water quantity component designated to meet these requirements.

(Ord. 846-91 §20, 10-28-91)

Response: A permanent onsite stormwater detention facility will be expanded onsite to protect the downstream system.

TMC 3-5-210 - Review of Downstream System.

For new development other than the construction of a single family house or duplex, plans shall document review by the design engineer of the downstream capacity of any existing storm drainage facilities impacted by the proposed development. That review shall extend downstream to a point where the impacts to the water surface elevation from the development will be insignificant, or to a point where the conveyance system has adequate capacity, as determined by the City Engineer.

To determine the point at which the downstream impacts are insignificant or the drainage system has adequate capacity, the design engineer shall submit an analysis using the following guidelines:

(1) Evaluate the downstream drainage system for at least ¼ mile;

(2) Evaluate the downstream drainage system to a point at which the runoff from the development in a build out condition is less than ten percent of the total runoff of the basin in its current development status. Developments in the basin that have been approved may be considered in place and their conditions of approval to exist if the work has started on those projects;

(3) Evaluate the downstream drainage system throughout the following range of storms: Two-, five-, ten-, 25-year;

(4) The City Engineer may modify items (1), (2), (3) to require additional information to determine the impacts of the development or to delete the provision of unnecessary information.

If the increase in surface waters leaving a development will cause or contribute to damage from flooding, then the identified capacity deficiency shall be corrected prior to development or the development must construct onsite detention. To determine if the runoff from the development will cause or contribute to damage from flooding the City Engineer will consider the following factors:

(1) The potential for or extent of flooding or other adverse impacts from the run-off of the development on downstream properties;

(2) The potential for or extent of possibility of inverse condemnation claims;

(3) Incremental impacts of runoff from the subject and other developments in the basin; and

(4) Other factors that may be relevant to the particular situation.

The purpose of the City Engineer's review is to protect the City and its inhabitants from the impacts or damage caused by runoff from development while recognizing all appropriate limitations on exactions from the development.

(Ord. 846-91 §21, 10-28-91; Ord. 972-97 §1, 2/24/1997)

Response: The proposed stormwater system onsite is designed to detain the post-developed flows to the pre-developed conditions. Therefore, there are no anticipated impacts to the downstream system.

TMC 3-5-220 - Criteria for Requiring On-Site Detention to be Constructed.

The City shall determine whether the onsite facility shall be constructed. If the onsite facility is constructed, the development shall be eligible for a credit against Storm and Surface Water System Development Charges, as provided in City ordinance.

On-site facilities shall be constructed when any of the following conditions exist:

(1) There is an identified downstream deficiency, as defined in TMC 3-5-210, and detention rather than conveyance system enlargement is determined to be the more effective solution.

(2) There is an identified regional detention site within the boundary of the development.

(3) There is a site within the boundary of the development which would qualify as a regional detention site under criteria or capital plan adopted by the Unified Sewerage Agency.

(4) The site is located in the Hedges Creek Subbasin as identified in the Tualatin Drainage Plan and surface water runoff from the site flows directly or indirectly into the Wetland Protected Area (WPA) as defined in TDC 71.020. Properties located within the Wetland Protection District as described in TDC 71.010, or within the portion of the subbasin east of SW Tualatin Road are excepted from the on-site detention facility requirement.

(Ord. 846-91 §22, 10-28-91; Ord. 952-95 § 4, 10/23/1995)

Response: This project is located in the Hedges Creek and is required to detain the 25-year storm onsite. The onsite stormer facility is designed to accommodate this requirement.

TMC 3-5-230 - On-Site Detention Design Criteria.

(1) Unless designed to meet the requirements of an identified downstream deficiency as defined in TMC 3-5.210, stormwater quantity onsite detention facilities shall be designed to capture run-off so the run-off rates from the site after development do not exceed predevelopment conditions, based upon a 25-year, 24-hour return storm.

(2) When designed to meet the requirements of an identified downstream deficiency as defined in TMC 3-5.210, stormwater quantity on-site detention facilities shall be designed such that the peak runoff rates will not exceed predevelopment rates for the two through 100 year storms, as required by the determined downstream deficiency.

(3) Construction of on-site detention shall not be allowed as an option if such a detention facility would have an adverse effect upon receiving waters in the basin or subbasin in the event of flooding, or would increase the likelihood or severity of flooding problems downstream of the site.

(Ord. 846-91 §23, 10-28-91)

Response: The onsite stormer facility is designed to detain the 25-year storm onsite. The facility is existing and will be expanded to accommodate the increased impervious surface. There are no adverse effects upon receiving waters in the basin because the system will detain to the pre-developed condition.

TMC 3-5-240 - On-Site Detention Design Method.

(1) The procedure for determining the detention quantities is set forth in Section 4.4 Retention/Detention Facility Analysis and Design, King County, Washington, Surface Water Design Manual, January, 1990, except subchapters 4.4.5 Tanks, 4.4.6 Vaults and Figure 4.4.4G Permanent Surface Water Control Pond Sign. This reference shall be used for procedure only. The design criteria shall be as noted herein. Engineers desiring to utilize a procedure other than that set forth herein shall obtain City approval prior to submitting calculations utilizing the proposed procedure.

(2) For single family and duplex residential subdivisions, stormwater quantity detention facilities shall be sized for the impervious areas to be created by the subdivision, including all residences on individual lots at a rate of 2,640 square feet of impervious surface area per dwelling unit, plus all roads which are assessed a surface water management monthly fee under Unified Sewerage Agency rules. Such facilities shall be constructed as a part of the subdivision public improvements. Construction of a single family or duplex residence on an existing lot of record is not required to construct stormwater quantity detention facilities.

(3) All developments other than single family and duplex, whether residential, multi-family, commercial, industrial, or other uses, the sizing of stormwater quantity detention facilities shall be based on the impervious area to be created by the development, including structures and all roads and impervious areas which are assessed a surface water management monthly fee under Unified Sewerage Agency rules. Impervious surfaces shall be determined based upon building permits, construction plans, site visits or other appropriate methods deemed reliable by City.

(Ord. 846-91 §24, 10-28-91)

Response: The stormwater is designed per the requirements of the City and Clean Water Services.

TMC 3-5-250 - Floodplain Design Standards.

(1) Balanced Cut and Fill Standard. All fill placed in a floodplain shall be balanced with an equal amount of removal of soil material. No net fill in any floodplain is allowed with two exceptions:

(a) When an engineering study has been conducted and approved by the City showing that the increase in water surface elevation resulting from the fill will not cause or contribute to significant damage from flooding to existing buildings or dwellings on properties upstream and downstream;

(b) When an area has received special protection from floodplain improvement projects which either lower the floodplain, or otherwise protect affected properties, are approved by the City, where the exceptions comply with adopted master plans, if any, and where all required permits and approvals have been obtained in compliance with other local, state, and federal laws regarding fill in floodplains, including FEMA rules.

(2) Excavation Restricted. Large areas may not be excavated in order to gain a small amount of fill in a floodplain. Excavation areas shall not exceed the fill areas by more than 50 percent of the square footage, unless approved by the City.

(3) Excavation and Fill Volume Calculation. Any excavation dug below the winter "low water" elevation shall not count towards compensating for fill, since these areas would be full of water in the winter, and not available to hold storm water following a rain. Winter "low water" elevation is defined as the water surface elevation during the winter when it has not rained for at least three days, and the flows resulting from storms have receded. This elevation may be determined from records, studies or field observation. Any fill placed above the 100 year floodplain will not count towards the fill volume.

(4) Excavation Grade Design Standard. The excavated area must be designed to drain if it is an area identified to be dry in the summer; for example, if it is to be used for a park, or if it is to be mowed in the summer. Excavated areas identified as to remain wet in the summer, such as a constructed wetland, shall be designed not to drain. For areas that are to drain, the lowest elevation should be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the drainage way. One percent slopes will be allowed in small areas.

(5) Excavation Location. Excavation to balance a fill does not need to be on the same property as the fill, but shall be in the same drainage basin, within points of constriction on the conveyance system,

if any, as near as practical to the fill site, and shall be constructed as a part of the same development project which placed the fill.

(Ord. 846-91 §25, 10-28-91)

Response: The volume of fill placed in the floodplain is balanced by removing soil to expand the stormwater facility.

TMC 3-5-260 - Floodway Design Standards.

(1) Obstruction Prohibited. Nothing may be constructed or placed in a floodway that will impede or constrict the flow of storm water. This includes, but is not limited to earth works, street and bike path crossings, and trees. If an object is placed in the floodway, the floodway must be widened or modified to accommodate the storm flows with no measurable increase in water surface elevation upstream or downstream, or unless the property owners of property where the water surface increase occurs grant written permission by agreement or easement.

The floodway may not be modified such that water velocities are increased such that stream bank erosion will be increased, unless the stream banks are protected to prevent an increase in erosion.

(2) Floodway Modifications. Any proposed work within or modification to a floodway must be certified by an Oregon Registered Professional Engineer as meeting the requirements of TMC 3-5.250(1).

(3) Floodway Identification. For streams, creeks, rivers and other watercourses where the City has not identified the floodway, the entire floodplain shall be treated as a floodway, or a study prepared by an Oregon Registered Professional Engineer and approved by the City may be used to define the floodway limits for a stream section.

(Ord. 846-91 §26, 10-28-91)

Response: Nothing proposed will impede the floodway.

TMC 3-5-280 - Placement of Water Quality Facilities.

Title III specifies that certain properties shall install water quality facilities for the purpose of removing phosphorous. No such water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action, approved by the City, is constructed to replace the area used for the water quality facility.

(Ord. 846-91 §28, 10-28-91; Ord. 972-97 § 3, 2/24/1997; Ord. 1068-01 §2, 3/26/2001; Ord. 1068-01, 03/26/2001)

Response: The stormwater facility is existing and not located in wetlands.

PERMANENT ON-SITE WATER QUALITY FACILITIES

TMC 3-5-300 - Application of Title.

Title III of this Chapter shall apply to all activities which create new or additional impervious surfaces, except as provided in TMC 3-5.310.

(Ord. 846-91 §30, 10-28-91)

TMC 3-5-310 - Exceptions.

(1) Those developments with application dates prior to July 1, 1990, are exempt from the requirements of Title III. The application date shall be defined as the date on which a complete application for development approval is accepted by the City in accordance with City regulations.

(2) Construction of one and two family (duplex) dwellings are exempt from the requirements of Title III.

(3) Sewer lines, water lines, utilities or other land development that will not directly increase the amount of storm water run-off or pollution leaving the site once construction has been completed and the site is either restored to or not altered from its approximate original condition are exempt from the requirements of Title III.

(Ord. 846-91 §31, 10-28-91)

Response: This project is required to construct onsite stormwater water quality facilities and the swale is designed as such.

TMC 3-5-330 - Permit Required.

Except as provided in TMC 3-5-310, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of run-off or pollution from the site without first obtaining a permit from the City and following the conditions of the permit.

(Ord. 846-91 §33, 10-28-91)

Response: Understood.

TMC 3-5-340 - Facilities Required.

For new development, subject to the exemptions of TMC 3-5-310, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan or permit approval require permanent stormwater quality control facilities in accordance with this Title III.

(Ord. 846-91 §34, 10-28-91; Ord. 1323-11 §1, 6/13/2011)

Response: A permanent onsite stormwater facility is existing on the site and will be expanding to accommodate the increased impervious runoff. The facility is designed to treat and detain per standards.

TMC 3-5-345 - Inspection Reports.

The property owner or person in control of the property shall submit inspection reports annually to the City for the purpose of ensuring maintenance activities occur according to the operation and maintenance plan submitted for an approved permit or architectural review.

(Ord. 1319-11§6, 3/28/2011)

Response: Understood.

TMC 3-5-350 - Phosphorous Removal Standard.

The stormwater quality control facilities shall be designed to remove 65 percent of the phosphorous from the runoff from 100 percent of the newly constructed impervious surfaces. Impervious surfaces shall include pavement, buildings, public and private roadways, and all other surfaces with similar runoff characteristics.

(Ord. 846-91 §35, 10-28-91)

Response: The stormwater facility is designed to meet phosphorous removal standards.

TMC 3-5-360 - Design Storm.

The stormwater quality control facilities shall be designed to meet the removal efficiency of TMC 3-5-350 for a mean summertime storm event totaling 0.36 inches of precipitation falling in four hours with an average return period of 96 hours.

(Ord. 846-91 §36, 10-28-91)

Response: The stormwater facility is designed to mee the design storm detention requirements per CWS standards.

TMC 3-5-370 - Design Requirements.

The removal efficiency in TDC Chapter 35 specifies only the design requirements and are not intended as a basis for performance evaluation or compliance determination of the stormwater quality control facility installed or constructed pursuant to this Title III.

(Ord. 846-91 §37, 10-28-91)

Response: Understood.

TMC 3-5-380 - Criteria for Granting Exemptions to Construction of On-Site Water Quality Facilities.

On-site facilities shall be constructed as required by OAR 340-41-455, unless otherwise approved by the City on a case by case basis due to the size of the development, topography, or other factors causing the City to determine that the construction of onsite permanent stormwater treatment systems is impracticable or undesirable. Determinations by the City may be based upon, but not limited to, consideration of the following factors:

Site topography, geological stability, hazards to public safety, accessibility for maintenance, environmental impacts to sensitive areas, size of the site and development, existence of a more efficient and effective regional site within the basin capable of serving the site, and consistency with sub-basin master plan.

A regional public facility may be constructed to serve private non-residential development provided:

(1) The facility serves more than one lot; and

(2) All owners sign a stormwater facility agreement; and

(3) Treatment accommodates reasonable worst case impervious area for full build-out, stormwater equivalent to existing or proposed roof area is privately treated in LIDA facilities, and any detention occurs on each lot.

(Ord. 846-91 §38, 10-28-91; Ord. 1323-11 §2, 06/13/2011)

Response: A regional public facility is not proposed; an onsite stormwater facility is existing and will be expanded.

TMC 3-5-390 - Facility Permit Approval.

A stormwater quality control facility permit shall be approved only if the following are met:

(1) The plat, site plan, or permit application includes plans and a certification prepared by an Oregon registered, professional engineer that the proposed stormwater quality control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorous required by this Title III. Clean Water Services Design and Construction Standards shall be used in preparing the plan for the water quality facility; and

(2) The plat, site plan, or permit application shall be consistent with the areas used to determine the removal required in TMC 3-5-350; and

(3) A financial assurance, or equivalent security acceptable to the City, is provided by the applicant which assures that the stormwater quality control facilities are constructed according to the plans established in the plat, site plan, or permit approval. The financial assurance may be combined with our financial assurance requirements imposed by the City; and

(4) A stormwater facility agreement identifies who will be responsible for assuring the long term compliance with the operation and maintenance plan.

(Ord. 846-91 §39, 10-28-91; Ord. 1323-11 §3, 06/13/2011)

Response: All of the requirements will be met regarding the stormwater quality control permit.

TMC 3-5-400 - System Development Charge.

If under TMC 3-5-380, an on-site facility will not be constructed, the Storm and Surface Water System Development Charge shall be paid.

(Ord. 846-91 §40, 10-28-91)

Response: This does not apply.

TMC 3-5-410 - Permit Fee.

The City shall collect a reasonable fee established by the Council by resolution for the review of plans, administration, enforcement and field inspection to carry out the provisions of this title.

(Ord. 846-91 §41, 10-28-91)

Response: Understood.

TMC 3-5-430 - Placement of Water Quality Facilities.

No water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action is approved by the City, and is constructed to replace the area used for water quality.

(Ord. 846-91 §43, 10-28-91)

Response: No facilities are proposed within a wetland.

STANDARD SPECIFICATIONS FOR BUILDING AND SIDE SEWERS

TMC 3-5-440 - General Provisions.

(1) The specifications contained in this Title III, together with the State of Oregon Uniform Plumbing Code and all other applicable requirements of federal, state and local law, shall govern the installation of all building and side sewers.

(2) No person other than the owner of the property on which the sewer is being installed or a state or DEQ licensed sewer contractor may excavate or dig up such property and install building sewers within the City.

(3) Each single family residence shall be served by a side sewer discharging directly into a public sanitary sewer line. The minimum size of a side sewer shall be four-inch for PVC and six-inch for concrete.

(Ord. 846-91 §44, 10-28-91)

Response: Applicable codes will be followed for internal building sanitary extensions if included. There are no proposed changes to the sanitary side lateral.

TMC 3-5-450 - Building Sewers.

(1) Materials. Pipes for building sewers shall be one of the following types or approved equal:

(a) A.B.S. (Acrylonitrile Butadiene Styrene), conforming to ASTM D2751.

(b) P.V.C. (Polyvinyl Chloride), conforming to ASTM D3034.

(c) Concrete conforming to ASTM C-14, Class 2.

(d) Ductile iron or cast iron conforming to Class 50.

(2) Joints. The ends of pipes, collars, gaskets and retaining clamps shall be kept clean and free of foreign material when pipe is laid. All joints shall be made watertight and gastight.

(3) Cleanouts. All changes in direction shall be made with long radius bends, 45 degrees, 22½ degrees, tee or wye branches with straight-through opening plugged for a cleanout. Cleanouts shall be installed in the building sewer between the building outlet and the side sewer when the distance is greater than 100 feet. All bends within the sewer shall not exceed 135 degrees without an additional cleanout. Cleanouts shall be plugged to prevent entrance of dirt, roots, or ground water. Plugs shall be sealed with rubber gaskets and secured against back pressure.

(4) Size. The minimum size of any building sewer shall be determined on the basis of the total number of fixture units drained by such sewer in accordance with Table 4-3 of the Oregon State Plumbing Code.

(5) Installation.

(a) Connection. Where two buildings are adjacent to one another on the same lot, each building shall have a separate connection pipe to the receiving line. The pipes from each building shall be in separated ditches to point of connection on the receiving line. A duplex may be served by one side sewer providing that a deed restriction is placed on the property requiring the owners thereof to be jointly responsible for maintenance of the building sewers and side sewer. A copy of the deed restriction shall be submitted at the time of sewer permit application. No roof, surface, foundation, footing or other ground water drain shall be connected to the sanitary system.

(b) Connection to Cesspools and Septic Tanks.

(A) Direct connection from all plumbing fixtures in the building to the sanitary sewer system is required.

(B) No connection shall be allowed from a cesspool, septic tank, or kitchen grease trap to the building sewer.

(C) When a private sewage disposal system is abandoned and no longer to be used, all septic tanks, cesspools, and similar private systems shall be pumped and backfilled in accordance with the Department of Environmental Quality regulations.

(6) Excavation. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City.

(7) Alignment. All pipe shall be true to grade with the bells upgrade. Pipe shall be carefully centered prior to jointing. The bottom of the trench shall be smooth and free from rocks which may injure the pipe. The pipe shall be laid on four inches of 3/4-inch minus crushed rock throughout its entire length, and any such piping laid in fill shall be laid on a bed of approved materials and shall be adequately supported to the satisfaction of the City.

(8) Grade. All sewers shall be laid on a grade of not less than ¼ inch per foot for a four-inch pipe and 3/16-inch per foot for a six-inch pipe.

(a) Special Release. If the grade of the side sewer or building sewer is to be less than ¼ inch per foot for a four-inch pipe, or 3/16-inch per foot for a six-inch pipe, the property owner shall sign and acknowledge a grade release in a form approved by the City. The effect of such form shall be to release the City from all future claims for damages due to the installation of said sewer. If there is doubt about the grade, a grade release shall be procured before the pipe is laid. If upon inspection the grade is inadequate, the grade release shall be filed with the City Engineer before backfilling takes place. In all special cases, the installation of a backwater valve will be required.

(b) Elevation. In any buildings, structures, or premises in which the house waste drain is too low to permit gravity flow to the sewer, the sewage may with the approval of the City be lifted by artificial means and discharged to the sewer. Wherever a situation exists involving an unusual danger of back-up, the City may prescribe the minimum elevation at which the house drain may be discharged to the public sewer. Sewers below such minimum elevation shall be lifted by artificial means, or if approved by the City, a back-water sewage valve may be installed. The effective operation of the back-water valve shall be the responsibility of the owner of the property served.

(9) Backfill. If common material is available which is free from rocks one inch in diameter, it may be used to backfill the remainder of the ditch. If suitable material is not available, 3/4-inch minus granular material shall be used to backfill the trench to a point six inches above the top of the pipe. The remainder of the ditch may then be backfilled with common material.

A modified method of backfilling shall be used where the house service laterals cross lawn, shrub, or planting areas between the curb and the property line. In this area, backfill shall be modified so that a minimum of 18 inches and a maximum of 36 inches of compacted top soil shall be provided in the upper portions of the trench. The lower portions of the trench shall be backfilled as described above.

(10) Cover. Cover on private property shall be not less than 12 inches from top of pipe to finished grade.

(11) Sewer and Water Lines. Building sewers or drainage piping of materials which are not approved for use within a building shall not be laid in the same trench with water service pipes unless both of the following requirements are met.

(a) Separation. The bottom of the water pipe, at all points, shall be at least 12 inches above the top of the sewer line.

(b) Placement. The water pipe shall be placed on a shelf excavated at one side of the common trench.

(12) Testing. All building sewers shall be tested for leakage 15 minutes prior to the City inspection and prior to backfilling the trench. Sewers shall be tested by plugging the building sewer at its point of connection with the side sewer and completely filling the building sewer with water from the lowest point to the highest point thereof. The building sewer shall be watertight and have no visible leakage.

A tee shall be installed at the property line at the expense of the installer. After the test is complete, a plug shall be inserted in the tee. After a satisfactory test has been performed, the trench shall be backfilled.

(Ord. 846-91 §45, 10-28-91)

Response: Understood.

TMC 3-5-460 - Installation of Side Sewers.

(1) Material.

(a) Pipes for side sewers shall be one of the following types or approved equal:

(A) PVC (Polyvinyl chloride), conforming to ASTM D3034.

(B) Concrete conforming to ASTM C-14, Class 2.

(C) Ductile iron conforming to Class 51.

(2) Excavation and Backfill. All excavation and backfill shall comply with the standards set forth in the City's Public Works Construction Code.

(3) Alignment and Grade. Side sewers shall be laid in a straight grade and alignment from the main sewer line to the edge of right-of-way or edge of permanent easement. The grade shall be a minimum of two percent. The pipe shall be laid on a pipe base of 4-inches of 3/4 inch-minus crushed rock. All plastic pipe shall have 3/4 inch-minus rock placed 6-inches over the top of the pipe.

(4) Markings. The side sewers shall be marked with a detectable underground magnetic tape. The magnetic tape shall be placed from the main pipeline to the end of the side lateral. The magnetic tape shall be green in color and have the following marking depending whether it is a sanitary or storm line:

(a) CAUTION STORM DRAIN BURIED BELOW

(b) CAUTION SEWER BURIED BELOW

A two × four stake shall be installed at the end of the side sewer extending from the invert of the pipe to the ground surface. A magnetic tape shall be placed alongside the two × four.

(5) Testing. Sanitary side sewers shall be air tested in accordance with the standards set forth in the City's Public Works Construction Code.

(Ord. 846-91 §46, 10-28-91)

Response: There are no proposed change to the side sewer lateral.

TMC 3-5-470 - Enforcement.

(1) A violation of a provision of this ordinance or failure to comply with any permit or condition of a permit issued under this ordinance is a civil infraction; failure to take immediate steps to correct a condition which is or may result in erosion or water quality degradation or pollution. Failure to implement or comply with an erosion control plan or maintenance plan approved by the City or an amendment thereto is a civil infraction. Each day that a violation of this ordinance exists shall constitute a separate violation.

(Ord. 846-91 §47, 10-28-91; Ord. 1319-11 §2, 3/28/2011)

Response: Understood.

Tualatin Development Code:

Chapter 33 - Applications And Approval Criteria

TDC 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.

(k)Ensure all public facilities including right-of-way, water, sewer, and storm systems are adequate to serve the development.

(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

(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;

(3) Types of Architectural Review Applications—Procedure Type.

(f) General Development. All development applications, (except Single Family Dwelling, duplex, townhouse, triplex, quadplex, or cottage cluster, Clear and Objective and Large Commercial, Industrial, and Multifamily Development) are subject to Type II Review.

(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 building materials plan that includes a written description and image representation of facade, windows, trim, and roofing materials, colors, and textures;

(d) Title report; and

(e)A Service Provider Letter from Clean Water Services.

(5) Approval Criteria.

(c) General Development. Applications for General 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) Implement identified public facilities and services needed to serve the proposed development;

(ii) Implement identified public facilities and services needed to be altered or increased attributable to the impacts of the proposed development; and

(iii) Implement the requirements of the Tualatin Development Code.

Response: this architectural review is being submitted under the provisions of a type II review. Section 33.020.3 states all general development applications are subject to a type II review. All required application materials needed in section 33.020.4 shall be submitted.

Chapter 54 - General Commercial Zone (Cg)

TDC 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.

TDC 54.210. - Additional Limitations on Uses.

(1)Size Limitation on Retail Uses. If located on land designated Employment Area, Corridor or Industrial Area on Comprehensive Plan Map 10-4, 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.

Response: Animal Hospitals and Veterinary Clinics are categorized as personal services within Retail Sales and Services in the Tualatin Development Code and are permitted in the CG zone. This is no outdoor pet activity area associated with this vet clinic.

Chapter 58 - Central Tualatin Overlay Zone

TDC 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 to Block 11.

TDC 58.800 - Central Tualatin Overlay Development Standards.

(1) Development standards in the Central Tualatin Overlay Zone are listed in Table 58-7 by zone and by block. Where no standard is listed, the standards of the base zone apply.

(2) *Exceptions.* Existing nonconforming situations may be developed according to the provisions of TDC Chapter 35.

Response: Animal Hospitals and Veterinary Clinics are categorized as personal services within Retail Sales and Services in the Tualatin Development Code and are permitted in the CG zone. Per table 58-3, this use is permitted within the central Tualatin overlay zone since it is not considered a pet day care. This lot is approximately 1.26 acres and meets all the requirements for table 58-7, development standards in the central Tualatin overlay district

Chapter 70 Floodplain District

TDC 70.005. - Authorization.

Under Article XI, section 2 of the Oregon Constitution and the Charter of the City of Tualatin, the City of Tualatin has the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Tualatin adopts this Floodplain Management Chapter.

(Ord. 1070-01 § 9, 4-9-01; Ord. 1070-01, 04-09-01; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.007. - Findings of Fact.

(1) The flood hazard areas of the City of Tualatin are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

(Ord. 1413-18, 10-08-18)

Response: Understood.

TDC 70.010. - Statement of Purpose.

It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money and costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

(6) Help to maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

(7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

(8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. 1070-01 § 9, 4-9-01; Ord. 1070-01, 04-09-01; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.020. - Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Chapter includes methods and provisions for:

(1) Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage;

(5) Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards in other areas; and

(6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

(Ord. 1070-01 § 9, 4-9-01; Ord. 1070-01, 04-09-01; Ord 1413-18, 10-08-18)

Response: Measures will be taken to prevent and reduce floods and impacts caused by floods.

TDC 70.040. - Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Tualatin.

Response: Understood.

TDC 70.050. - Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance and Mitigation Administration in a scientific and engineering report entitled "Flood Insurance Rate Map, Washington County, Oregon and Incorporated Areas," effective date November 4, 2016 with superseded panels 41067C0593F and 41067C606F effective October 19, 2018, together with the "Flood Insurance Study for Washington County Oregon and Incorporated Areas," dated October 19, 2018, are hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file at the City of Tualatin City Offices, 18880 SW Martinazzi Avenue, Tualatin, Oregon 97062. The best available information for flood hazard area identification as outlined in TDC 70.140(2) Duties and Responsibilities of Local Floodplain Administrator) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under TDC 70.140(2) (Duties and Responsibilities of Local Floodplain Administrator).

(Ord. 717-87, § 2, 4-27-87; Ord. 1007-98, § 3, 7-13-98; Ord. 1397-16, 10-24-16; Ord. 1413-18, 10-08-18)

Response: Understood.

TDC 70.060. - Penalties for Noncompliance.

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.

(2) Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a civil infraction and subject to a fine of up to $1,000.00. Each violation, and each day that a violation continues, is a separate civil infraction.

(3) The civil infraction procedures in Tualatin Municipal Code Chapter 7-01 apply to the prosecution of any violation of this Chapter.

(4) Nothing herein contained shall prevent the City of Tualatin from taking such other lawful action as is necessary to prevent or remedy.

(Ord. 717-87, § 3, 4-27-87; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.070. - Abrogation and Severability.

(1) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and any code, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(2) If any section clause, sentence, or phrase of this Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

(Ord. 717-87, § 4, 4-27-87; Ord. 1413-18, 10-08-18)

Response: Understood.

TDC 70.080. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 717-87. § 5, 4-27-87)

Response: Understood.

TDC 70.090. - Warning and Disclaimer of Liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Tualatin, any officer or

employee thereof, or the Federal Insurance and Mitigation Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 717-87, § 6, 4-27-87; Ord 1413-18, 10-08-18)

Response: Understood.

ADMINISTRATION

TDC 70.110. - Development Permit Required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established by TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard). The permit shall be for all structures, including manufactured homes, as set forth in TDC 70. 030 (Definitions), and for all other development, including fill and other activities, also as set forth in TDC 70. 030 (Definitions).

(Ord. 717-87, § 7, 4-27-87; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.120. - Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Local Floodplain Administrator and may include, but not be limited to, plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level of floodproofing of any structure;

(3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in TDC 70.180 (Specific Standards for Nonresidential Structures); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. 717-87, § 8, 4-27-87; Ord. 1413-18, 10-08-18)

Response: Understood.

TDC 70.130. - Designation of the Local Floodplain Administrator.

The City Manager, or designee is hereby appointed as the Local Floodplain Administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. 717-87, § 9, 4-27-87; Ord. 1265-08 § 2, 7-28-08; 1413-18, 10-08-18)

Response: Understood.

TDC 70.140. - Duties and Responsibilities of the Local Floodplain Manager.

Duties of the Local Floodplain Administrator shall include but not be limited to:

(1) Development Permit Application and Review.

(a) Review all development permits to determine that the permit requirements of this Chapter have been satisfied.

(b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of TDC 70.190 (Floodways) are met.

(d) Provide to building officials the base flood elevation and freeboard applicable to any building requiring a building permit.

(e) Review all development permit applications to determine if the proposed development qualifies as a substantial improvement, as set forth in TDC 70.030 (Definitions).

(2) Use of Other Base Flood Data (In A and V Zones). When base flood elevation data has not been provided in accordance with TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard), the Local Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer TDC 70.180 (Specific Standards) and TDC 70.190 (Floodways).

(3) Review of Building Permits. Where a FIRM and Flood Insurance Study have not been provided by the Federal Insurance and Mitigation Administration and elevation date is not available from another authoritative source (TDC 70. 140(2) (Use of Other Base Flood Data (In A and V Zones))), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates

(4) Information to Be Obtained and Maintained.

(a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required by TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)), obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.

(b) For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)):

(i) Verify and record the actual elevation (in relation to mean sea level); and

(ii) Maintain the flood proofing certifications required by 70.120(3)(Application for Development Permit).

(c) Maintain for public inspection all records pertaining to the provisions of this Chapter.

(5) Alteration of Watercourses.

(a) Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance and Mitigation Administration as required in TDC 70.130(6).

(b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(6) Requirement to Submit New Technical Data.

(a) Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).

(b) The property owner shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

(c) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

(7) Interpretation of FIRM Boundaries. Make interpretations when needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in TDC 70.150 (City Council as Appeal Board).

(8) Critical Facilities. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 717-87, § 10, 4-27-87; Ord. 1265-08 § 3, 7-28-08; Ord 1413-18, 10-08-18)

Response: Understood.

VARIANCE PROCEDURE

TDC 70.150. - City Council as Appeal Board.

(1) The City Council of the City of Tualatin shall hear and decide appeals and requests for variances from the requirements of this Chapter.

(2) The City Council shall decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the Local Floodplain Administrator in the enforcement or administration of this Chapter.

(3) Those aggrieved by the decision of the City Council, or any taxpayer, may appeal such decision in accordance with State law.

(4) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, when applicable;

(f) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors in TDC 70.150(4) (City Council as Appeal Board) and the purposes of this Chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter. The requirements for variances as described in TDC 33 must also be met.

(6) The Local Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance and Mitigation Administration upon request.

(Ord. 717-87, § 11, 4-27-87; Ord. 743-88 Ord. 743-88, § 39, 3-28-88; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.160. - Conditions for Variances.

(1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a)—(k) in TDC 70.150(4) (City Council as Appeal Board) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances may be issued for the repair or rehabilitation of historic structures without regard to the procedures set forth in this section, provided that the alteration will not preclude the structure' s designation as an " historic structure" and the variance is the minimum necessary to preserve the historic character and design of the structure.

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of nuisances, fraud on or victimization of the public as identified in TDC 70.150(4) (City Council as Appeal Board) or conflict with existing local laws or ordinances.

(6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 70.160(1) (Conditions for Variances), and otherwise complies with subsections 70.170(1) and (2) (General Standards).

(8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest-floor elevation and that such construction below the base flood elevation increases risks to life and property. Such notification shall be permanently maintained with the floodplain development permit.

(Ord. 717-87, § 12, 4-27-87; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.170. - General Standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured dwellings shall be anchored according to TDC 70. 180(3)(Specific Standards for Manufactured Dwellings).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(c) On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(4) Subdivision Proposals.

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Here base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(5) AH and AO Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(Ord. 717-87, § 14, 4-27-87; Ord. 988-97, § 10, 12-8-97; Ord. 1265-08 § 4, 7-28-08; 1413-18, 10-08-18).

Response: All applicable construction, materials, and proposal standards will be followed.

TDC 70.180. - Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard) or TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)), the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.

(b) New public streets providing vehicle access to residences, including residences within mixed use developments, shall be constructed at or above the base flood elevation. Public street rights-of-way in existence as of January 14, 1993, shall not be subject to this requirement.

(c) Below grade crawl-space construction in the floodplain shall comply with all NFIP specifications and applicable Building Code Requirements.

(d) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(iv) If a building has more than one enclosed area below the lowest floor, each area shall be equipped with adequate flood openings.

(2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum according to ASCE 24; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in TDC 70.140(3)(b) (Duties and Responsibilities of the Local Floodplain Administrator);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in TDC 70. 180(1)(d)(Specific Standards for Residential Construction).

(e) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

(3) Manufactured Dwellings. New construction, including placement, and substantial improvement of any manufactured dwelling shall comply with the following:

(a) Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with TDC 70. 180(1)(d)(Specific Standards for Residential Construction) above;

(b) The bottom of the longitudinal chassis frame beam in A zones (excluding coastal A zones), shall be at or above BFE;

(c) The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and

(d) Electrical crossover connections shall be a minimum of 12 inches above BFE.

(4) Recreational Vehicles. Recreational vehicles placed on sites are required to:

(a) Be on the site for fewer than 180 consecutive days, and

(b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(c) Meet the requirements of TDC 70.180(3)(Specific Standards for Manufactured Dwellings) above and the elevation and anchoring requirements for manufactured dwellings. In addition, recreational vehicles that are permanently placed or substantially improved within Zones A1-30, AH, and AE shall be on a permanent foundation and shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation and shall be securely anchored to a foundation system in accordance with TDC 70.170(1)(b).

(5) Small Accessory Structures. Relief from elevation or floodproofing as required in TDC 70.180(1)(Specific Standards for Residential Structures) or TDC 70.180(2)(Specific Standards for Nonresidential Structures) above may be granted for small accessory structures that are:

(a) Less than 200 square feet and do not exceed one story;

(b) Not temperature controlled;

(c) Not used for human habitation and are used solely for parking of vehicles or storage of items having low damage potential when submerged;

(d) Not used to store toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall unless confined in a tank installed in compliance with this ordinance or stored at least one foot above Base Flood Elevation;

(e) Located and constructed to have low damage potential;

(f) Constructed with materials resistant to flood damage;

(g) Anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;

(h) Constructed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or:

(i) Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

(i) Constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

(6) Below-Grade Crawl Spaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section TDC 70.180(1)(Specific Standards for Residential Structures) above. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit

of floodwaters. The bottom of each flood vent opening can be no more than one-foot above the lowest adjacent exterior grade.

(c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(d) Any building utility systems within the crawlspace must be elevated above B components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(e) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(h) The velocity of floodwaters at the site shall not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01

(Ord. 717-87, 4-27-87; Ord. 882-92 § 11, 12-14-99; Ord. 988-97, § 11, 12-8-97; Ord. 993-98 § 1, 2-23-98; Ord. 1048-00 § 2, 2-28-00; Ord. 1265-08 § 5, 7-28-08; Ord. 1397-16, 10-24-16; 1413-18, 10-08-18)

Response: Non-residential requirements will be followed.

TDC 70.185. - Before Regulatory Floodway.

In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community' s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. 14713-18, 10-08-18)

Response: Understood.

TDC 70.190. - Floodways.

Located within areas of special flood hazard established by TDC 70.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Except as provided in TDC 70. 190(3) (Floodways), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided 70-21 demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in base flood or floodway elevations when compared to pre-project conditions.

(2) If TDC 70.190(1) (Floodways) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of TDC 70.170 to and including 70.190, Provisions for Flood Hazard Reduction, or ASCE 24, whichever is more stringent.

(3) Temporary structures placed in the floodway: Relief from no-rise evaluation, elevation or dry flood-proofing standards may be granted for a non-residential structure placed during the dry season (June—October) and for a period of less than 90 days. A plan for the removal of the temporary structure after the dry season or when a flood event threatens shall be provided. The plan shall include disconnecting and protecting from water infiltration and damage all utilities servicing the temporary structure.

(4) Projects for stream habitat restoration may be permitted in the floodway provided:

  (a) The civil engineer shall, as a minimum, provide a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible and that no structures will be impacted by a potential rise in flood elevation; and

  (b) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(Ord. 717-87, 4-27-87; Ord 1413-18, 10-08-18)

Response: Understood.

TDC 70.200. - Alterations to Floodplain, Drainage, or Watercourses.

(1) Applicants proposing to increase the Base Flood Elevation by more than one foot or alter a watercourse must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before any

encroachment, including fill, new constructions, substantial improvement, or other development, in the regulatory floodway is permitted.

(2) Within six months of project completion, an applicant for a Letter of Map Revision (LOMR) must submit a completed application to FEMA and submit evidence to the City that a Letter of Map Revision (LOMR) has been requested that reflects the as-built changes to the Flood Insurance Study (FIS) and/or Flood Insurance Rate Map (FIRM).

(3) The applicant must prepare and submit technical data to support the Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) application and pay any processing or application fees to FEMA.

(Ord. 1397-16, 10-24-16)

Response: No alterations to floodplain drainage and watercourse are proposed.

Chapter 73a - Site Design Standards

TDC 73A.300. – Commercial Design Standards.

The following standards are minimum requirements for commercial development in all zones, except the Mixed-Use Commercial (MCU) zone, which has its own standards:

(1) *Walkways.* Commercial development must provide walkways as follows:

(a) Walkways must be a minimum of six feet in width;

(b) Walkways must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. Gravel or bark chips are not acceptable;

(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 multi-family 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 eight 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 six 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.

Response: All new walkways shall be constructed on concrete and will meet the ADA standards applicable when construction begins.

Chapter 73b - Landscaping Standards

TDC 73B.040. - Additional Minimum Landscaping Requirements for Commercial Uses.

(1) *General.* In addition to requirements in TDC 73B.020, commercial uses, except those located in the Mixed-Use Commercial (MUC) zone, 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) Five-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 eight 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.

Response: Based on table under 73B.020- Landscape Area Standards Minimum Areas by Use and Zone, the minimum area requirement for CG is 15 percent of the total area to be developed. The proposed landscape area is 27 percent of the total site area. 5' wide landscaped areas are located along the building perimeter viewable by the public.

Chapter 73c - Parking Standards

TDC 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;

(xi) Required vanpool and carpool parking must meet the 9-foot parking stall standards in Figure 73-1 and be identified with appropriate signage;

(xii) Where uses are mixed in a single building, parking must be a blend of the ratio required less ten percent for the minimum number of spaces. The maximum number of spaces must be ten percent less than the total permitted maximum for each use; and

(xiii) If the applicant demonstrates that too many or too few parking spaces are required, applicant may seek a variance from the minimum or maximum by providing evidence that the particular use needs more or less than the amount specified in this Code.

TDC 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 one-half feet and vehicular access at the entrance if gated must be a minimum of 18 feet in width.

(2) Parking lots and parking areas must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. Gravel is not an acceptable material;

(3) Parking stalls must be constructed of asphalt, concrete, pervious concrete, pavers, or grasscrete. Gravel or woody material are not an acceptable materials. Pavers, pervious concrete, or grasscrete 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 four 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 direct glare on adjacent properties, 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.

TDC 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-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.

TDC 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 eight feet as measured from the ground level.

(a) Exception: does not apply to parking structures and underground parking.

(3) *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) 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 five 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 underground parking which must be determined through the Architectural Review process.

Response: On this existing site, there are currently 21 standard parking spaces, 2 handicap accessible parking spaces, and 1 designated van/ carpool parking space. Through this project, 8 new parking spaces are added for a new total of 32 spaces. One of the existing handicap parking is relocated to be across from the new entrance on the east addition of the building. A new covered bicycle rack is also proposed to be placed next to the secondary entrance.

Chapter 74 - Public Improvement Requirements

TDC 74.440. - Streets, Traffic Study Required.

(1) The City 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 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 must be completed prior to the approval of the development application.

(3) The traffic study 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 Manager will determine which facilities are impacted and need to be included in the study.

(g) The study must be conducted by a registered engineer.

(4) The applicant must implement all or a portion of the improvements called for in the traffic study as determined by the City Manager.

Response: A traffic study proposal has been submitted to Mike McCarthy and has confirmed that this site does not require further traffic study analysis. The current number of trips to the site is 50 for EVCOT in a 24-hour period, and 21 for VDIC in the standard 8-5. They do not expect an increase with the expansion. With a combined total of 71 daily trips, this does not generate more than 100 trips that would trigger further analysis. The traffic flow and circulation will not change with this addition, and the sight distance at the sites access points are not changing. Below is a statement from the owner regarding the traffic on this site:

EVCOT's parking usage varies from day-to-day and varies hour-by-hour considerably. The general usage of the hospital is as follows:

Staff usage:

- EVCOT Staff varies between 6 to 15 people on site at any time based on the time of day. There are large times of day where we may not have any clients physically present at the building due to staffing and wait times.

- VDIC Staffing is typically 5-8 staff members at a time on site during daytime hours (8am -5 pm)

Client Usage

- EVCOT clients average ~3 to 3.5 clients per hour during out busiest days (typically holidays and weekends). At most we have 8-10 clients at the building at any given time. Those clients may be present for 1-2 hours depending on what is happening in the hospital.
- VDIC clients average 2-3 clients per hour during daytime hours.

TDC 74.630. - Storm Drainage System.

(1) Storm drainage lines must be installed to serve each property in accordance with City standards. Storm drainage construction plans, and calculations must be submitted to the City Manager for review and approval prior to construction.

Response: A utility plan and stormwater memo are included in this submittal, which describes the stormwater quality and quantity requirements and the proposed expansion of the existing stormwater swale. A final stormwater report including calculations and modelling will be included in the permit submittal prior to construction.

(2) The storm drainage calculations must confirm that adequate capacity exists to serve the site. The discharge from the development must be analyzed in accordance with the City's Storm and Surface Water Regulations.

Response: The property contains an existing stormwater facility for treatment and detention of the existing site. The stormwater memo describes expanding the existing stormwater facility to accommodate additional impervious runoff from the site and detaining the post-developed flows to their pre-developed flows per the required storm events per CWS standards. The stormwater facility has been designed to treat and detain the additional flows to their pre-developed conditions to ensure no downstream capacity issues. A final stormwater report including calculations and modelling will be included in the permit submittal and will contain the required analysis per City 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 must extend storm drainage lines to the common boundary line with these properties. The lines 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.

Response: There are no undeveloped adjacent properties, therefore this is not applicable.

The applicant must comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

TDC 74.650. - Water Quality, Storm Water Detention and Erosion Control.

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant 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; or

Response: Not applicable.

(2) On all other development applications, prior to issuance of any building permit, the applicant 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.

Response: The existing stormwater facility will be enlarged to accommodate the site expansion. Onsite stormwater facilities will be designed per water quality and quantity requirements and detailed design calculations will be included in the final stormwater report. All necessary stormwater connection permits will be obtained prior to the issuance of the building permit.

(3) For on-site private and regional non-residential public facilities, the applicant 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 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.

Response: A private stormwater agreement will be included as part of the final stormwater report for the permit submittal. An erosion control plan will be submitted prior to the issuance of a Public Works Permit, if required.

Chapter 75 - Access Management

TDC 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 ten 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 approaches 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 is as provided in Table 75-1 (Driveway Approach Width):

Response: No new driveways are proposed in the project. The existing driveway approach width is approximately 35', and the minimum width for the total proposed parking spaces is 32'.